

Tab 1 SB 62 by Stargel; (Compare to CS/CS/CS/H 00187) K-12 Education

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|--------|--------|-----|-----|--------------|-------------------------|----------------|
| 545546 | PCS | S | FAV | AP, AED | | 03/04 09:14 AM |
| 450044 | PCS:D | S | | AP, Stargel | Delete everything after | 03/02 07:43 PM |
| 350858 | PCS:AA | S | | AP, Gibson | Delete L.2484 - 2503: | 03/03 10:51 AM |
| 873598 | PCS:AA | S | | AP, Gibson | btw L.2763 - 2764: | 03/03 09:39 AM |
| 297970 | PCS:AA | S | | AP, Gibson | btw L.2817 - 2818: | 03/03 10:51 AM |
| 193984 | PCS:AA | S L | | AP, Gibson | btw L.2724 - 2725: | 03/03 12:51 PM |
| 837334 | PCS:AA | S L | | AP, Thurston | Delete L.262 - 306. | 03/03 03:51 PM |
| 456504 | A | S | WD | AP, Stargel | btw L.208 - 209: | 03/02 07:41 PM |
| 145152 | A | S | WD | AP, Stargel | Delete L.862 - 924: | 03/02 07:41 PM |
| 277394 | A | S | | AP, Gibson | Delete L.1186 - 1207: | 02/05 12:56 PM |
| 588426 | A | S | | AP, Gibson | btw L.1207 - 1208: | 03/02 02:10 PM |

Tab 2 SB 68 by Book; (Similar to H 00163) Homelessness

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| 415562 | PCS | S | RCS | AP, AHS | | 03/04 09:19 AM |
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Tab 3 SB 72 by Stargel; (Compare to CS/CS/H 00613) Postsecondary Education

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| 847972 | PCS | S | RCS | AP, AED | | 03/03 07:59 PM |
| 860750 | A | S | RCS | AP, Stargel | btw L.136 - 137: | 03/03 07:59 PM |
| 844132 | A | S | RCS | AP, Stargel | btw L.162 - 163: | 03/03 07:59 PM |
| 696862 | A | S | RCS | AP, Stargel | Delete L.172 - 173: | 03/03 07:59 PM |
| 818894 | A | S | RCS | AP, Stargel | btw L.298 - 299: | 03/03 07:59 PM |
| 957022 | A | S | RCS | AP, Stargel | Delete L.929 - 931: | 03/03 07:59 PM |

Tab 4 SJR 146 by Brandes; (Identical to H 00369) Homestead Property Tax Assessments/Increased Portability Period

Tab 5 CS/SB 148 by CA, Brandes; (Identical to H 00371) Limitations on Homestead Assessments

Tab 6 CS/SB 156 by ED, Perry (CO-INTRODUCERS) Stewart, Diaz; (Similar to CS/H 01321) Early Childhood Music Education Incentive Pilot Program

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| 432396 | PCS | S | RCS | AP, AED | | 03/04 09:30 AM |
| 747166 | A | S | RCS | AP, Perry | Delete L.63: | 03/04 09:30 AM |

Tab 7 CS/SB 190 by HP, Montford (CO-INTRODUCERS) Harrell, Berman, Cruz, Braynon; (Identical to CS/H 00081) Medicaid School-based Services

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| 903224 | A | S | RCS | AP, Montford | Delete L.60 - 90. | 03/04 09:55 AM |
| 728786 | A | S L | RCS | AP, Book | Before L.22: | 03/04 09:55 AM |

Tab 8 CS/SB 220 by GO, Cruz (CO-INTRODUCERS) Gibson, Rouson, Book, Stewart; (Similar to H 00121) Abandoned Cemeteries

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| 118046 | PCS | S | RCS | AP, ATD | | 03/04 04:05 PM |
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Tab 9 CS/SB 402 by HP, Harrell; (Similar to CS/CS/H 00767) Assisted Living Facilities

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| 831164 | PCS | S | RCS | AP, AHS | | 03/04 09:59 AM |
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Tab 10 CS/SB 412 by IS, Bean (CO-INTRODUCERS) Harrell; (Compare to H 00027) License Plates

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| 839910 | A | S L | RCS | AP, Bean | Delete L.478 - 899: | 03/04 10:13 AM |
| 916530 | A | S L | RCS | AP, Thurston | btw L.1208 - 1209: | 03/04 10:13 AM |

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| Tab 11 | CS/SB 414 by IS, Bean (CO-INTRODUCERS) Harrell; (Compare to H 00385) Fees/Specialty License Plates | | | | | |
| 627258 | PCS | S | RCS | AP, ATD | | 03/04 10:18 AM |

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| Tab 12 | CS/SB 506 by GO, Perry; (Similar to CS/CS/H 00441) Public Procurement of Services | | | | | |
| 174496 | A | S | RCS | AP, Perry | Delete L.21 - 39: | 03/04 10:44 AM |

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| Tab 13 | CS/CS/SB 728 by CJ, IS, Stargel (CO-INTRODUCERS) Hutson; (Compare to CS/CS/H 00311) Threats | | | | | |
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| Tab 14 | CS/SB 852 by CJ, Pizzo (CO-INTRODUCERS) Taddeo, Braynon, Rodriguez; (Compare to CS/CS/H 01259) Incarcerated Pregnant Women | | | | | |
| 703954 | PCS | S | RCS | AP, ACJ | | 03/04 10:46 AM |

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| Tab 15 | SB 912 by Diaz; (Compare to CS/CS/CS/H 00623) Department of Business and Professional Regulation | | | | | |
| 359406 | A | S | WD | AP, Book | btw L.1035 - 1036: | 03/04 10:50 AM |
| 916094 | SA | S | WD | AP, Book | btw L.1035 - 1036: | 03/04 10:50 AM |

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| Tab 16 | CS/CS/SB 998 by IS, CA, Hutson (CO-INTRODUCERS) Hooper; (Similar to CS/CS/CS/H 01339) Housing | | | | | |
| 385228 | A | S | RS | AP, Hutson | Delete L.201 - 1257: | 03/04 11:34 AM |
| 781596 | SA | S | RCS | AP, Hutson | Delete L.201 - 1257: | 03/04 11:34 AM |

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| Tab 17 | CS/CS/SB 1066 by FT, CA, Gruters; (Similar to CS/CS/CS/H 00637) Impact Fees | | | | | |
| 593778 | A | S | WD | AP, Bradley | Delete L.57: | 03/04 12:50 PM |
| 277762 | A | S | FAV | AP, Gruters | Delete L.57 - 247: | 03/04 12:50 PM |
| 891604 | D | S | RCS | AP, Gruters | Delete everything after | 03/04 12:50 PM |
| 569730 | AA | S | WD | AP, Gruters | Delete L.9: | 03/04 12:50 PM |
| 199538 | A | S | WD | AP, Gruters | Delete L.60: | 02/26 04:27 PM |
| 590750 | A | S | WD | AP, Gruters | Delete L.67 - 232: | 02/26 10:53 AM |
| 101774 | A | S | WD | AP, Bradley | Delete L.150 - 169: | 03/04 12:50 PM |

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| Tab 18 | CS/SB 1070 by MS, Wright (CO-INTRODUCERS) Albritton; (Similar to CS/H 00717) Space Florida | | | | | |
| 803742 | PCS | S | RCS | AP, ATD | | 03/04 12:54 PM |

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| Tab 19 | CS/SB 1094 by HP, Diaz; (Similar to CS/CS/H 00599) Consultant Pharmacists | | | | | |
| 268640 | D | S | RCS | AP, Diaz | Delete everything after | 03/04 12:56 PM |

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| Tab 20 | CS/SB 1220 by ED, Diaz; (Compare to CS/H 07067) Education | | | | | |
| 888996 | PCS | S | RCS | AP, AED | | 03/04 01:00 PM |
| 462882 | PCS:D | S | RCS | AP, Diaz | Delete everything after | 03/04 01:00 PM |

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| Tab 21 | SB 1276 by Albritton; (Similar to CS/H 01201) Department of Citrus | | | | | |
| 560238 | A | S | RCS | AP, Albritton | Delete L.50 - 96: | 03/04 01:05 PM |

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| Tab 22 | CS/SB 1296 by HP, Berman (CO-INTRODUCERS) Rodriguez; (Compare to CS/CS/CS/2ND ENG/H 00713) Health Access Dental Licenses | | | | | |
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Tab 23 CS/SB 1308 by CJ, Brandes (CO-INTRODUCERS) Bracy, Powell, Rouson; (Compare to H 01131)
 Criminal Justice

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| 695928 | PCS | S | | AP, ACJ | | 02/26 03:18 PM |
| 165266 | A | S | | AP, Brandes | Before L.380: | 03/02 11:51 AM |
| 433370 | A | S | | AP, Brandes | btw L.2931 - 2932: | 03/02 02:11 PM |
| 284432 | SA | S L | | AP, Brandes | btw L.2931 - 2932: | 03/03 12:08 PM |
| 720158 | A | S L | | AP, Rouson | btw L.628 - 629: | 03/03 01:03 PM |

Tab 24 SB 1344 by Harrell; (Similar to CS/CS/H 01163) Intermediate Care Facilities

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| 891388 | PCS | S | RCS | AP, AHS | | 03/04 02:17 PM |
| 460516 | A | S | RCS | AP, Harrell | Delete L.68 - 73: | 03/04 02:17 PM |

Tab 25 CS/SB 1392 by JU, Simmons; (Similar to CS/H 07057) Official Headquarters of Judicial Officers

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| 552754 | PCS | S | RCS | AP, ACJ | | 03/04 02:19 PM |
| 158828 | A | S | RCS | AP, Brandes | Delete L.145: | 03/04 02:19 PM |

Tab 26 CS/SB 1404 by BI, Perry (CO-INTRODUCERS) Brandes; (Compare to CS/CS/H 01077) Department of Financial Services

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|-------------------|--------|-----|-----|------------|-------------------------|----------------|
| 863198 | PCS | S | RCS | AP, AEG | | 03/04 06:28 PM |
| 489504 | PCS:D | S | RS | AP, Perry | Delete everything after | 03/04 06:28 PM |
| 540208 | PCS:AA | S | OO | AP, Perry | btw L.20 - 21: | 03/03 04:58 PM |
| 831450 | PCS:AA | S | OO | AP, Flores | Delete L.423 - 501. | 03/03 04:58 PM |
| 443964 | PCS:AA | S | OO | AP, Book | Delete L.653 - 654: | 03/03 04:58 PM |
| 743900 | PCS:SD | S | WD | AP, Perry | Delete everything after | 03/03 12:04 PM |
| 810530 | PCS:SD | S L | RCS | AP, Perry | Delete everything after | 03/04 02:51 PM |
| 233344 | A | S | WD | AP, Perry | Delete L.429 - 1231: | 02/26 04:30 PM |
| 483952 | A | S | WD | AP, Book | Delete L.781 - 782: | 02/26 06:33 PM |

Tab 27 CS/SB 1440 by CF, Powell (CO-INTRODUCERS) Rouson; (Similar to CS/CS/H 00945) Children's Mental Health

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|--------|---|-----|-----|------------|---------------------|----------------|
| 628406 | A | S L | RCS | AP, Powell | Delete L.152 - 154: | 03/04 03:14 PM |
| 661698 | A | S L | RCS | AP, Powell | Delete L.456 - 568. | 03/04 03:14 PM |

Tab 28 CS/SB 1500 by IS, Broxson; (Compare to CS/1ST ENG/H 00387) Specialty License Plate Fees

Tab 29 SB 1542 by Stargel (CO-INTRODUCERS) Gibson; (Similar to CS/1ST ENG/H 00835) Alzheimer's Disease

Tab 30 CS/SB 1544 by HP, Albritton; (Identical to CS/H 01373) Long-term Care

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|-------------------|---|---|----|---------------|-------------------|----------------|
| 949078 | A | S | WD | AP, Albritton | btw L.73 - 74: | 03/03 10:17 AM |
| 534830 | A | S | WD | AP, Albritton | Delete L.96 - 98: | 03/03 10:18 AM |

Tab 31 SB 1570 by Perry; (Compare to H 01455) Division of Library and Information Services

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| 463870 | D | S | | AP, Perry | Delete everything after | 03/02 02:10 PM |
| 420932 | AA | S | | AP, Thurston | Delete L.192 - 219. | 03/03 09:16 AM |

Tab 32 CS/CS/SB 1606 by IS, BI, Perry; (Similar to CS/CS/H 00359) Insurance Administration

Tab 33 CS/SB 1624 by CF, Perry; (Compare to CS/1ST ENG/H 01323) Economic Self-sufficiency

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| 593926 | A | S | RCS | AP, Perry | Delete L.55 - 66. | 03/04 03:19 PM |
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| Tab 34 | CS/SB 1662 by CA, Albritton (CO-INTRODUCERS) Broxson ; (Similar to CS/CS/H 01249) Property Tax Exemption for Disabled Veterans | | | | | |
| Tab 35 | CS/SB 1676 by HP, Albritton ; (Compare to CS/CS/H 00607) Direct Care Workers | | | | | |
| 281464 | PCS | S | RCS | AP, AHS | | 03/04 03:22 PM |
| 679738 | A | S | RCS | AP, Bradley | Delete L.627 - 1791: | 03/04 03:22 PM |
| Tab 36 | CS/SB 1692 by IS, Flores ; (Similar to CS/CS/H 00787) Driver Licenses | | | | | |
| 532034 | PCS | S | RCS | AP, ATD | | 03/04 03:24 PM |
| 393744 | A | S | RCS | AP, Flores | Delete L.110 - 117: | 03/04 03:24 PM |
| Tab 37 | CS/SB 1694 by IS, Flores ; (Identical to CS/CS/H 00789) Driver License Fees | | | | | |
| 909602 | PCS | S | RCS | AP, ATD | | 03/04 03:25 PM |
| 131602 | A | S | RCS | AP, Flores | Delete L.24 - 32: | 03/04 03:25 PM |
| Tab 38 | CS/SB 1726 by HP, Bean ; (Similar to CS/CS/H 00731) Agency for Health Care Administration | | | | | |
| 233364 | PCS | S | RCS | AP, AHS | | 03/04 03:27 PM |
| Tab 39 | CS/CS/SB 1870 by BI, IT, Hutson (CO-INTRODUCERS) Harrell ; (Compare to CS/CS/CS/H 01391) Technology Innovation | | | | | |
| 228190 | D | S | RCS | AP, Hutson | Delete everything after | 03/04 03:30 PM |
| Tab 40 | CS/SB 1874 by GO, Hutson ; (Identical to CS/H 01395) Fees/Office of Financial Regulation/Financial Technology Sandbox Applications | | | | | |
| Tab 41 | SB 7060 by FT ; (Compare to CS/1ST ENG/H 07097) Tax Administration | | | | | |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Bradley, Chair
Senator Simpson, Vice Chair

MEETING DATE: Tuesday, March 3, 2020
TIME: 1:00—6:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Simpson, Vice Chair; Senators Bean, Benacquisto, Book, Brandes, Braynon, Flores, Gainer, Gibson, Hutson, Lee, Mayfield, Montford, Passidomo, Powell, Rouson, Simmons, Stargel, Stewart, and Thurston

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
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A proposed committee substitute for the following bill (SB 62) is available:

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| 1 | <p>SB 62 Stargel (Compare CS/CS/CS/H 187, H 641, CS/H 7097, S 836, S 1246, CS/CS/S 7040)</p> | <p>K-12 Education; Requiring that a resolution to levy discretionary sales tax include a statement containing certain information; defining the term “early college program”; changing the calculation of full-time equivalent student membership for dual enrollment purposes; providing for calculation of full-time equivalent membership for students earning the Capstone Diploma; requiring school board mental health policies and procedures to include certain items, etc.</p> <p>ED 01/13/2020 Favorable AED 01/28/2020 Not Considered AED 01/29/2020 Fav/CS AP 02/05/2020 Temporarily Postponed AP 02/06/2020 AP 03/03/2020 Temporarily Postponed</p> | Temporarily Postponed |
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With subcommittee recommendation - Education

A proposed committee substitute for the following bill (SB 68) is available:

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| 2 | <p>SB 68 Book (Similar H 163)</p> | <p>Homelessness; Requiring that certain taxes of a specified amount be transferred annually to the Grants and Donations Trust Fund within the Department of Children and Families for the purpose of funding challenge grants; expanding the membership of the Council on Homelessness to include a representative of the Florida Housing Coalition and the Secretary of the Department of Elderly Affairs or his or her designee; increasing the maximum amount of grant awards per continuum of care lead agency; requiring each continuum of care, pursuant to federal law, to designate a collaborative applicant that is responsible for submitting the continuum of care funding application for the designated catchment area to the United States Department of Housing and Urban Development, etc.</p> <p>CF 10/22/2019 Favorable AHS 02/13/2020 Fav/CS AP 03/03/2020 Fav/CS</p> | Fav/CS Yeas 20 Nays 0 |
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COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|-----------------------------|
| With subcommittee recommendation – Health and Human Services | | | |
| A proposed committee substitute for the following bill (SB 72) is available: | | | |
| 3 | SB 72 Stargel (Compare CS/CS/H 613, CS/S 1402) | Postsecondary Education; Clarifying requirements for new construction, remodeling, or renovation projects; establishing state universities of distinction throughout the State University System; requiring that grant awards administered through the Florida Public Postsecondary Career Education Student Assistance Grant Program not exceed a certain amount; specifying eligibility for initial awards under the Benacquisto Scholarship Program; revising the dates by which a spending plan must be submitted to a Florida College System institution’s board of trustees for approval, etc. ED 01/13/2020 Favorable AED 01/28/2020 Not Considered AED 01/29/2020 Fav/CS AP 02/05/2020 Temporarily Postponed AP 02/06/2020 AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation - Education | | | |
| 4 | SJR 146 Brandes (Identical HJR 369, Compare H 371, H 671, Linked CS/S 148) | Homestead Property Tax Assessments/Increased Portability Period; Proposing amendments to the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead, and to provide an effective date, etc. CA 11/04/2019 Favorable FT 02/13/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 20 Nays 0 |
| 5 | CS/SB 148 Community Affairs / Brandes (Identical H 371, Compare HJR 369, Linked SJR 146) | Limitations on Homestead Assessments; Revising the timeframe during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead; revising the timeframe during which an owner of homestead property significantly damaged or destroyed by a named tropical storm or hurricane must establish a new homestead to make a certain election, etc. CA 11/04/2019 Fav/CS FT 02/13/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 20 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|--------------------------|
| A proposed committee substitute for the following bill (CS/SB 156) is available: | | | |
| 6 | CS/SB 156 Education / Perry (Similar CS/H 1321) | Early Childhood Music Education Incentive Pilot Program; Extending the scheduled expiration of the pilot program; revising an eligibility requirement, etc. ED 11/12/2019 Fav/CS AED 02/13/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation - Education | | | |
| 7 | CS/SB 190 Health Policy / Montford (Identical CS/H 81, Compare S 1650) | Medicaid School-based Services; Revising applicable provisions for the reimbursement of school-based services by the Agency for Health Care Administration to certain school districts; deleting a requirement specifying the use of certified state and local education funds for school-based services; revising a requirement for the agency's reimbursement of school-based services to certain charter and private schools; specifying the federal agency that may waive certain school-based provider qualifications, etc. ED 01/27/2020 Favorable HP 02/11/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 21 Nays 0 |
| 8 | CS/SB 220 Governmental Oversight and Accountability / Cruz (Similar H 121) | Abandoned Cemeteries; Creating the Task Force on Abandoned African-American Cemeteries; requiring the Department of State to partner with specified entities to undertake an investigation of the former Zion Cemetery site; requiring the department to contract with the University of South Florida and the Florida Agricultural and Mechanical University for the identification and location of eligible next of kin, etc. GO 12/09/2019 Fav/CS ATD 02/25/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |
| A proposed committee substitute for the following bill (CS/SB 402) is available: | | | |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|--|--------------------------|
| 9 | CS/SB 402 Health Policy / Harrell (Similar CS/CS/H 767) | Assisted Living Facilities; Clarifying that an assisted living facility licensed to provide extended congregate care services or limited nursing services must maintain a written progress report on each person receiving services from the facility's staff; prohibiting a county or municipality from issuing a business tax receipt, rather than an occupational license, to a facility under certain circumstances; removing restrictions on the method by which a facility may send a report to the Agency for Health Care Administration; clarifying that the absence of an order not to resuscitate does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation or use of an automated external defibrillator, etc. HP 11/05/2019 Fav/CS AHS 02/18/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Health and Human Services | | | |
| 10 | CS/SB 412 Infrastructure and Security / Bean (Compare H 27, H 385, CS/H 387, H 695, H 873, H 1135, CS/S 108, S 568, S 860, CS/S 956, CS/S 1454, Linked CS/S 414) | License Plates; Providing an exception to a design requirement for dealer license plates and for fleet license plates; allowing the Department of Highway Safety and Motor Vehicles to authorize dealer and fleet specialty license plates; providing additional procedures and requirements for discontinuing issuance of a specialty license plate; providing for a special license plate to be issued to a recipient of the Bronze Star, etc. IS 02/03/2020 Fav/CS AP 03/03/2020 Fav/CS RC | Fav/CS Yeas 20 Nays 0 |
| A proposed committee substitute for the following bill (CS/SB 414) is available: | | | |
| 11 | CS/SB 414 Infrastructure and Security / Bean (Compare H 385, CS/H 387, H 1135, S 862, CS/S 1500, Linked CS/S 412) | Fees/Specialty License Plates; Creating a uniform annual use fee collected for a specialty license plate unless otherwise specified; adding annual use fees for certain specialty license plates, etc. IS 02/03/2020 Fav/CS ATD 02/13/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
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| 12 | CS/SB 506 Governmental Oversight and Accountability / Perry (Similar CS/CS/H 441) | Public Procurement of Services; Revising the maximum dollar amount for continuing contracts for construction projects; revising the term "continuing contract" to increase certain maximum dollar amounts for professional architectural, engineering, landscape architectural, and surveying and mapping services, etc. GO 01/13/2020 Fav/CS AEG 01/22/2020 Favorable AP 03/03/2020 Fav/CS | Fav/CS Yeas 21 Nays 0 |
| With subcommittee recommendation - Agriculture, Environment, and General Government | | | |
| 13 | CS/CS/SB 728 Criminal Justice / Infrastructure and Security / Stargel (Compare CS/CS/H 311) | Threats; Decreasing the criminal penalty for threatening to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person; prohibiting threats to use a firearm or weapon with specified intent; providing criminal penalties, etc. IS 01/13/2020 Fav/CS CJ 01/28/2020 Temporarily Postponed CJ 02/04/2020 Fav/CS AP 03/03/2020 Favorable | Favorable Yeas 21 Nays 0 |
| A proposed committee substitute for the following bill (CS/SB 852) is available: | | | |
| 14 | CS/SB 852 Criminal Justice / Pizzo (Compare CS/CS/H 1259, S 854) | Incarcerated Pregnant Women; Revising the circumstances under which a prisoner who is known to be pregnant may not be restrained; specifying conditions under which restraints may be used; requiring that invasive body cavity searches on a pregnant prisoner be conducted by a medical professional; prohibiting the involuntary placement of pregnant prisoners in restrictive housing, etc. CJ 01/14/2020 Fav/CS ACJ 02/18/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 21 Nays 0 |
| With subcommittee recommendation – Criminal and Civil Justice | | | |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|-----------------------------|
| 15 | SB 912 Diaz (Similar CS/CS/CS/H 689, Compare CS/CS/CS/H 623, CS/CS/S 1154) | Department of Business and Professional Regulation; Requiring that certain reports relating to the transportation or possession of cigarettes be filed with the Division of Alcoholic Beverages and Tobacco through the division's electronic data submission system; renaming the Florida State Boxing Commission as the Florida Athletic Commission; revising requirements for issuing special licenses to certain food service establishments; providing the circumstances under which a person is delinquent in the payment of an assessment in the context of eligibility for membership on certain condominium boards, etc. IT 02/03/2020 Not Considered IT 02/10/2020 Favorable CA 02/17/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 19 Nays 0 |
| 16 | CS/CS/SB 998 Infrastructure and Security / Community Affairs / Hutson (Similar CS/CS/CS/H 1339, Compare CS/S 818, S 1022) | Housing; Authorizing a board of county commissioners to approve development of affordable housing on any parcel zoned for residential, commercial, or industrial use; requiring counties, municipalities, and special districts to include certain data relating to impact fees in their annual financial reports; revising applicable standards for the repair and remodeling of mobile and manufactured homes; renaming the Community Workforce Housing Innovation Pilot Program as the Community Workforce Housing Loan Program to provide workforce housing for persons affected by the high cost of housing, etc. CA 01/13/2020 Fav/CS IS 02/17/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 19 Nays 0 |
| 17 | CS/CS/SB 1066 Finance and Tax / Community Affairs / Gruters (Similar CS/CS/CS/H 637) | Impact Fees; Revising requirements for counties and municipalities that adopt, collect, or administer an impact fee by ordinance and for special districts that adopt, collect, and administer an impact fee by resolution; prohibiting new or increased impact fees from applying to certain applications; providing that impact fee credits are assignable and transferable under certain conditions; requiring certain counties and municipalities to establish impact fee review and advisory committees, etc. CA 02/10/2020 Fav/CS FT 02/18/2020 Fav/CS AP 02/27/2020 Temporarily Postponed AP 03/03/2020 Fav/CS | Fav/CS Yeas 18 Nays 0 |

A proposed committee substitute for the following bill (CS/SB 1070) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|--|---|---|--------------------------|
| 18 | CS/SB 1070 Military and Veterans Affairs and Space / Wright (Similar CS/H 717) | Space Florida; Clarifying that Space Florida is subject to a specified provision of law; revising Space Florida's authorization to issue bonds; revising the revenue sources by which revenue bonds may be secured or repaid; revising the term "expanded" to "expended" to clarify the authority of the governing body of Space Florida; reducing the term of years for which Space Florida may issue bonds, etc. MS 01/22/2020 Fav/CS ATD 02/13/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 21 Nays 0 |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |
| 19 | CS/SB 1094 Health Policy / Diaz (Similar CS/CS/H 599) | Consultant Pharmacists; Requiring a pharmacist to complete additional training to be licensed as a consultant pharmacist; authorizing a consultant pharmacist to perform specified services under certain conditions; requiring a consultant pharmacist and a collaborating practitioner to maintain collaborative practice agreements; prohibiting a consultant pharmacist from diagnosing any disease or condition, etc. HP 02/11/2020 Fav/CS AHS 02/25/2020 Favorable AP 03/03/2020 Fav/CS | Fav/CS Yeas 12 Nays 8 |
| With subcommittee recommendation – Health and Human Services | | | |
| A proposed committee substitute for the following bill (CS/SB 1220) is available: | | | |
| 20 | CS/SB 1220 Education / Diaz (Compare CS/H 7067, H 7103, S 1250, S 1400) | Education; Revising initial scholarship eligibility criteria for the Family Empowerment Scholarship Program, beginning with a specified school year; revising eligibility criteria for the Florida Tax Credit Scholarship Program and applying the criteria only to initial eligibility; requiring that the rules to establish uniform core curricula for each state-approved teacher preparation program include evidence-based reading instructional strategies and mental health strategies and support; expanding requirements for the certification program of a postsecondary educator preparation institute to be approved by the Department of Education, etc. ED 01/21/2020 Fav/CS AED 02/25/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 13 Nays 8 |
| With subcommittee recommendation - Education | | | |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|--------------------------|
| 21 | SB 1276 Albritton (Similar CS/H 1201) | Department of Citrus; Establishing the Friends of Florida Citrus Program within the Department of Citrus; creating the Friends of Florida Citrus Advisory Council adjunct to the department; authorizing the Department of Citrus to loan department employees to or share department employees with specified state and federal entities, etc. AG 01/14/2020 Favorable GO 01/21/2020 Favorable AP 03/03/2020 Fav/CS | Fav/CS Yeas 19 Nays 0 |

| | | | |
|----|--|--|-----------------------------|
| 22 | CS/SB 1296 Health Policy / Berman (Compare CS/CS/CS/H 713, CS/H 1461, CS/CS/CS/S 230) | Health Access Dental Licenses; Reviving, reenacting, and amending provisions relating to the application for a health access dental license and the renewal of such license, etc. HP 01/14/2020 Fav/CS AHS 02/25/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 17 Nays 0 |
|----|--|--|-----------------------------|

With subcommittee recommendation – Health and Human Services

A proposed committee substitute for the following bill (CS/SB 1308) is available:

| | | | |
|----|---|---|----------------|
| 23 | CS/SB 1308 Criminal Justice / Brandes (Compare H 1131) | Criminal Justice; Authorizing the resentencing and release of certain persons who are eligible for sentence review under specified provisions; precluding eligibility for a sentence review for young adult offenders who previously committed, or conspired to commit, murder; requiring the Department of Corrections to notify young adult offenders in writing of their eligibility for sentence review within certain timeframes; requiring the department to provide inmates with certain information upon their release, etc. CJ 02/04/2020 Fav/CS ACJ 02/25/2020 Fav/CS AP 03/03/2020 Not Considered | Not Considered |
|----|---|---|----------------|

With subcommittee recommendation – Criminal and Civil Justice

A proposed committee substitute for the following bill (SB 1344) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|--|--|---|--------------------------|
| 24 | SB 1344 Harrell (Similar CS/CS/H 1163, Compare CS/S 82) | Intermediate Care Facilities; Requiring certain facilities that have been granted a certificate-of-need exemption to demonstrate and maintain compliance with specified criteria; providing an exemption from a certificate-of-need requirement for certain intermediate care facilities; prohibiting the Agency for Health Care Administration from granting an additional exemption to a facility unless a certain condition is met, etc. HP 01/28/2020 Favorable AHS 02/18/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 21 Nays 0 |
| With subcommittee recommendation – Health and Human Services | | | |

A proposed committee substitute for the following bill (CS/SB 1392) is available:

| | | | |
|---|---|---|--------------------------|
| 25 | CS/SB 1392 Judiciary / Simmons (Similar CS/H 7057) | Official Headquarters of Judicial Officers; Revising provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; providing that a county is not required to provide space for a judge in a county courthouse, etc. JU 01/21/2020 Fav/CS ACJ 02/13/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Criminal and Civil Justice | | | |

A proposed committee substitute for the following bill (CS/SB 1404) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|--|---|---|-----------------------------|
| 26 | CS/SB 1404 Banking and Insurance / Perry (Compare CS/CS/H 1077, H 1263, CS/S 1594) | Department of Financial Services; Specifying powers and duties of the Division of Public Assistance Fraud; prohibiting persons from acting as or advertising themselves as being funeral directors, embalmers, direct disposers, or preneed sales agents unless they are so licensed; revising the definition of the term "two-component explosives" for the purpose of regulation by the Division of State Fire Marshal; providing that certain persons serving as volunteer firefighters may serve as a regular or permanent firefighter for a limited period, subject to certain restrictions, etc. BI 01/21/2020 Fav/CS AEG 02/18/2020 Fav/CS AP 02/27/2020 Temporarily Postponed AP 03/03/2020 Fav/CS | Fav/CS Yeas 12 Nays 8 |
| With subcommittee recommendation - Agriculture, Environment, and General Government | | | |
| 27 | CS/SB 1440 Children, Families, and Elder Affairs / Powell (Similar CS/CS/H 945, Compare CS/H 7065) | Children's Mental Health; Requiring the Department of Children and Families and the Agency for Health Care Administration to identify certain children and adolescents who use crisis stabilization services during specified fiscal years; including crisis response services provided through mobile response teams in the array of services available to children and adolescents; requiring managing entities to develop and implement plans promoting the development of a coordinated system of care for certain services; requiring the agency to conduct, or contract for, the testing of provider network databases maintained by Medicaid managed care plans for specified purposes, etc. CF 02/04/2020 Fav/CS AHS 02/18/2020 Favorable AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Health and Human Services | | | |
| 28 | CS/SB 1500 Infrastructure and Security / Broxson (Compare CS/H 387, CS/S 414, S 488, S 862) | Specialty License Plate Fees; Providing a license plate annual use fee for the Blue Angels license plate; providing a license plate annual use fee to be collected for specialty license plates created or established after a specified date, etc. IS 01/21/2020 Fav/CS ATD 02/18/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 21 Nays 0 |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|--|---|--|-----------------------------|
| 29 | SB 1542 Stargel (Similar CS/H 835) | Alzheimer's Disease; Requiring state agencies to provide assistance to the Alzheimer's Disease Advisory Committee, upon request; creating the position of Dementia Director within the Department of Elderly Affairs; revising incentive funding criteria for memory disorder clinics; revising the information the department must consider when developing the allocation formula for respite care, etc. CF 01/21/2020 Favorable AHS 02/13/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 20 Nays 0 |
| With subcommittee recommendation – Health and Human Services | | | |
| 30 | CS/SB 1544 Health Policy / Albritton (Identical CS/H 1373) | Long-term Care; Requiring aging resource center personnel to annually rescreen certain individuals with high priority scores for purposes of the statewide wait list for enrollment for home and community-based services; authorizing such personnel to administer rescreening for certain individuals with low priority scores; authorizing community-care-for-the-elderly services providers to dispute certain referrals; providing that a referral decision by adult protective service prevails, etc. HP 02/04/2020 Fav/CS AHS 02/25/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 21 Nays 0 |
| With subcommittee recommendation – Health and Human Services | | | |
| 31 | SB 1570 Perry (Compare H 1455) | Division of Library and Information Services; Removing the date by which the division must submit an annual report regarding the allocation of library funding to the Chief Financial Officer; revising the duties and responsibilities of the division in the administration of the Florida State Archives; revising the duties and responsibilities of the division in the administration of the records and information management program; removing a limitation on the annual grant amount that the administrative unit of a library cooperative may receive from the state for purposes of sharing library resources, etc. GO 02/03/2020 Favorable ATD 02/13/2020 Favorable AP 03/03/2020 Temporarily Postponed | Temporarily Postponed |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|--|-----------------------------|
| 32 | CS/CS/SB 1606 Infrastructure and Security / Banking and Insurance / Perry (Similar CS/CS/H 359, Compare CS/CS/CS/H 895, CS/CS/H 1137, S 1334) | Insurance Administration; Revising a certain electronic signature requirement for a motor vehicle salvage certificate of title; authorizing the payment of certain workers' compensation benefits to be transmitted to the employee's account with a licensed money transmitter; revising criteria for assessing a residential condominium unit owner's loss assessment coverage; specifying sales practice requirements, prohibited sales practices, and authorized sales practices relating to travel insurance, etc. BI 02/04/2020 Fav/CS IS 02/17/2020 Fav/CS AP 03/03/2020 Favorable | Favorable Yeas 20 Nays 0 |
| 33 | CS/SB 1624 Children, Families, and Elder Affairs / Perry (Compare CS/H 1323) | Economic Self-sufficiency; Requiring the Auditor General to perform audits of specified programs at specified intervals; requiring the audits to review specified elements of such programs; requiring the Auditor General to make a specified determination, if possible; revising the criteria for a child to be given priority for participation in the school readiness program, etc. CF 02/04/2020 Fav/CS GO 02/17/2020 Favorable AP 03/03/2020 Fav/CS | Fav/CS Yeas 19 Nays 0 |
| 34 | CS/SB 1662 Community Affairs / Albritton (Similar CS/CS/H 1249) | Property Tax Exemption for Disabled Veterans; Providing that certain veterans and their surviving spouses receiving a certain homestead tax exemption may apply for and receive a prorated refund of property taxes paid on new homestead property acquired during a certain timeframe; requiring the property appraiser to immediately make certain entries upon the tax rolls to allow the prorated refund, etc. CA 02/03/2020 Temporarily Postponed CA 02/10/2020 Fav/CS FT 02/18/2020 Favorable AP 03/03/2020 Favorable | Favorable Yeas 18 Nays 0 |

A proposed committee substitute for the following bill (CS/SB 1676) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|--|---|--|--------------------------|
| 35 | CS/SB 1676 Health Policy / Albritton (Compare CS/CS/H 607, CS/CS/H 7053) | Direct Care Workers; Authorizing a nursing home facility to use paid feeding assistants in accordance with specified federal law under certain circumstances; prohibiting paid feeding assistants from counting toward compliance with minimum staffing standards; authorizing an unlicensed person to assist with self-administration of certain treatments; authorizing a home health aide to administer certain prescription medications under certain conditions, etc. HP 01/28/2020 Temporarily Postponed HP 02/04/2020 Fav/CS AHS 02/18/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 16 Nays 4 |
| With subcommittee recommendation – Health and Human Services | | | |

A proposed committee substitute for the following bill (CS/SB 1692) is available:

| | | | |
|--|---|--|--------------------------|
| 36 | CS/SB 1692 Infrastructure and Security / Flores (Similar CS/CS/H 787, Compare CS/CS/H 789, Linked CS/S 1694) | Driver Licenses; Authorizing a person with specified disabilities to have the capital letter “D” exhibited on his or her driver license under certain circumstances; providing requirements for the placement of such letter on a person’s driver license, etc. IS 02/10/2020 Fav/CS ATD 02/18/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |

A proposed committee substitute for the following bill (CS/SB 1694) is available:

| | | | |
|--|---|---|--------------------------|
| 37 | CS/SB 1694 Infrastructure and Security / Flores (Identical CS/CS/H 789, Compare CS/CS/H 787, Linked CS/S 1692) | Driver License Fees; Providing fees for the placement of a specified letter on the driver license of a person who has a developmental disability, etc. IS 02/10/2020 Fav/CS ATD 02/18/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| With subcommittee recommendation – Transportation, Tourism, and Economic Development | | | |

A proposed committee substitute for the following bill (CS/SB 1726) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|--|---|--|-----------------------------|
| 38 | CS/SB 1726 Health Policy / Bean (Similar CS/CS/H 731) | Agency for Health Care Administration; Requiring birth centers to report certain deaths and stillbirths to the agency; revising provisions requiring the agency to conduct licensure inspections of nursing homes; removing the requirement that the agency annually report to the Governor and the Legislature by a specified date on the progress of implementation of electronic prescribing; revising the length of managed care plan contracts procured by the agency beginning during a specified timeframe, etc. HP 01/28/2020 Fav/CS AHS 02/25/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 21 Nays 0 |
| With subcommittee recommendation – Health and Human Services | | | |
| 39 | CS/CS/SB 1870 Banking and Insurance / Innovation, Industry, and Technology / Hutson (Compare CS/CS/CS/H 1391, CS/CS/H 1393, CS/H 1395, Linked CS/CS/S 1872, CS/S 1874) | Technology Innovation; Renaming the Division of State Technology within the Department of Management Services as the Division of Telecommunications; establishing the Florida Digital Service within the department; revising standards that the Department of Legal Affairs, the Department of Financial Services, and the Department of Agriculture and Consumer Services must adopt; creating the Financial Technology Sandbox within the Office of Financial Regulation, etc. IT 02/10/2020 Fav/CS BI 02/19/2020 Fav/CS AP 03/03/2020 Fav/CS | Fav/CS Yeas 20 Nays 0 |
| 40 | CS/SB 1874 Governmental Oversight and Accountability / Hutson (Identical CS/H 1395, Compare CS/CS/CS/H 1391, Linked CS/CS/S 1870) | Fees/Office of Financial Regulation/Financial Technology Sandbox Applications; Prohibiting the Office of Financial Regulation from waiving or modifying fees for the Financial Technology Sandbox except as specified, etc. GO 02/10/2020 Fav/CS BI 02/19/2020 Favorable AP 03/03/2020 Not Considered | Not Considered |
| 41 | SB 7060 Finance and Tax (Compare CS/H 7097) | Tax Administration; Providing applicability of certain property assessment limitations to changes, additions, or improvements to property damaged or destroyed by Hurricane Michael which are commenced within a certain timeframe; revising the classification of certain residential property for assessment purposes; revising timeframes for certain documentation to be provided to the department for the purposes of a sales tax exemption for the sale of certain boats and aircraft, etc. AP 03/03/2020 Favorable | Favorable Yeas 18 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, March 3, 2020, 1:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|-------------------------|--|------------------|
|-----|-------------------------|--|------------------|

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 62 (545546)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senator Stargel

SUBJECT: K-12 Education

DATE: February 4, 2020

REVISED: 3/2/20

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------------------|----------------|------------|--------------------------|
| 1. | <u>Sagues, Bouck, Brick</u> | <u>Sikes</u> | <u>ED</u> | Favorable |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | Recommend: Fav/CS |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 62 modifies the dual enrollment and collegiate high school programs to ensure students have access to such programs and modifies a number of provisions related to education funding. Specifically, the bill:

- Specifies that the resolution required for voters to approve the levy of a discretionary sales surtax for school capital outlay must include a statement that the revenues collected will be shared with charter schools based on their proportionate share of the total school district enrollment.
- Modifies how school districts share capital outlay funding with charter schools.
- Modifies how charter schools may spend the surtax revenues.
- Prohibits charter schools from receiving capital outlay funds unless the charter school certifies that the funds will not be used for personal financial enrichment.
- Modifies the dual enrollment program to increase access for students by specifying that:
 - School districts or Florida College System institutions may not deny an eligible student from participating in dual enrollment and may not establish eligibility criteria in addition to those in law.
 - Instructional materials are free-of-charge for students in private schools and home education programs.
 - Private schools are exempt from the payment of tuition and fees for dual enrollment.

- Establishes a requirement for the Commissioner of Education to report to the Governor and Legislature regarding the status of dual enrollment programs for public and private school and home education program students.
- Creates the Dual Enrollment Scholarship Program in the Department of Education to reimburse eligible postsecondary institutions a specified amount for tuition and instructional materials for dual enrollment courses taken by private school and home education program students in the fall and spring terms, and by all students in the summer term, subject to appropriation in the General Appropriations Act.
- Expands the Florida Education Finance Program (FEFP) funding to incentivize school districts to offer secondary students access to advanced coursework through dual enrollment and early college programs. The bill:
 - Provides bonus full-time equivalent (FTE) funding to public school districts for each dual enrollment general education core course with an earned grade of “C” or better:
 - Students enrolled in an early college program generate a 0.16 FTE student membership bonus.
 - Students not enrolled in an early college program generate a 0.08 FTE student membership bonus.
 - Provides bonus funding of 0.3 FTE student membership for each student who completes an associate degree through the dual enrollment program with at least a 3.0 grade point average.
 - Requires school districts to allocate at least 50 percent of the bonus funds for dual enrollment and early college programs to the schools that generated the funds to support academic guidance and postsecondary related activities.
- Adds new requirements to the mental health plans that school districts and charter schools must submit in order to receive the mental health assistance allocation in the FEFP.
- Creates a new categorical in the FEFP to assist districts in increasing teacher salaries.
- Removes the July 1, 2020, expiration date for the funding compression allocation within the FEFP.
- Provides an exception that, if a new construction project is funded solely through local impact fees, such funds are exempt from the total cost per student station requirements.

The bill does not require appropriation of additional state funds, but it may provide additional FEFP funds to those school districts with more students successfully completing dual enrollment coursework. See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

School Capital Outlay Surtax

Present Situation

The law authorizes school districts to levy discretionary sales surtaxes for school capital outlay. Each county school board may levy, pursuant to approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate not to exceed 0.5 percent.¹

The resolution must include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax.² The resolution must include a plan for the use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and related engineering costs. The plan must also include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance authorized projects, and any interest accrued may be held in trust to finance the projects.³

The Department of Revenue collects the surtax revenues and is required by law to distribute them to the district school board imposing the tax.⁴ There is currently no provision in law requiring school districts to share the capital outlay surtax funds with charter schools.

Effect of Proposed Changes

The bill establishes an additional requirement for the resolution that is required for voters to approve the levy of a discretionary sales surtax at a rate that may not exceed 0.5 percent. Specifically, such resolution must include a statement that the revenues collected shall be shared with charter schools based on their proportionate share of the total school district enrollment.

The bill also requires that charter schools expend the surtax funds in a manner consistent with existing allowable uses for charter school capital outlay funding, as set forth in section 1013.62(4), Florida Statutes.

Funds for Comprehensive Educational Plant Needs

Present Situation

Current law prohibits a district school board from using funds from specified sources, including the nonvoted 1.5-mill levy of ad valorem property taxes, for any new construction of educational plant space with a total cost per student station exceeding:⁵

- \$23,275 for an elementary school;

¹ Section 212.055, F.S.

² Section 212.055(6)(b), F.S.

³ Section 212.055(6)(c), F.S.

⁴ Section 212.055(6)(d), F.S.

⁵ Section 1013.64(6)(b)1., F.S.

- \$25,135 for a middle school; or
- \$32,648 for a high school.⁶

Except for educational facilities and sites subject to a lease-purchase agreement financed with sales tax revenues, a district school board may not use funds from any source for the new construction of educational plant space with a total cost per student station exceeding the cost per student station limits unless a contract for architectural and design services or for construction management services was executed before July 1, 2017.⁷

Effect of Proposed Changes

The bill provides an additional exception by allowing new construction projects funded solely through local impact fees to be exempt from the total cost per student station requirements.

Charter School Capital Outlay

Present Situation

Charter school capital outlay funding may consist of state funds appropriated in the General Appropriations Act and revenue resulting from the discretionary millage authorized in s. 1011.71(2), F.S. The following table shows recent state appropriations for this purpose since 2016.

| | State Appropriation for Charter School Capital Outlay |
|--------------------|---|
| 2016 ⁸ | \$75,000,000 |
| 2017 ⁹ | \$50,000,000 |
| 2018 ¹⁰ | \$145,286,200 |
| 2019 ¹¹ | \$158,209,945 |

Beginning in 2019-2020, if the amount of state funds for charter school capital outlay is less than the average charter school capital outlay funds per unweighted full-time equivalent student for the 2018-2019 fiscal year, multiplied by the estimated number of charter school students for the applicable fiscal year and adjusted by changes in the Consumer Price Index, charter school capital outlay funding must also consist of revenue resulting from the discretionary 1.5 millage authorized in s. 1011.71(2), F.S.¹²

Eligibility Criteria

To be eligible for charter school capital outlay funding, a charter school must:¹³

⁶ Florida Department of Education, *Cost Per Student Station (Jan. 2020)*, available at <http://edr.state.fl.us/Content/conferences/peco/studentstation.pdf>.

⁷ Section 1013.64(6)(b)3., F.S.

⁸ Specification Appropriation 19, s. 2, ch. 2016-66, L.O.F.

⁹ Specification Appropriation 18, s. 2, ch. 2017-70, L.O.F.

¹⁰ Specification Appropriation 21, s. 2, ch. 2018-9, L.O.F.

¹¹ Specification Appropriation 18, s. 2, ch. 2019-115, L.O.F.

¹² Section 1013.62(1), F.S.

¹³ Section 1013.62(1)(a), F.S.

- Have been in operation for two or more years, be governed by a governing board established in the state for three or more years which operates both charter schools and conversion charter schools within the state, be an expanded feeder chain¹⁴ of a charter school within the same school district that is currently receiving charter school capital outlay funds, have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools, or serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.
- Have an annual audit that does not reveal any of the financial emergency conditions provided in s. 218.503(1), F.S., for the most recent fiscal year for which such audits are available.
- Have satisfactory student achievement based on state accountability standards applicable to the charter school.¹⁵
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school's sponsor.

A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee, or at no charge, or if it is directly or indirectly operated by the school district.¹⁶

Effect of Proposed Changes

The bill modifies the conditions by which the state appropriation for charter school capital outlay must also consist of revenue from the school district's discretionary 1.5 millage. The bill establishes a set appropriation amount of \$165 million that would trigger the inclusion of the discretionary millage. Beginning in 2020-2021, charter school capital outlay funding would only consist of the state appropriation unless the state appropriation was less than \$165 million.

The bill also expresses that a charter school is not eligible for a funding allocation unless the chair of the governing board and chief administrative officer of the charter school annually certify under oath that the funds will be used solely and exclusively for constructing, renovating, leasing, purchasing, financing, or improving charter school facilities that are:

- Owned by a school district, political subdivision of the state, municipality, Florida College System institution, or state university;
- Owned by an organization, qualified as an exempt organization under s. 501(c)(3) of the Internal Revenue Code, or a tax support organization under section 509 of the Internal Revenue Code,¹⁷ whose articles of incorporation specify that upon the organization's dissolution, the subject property, subject to any indebtedness secured thereby and the satisfaction of the organization's other debts, will be transferred to another tax exempt organization, including one organized for educational purposes, or a school district, political

¹⁴ Rule 6A-2.0020, F.A.C., provides that a charter school may be part of an expanded feeder chain if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding.

¹⁵ Rule 6A-2.0020, F.A.C., provides that the eligibility requirement for student achievement must be determined by the school's most recent grade designation or school improvement rating from the state accountability system. A charter school receiving an "F", receiving two consecutive grade designations lower than a "C", or an "Unsatisfactory" school improvement rating shall not be eligible for capital outlay funding.

¹⁶ Section 1013.62(1)(b), F.S.

¹⁷ A tax support organization is defined in 26 U.S.C. s. 509(a)(3) and operates exclusively for the benefit of other specific tax-exempt organizations, including qualified educational organizations.

subdivision of the state, municipality, Florida College System institution, or state university;
or

- Owned by and leased, at a fair market value in the school district in which the charter school is located, from a person or entity that is not an affiliated party of the charter school.

The bill defines “affiliated party of the charter school” to mean:

- The applicant for the charter school pursuant to s. 1002.33, F.S.;
- The governing board of the charter school or a member of the governing board;
- The charter school principal;
- An employee of the charter school; or
- A relative of a charter school governing board member, a charter school principal or a charter school employee.

Dual Enrollment

Present Situation

Florida law provides students in secondary schools access to advanced coursework. Such coursework is intended to shorten the time necessary for a student to complete the requirements associated with the conference of a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject.¹⁸

Dual enrollment is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward both a high school diploma and a career certificate or an associate or baccalaureate degree.¹⁹

Eligibility Criteria

An eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with the requirements specified in law²⁰ and provides a secondary curriculum pursuant to law.²¹ Students who meet the eligibility requirements and who participate in dual enrollment programs are exempt from the payment of registration, tuition, and laboratory fees.²²

The following table shows 2018-2019 academic year dual enrollment participation by public and private school and home education program students at Florida College System (FCS) institutions, state universities, and at eligible private colleges and universities.

¹⁸ Section 1007.27(1), F.S.

¹⁹ Section 1007.271(1), F.S.

²⁰ Section 1002.42(2), F.S.

²¹ Section 1007.271(2), F.S.

²² Section 1007.271(16), F.S. Florida law specifies that the provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, do not apply to students who select the option of enrolling in an eligible independent institution. Section 1011.62(1)(i), F.S. An eligible independent institution is an independent college or university, which is not for profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02. *Id.*

| | FCS Institutions ²³ | State Universities ²⁴ | Private Colleges and Universities ²⁵ |
|----------------|--------------------------------|----------------------------------|---|
| Public School | 73,408 | 9,250 | 6,908 |
| Private School | 2,607 | 688 | |
| Home Education | 3,818 | 113 | |

In general, about three times as many students take dual enrollment courses at an FCS institution during the fall and spring terms than in the summer term.²⁶ About ten times as many students take dual enrollment courses at a state university in the fall and spring compared to the summer term.²⁷

Student eligibility requirements for initial enrollment in college credit dual enrollment courses include a 3.0 unweighted high school grade point average (GPA) and the minimum score on a common placement test²⁸ adopted by the State Board of Education (SBE) which indicates that the student is ready for college-level coursework. For continued enrollment in college credit dual enrollment courses, students must maintain a 3.0 unweighted high school GPA and the minimum postsecondary GPA established by the postsecondary institution. For initial and continued enrollment in career certificate dual enrollment courses, students must have a 2.0 unweighted high school GPA. Exceptions to the required GPA may be granted on an individual student basis if the educational entities agree and the terms of the agreement are contained within the dual enrollment articulation agreement. FCS institutions may establish additional student eligibility requirements, which may not arbitrarily prohibit or limit students who have demonstrated the ability to master advanced courses from participating in dual enrollment courses. Such additional eligibility requirements must be included in the dual enrollment articulation agreement.²⁹

Notification of Dual Enrollment Option

Each district school board must inform all secondary students and their parents of dual enrollment as an educational option and mechanism for acceleration. Students and their parents must be informed of student eligibility requirements, the option for taking dual enrollment courses beyond the regular school year, and the minimum academic credits required for graduation.³⁰

²³ Email, Florida Department of Education (Jan. 8, 2020).

²⁴ Email, Florida Board of Governors (Jan. 3, 2020).

²⁵ Email, Florida Department of Education (Jan 8, 2020).

²⁶ *Id.* In 2018-2019, 74,071 students dually enrolled at an FCS institution in the fall and spring terms, and 22,240 students dually enrolled in the summer term (students enrolled in fall/spring and summer are counted twice). *Id.*

²⁷ Email, Florida Board of Governors (Jan. 3, 2020). In 2018-2019, 14,658 students dually enrolled at a state university in the fall and spring terms, and 1,408 students dually enrolled in the summer term. *Id.*

²⁸ The Postsecondary Education Readiness Test (PERT) is Florida's customized common placement test. The purpose of the PERT is to determine accurate course placement based on the student's skills and abilities. The PERT is aligned with the Postsecondary Readiness Competencies identified by Florida faculty as necessary for success in entry-level college credit coursework. The PERT assessment system includes Placement and Diagnostic tests in mathematics, reading and writing. Rule 6A-10.0315, F.A.C. establishes the test scores used to determine whether a student is ready for college level coursework. Florida Department of Education, *Common Placement Testing*, <http://www.fldoe.org/schools/higher-ed/fl-college-system/common-placement-testing.shtml> (last visited April 2, 2019). As an alternative to PERT, students may take the ACCUPLACER, SAT, and ACT to demonstrate readiness to perform college-level work. Rule 6A-10.0315(2), F.A.C.; see also Rule 6A-14.064(1)(b), F.A.C.

²⁹ Section 1007.271(3), F.S.

³⁰ Section 1007.271(8), F.S.

Articulation Agreements

A dual enrollment articulation agreement establishes the guidelines for implementing the program for eligible students.³¹ Specifically, Florida law requires:

- Each district school superintendent and each public postsecondary institution president to develop a comprehensive dual enrollment articulation agreement for the respective school district and postsecondary institution.³²
- Each public postsecondary institution to enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and the student's parent.³³
- Each public postsecondary institution to enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students.³⁴

• In addition, district school boards and FCS institutions may enter into additional dual enrollment articulation agreements with state universities, and school districts may also enter into dual enrollment articulation agreements with eligible independent colleges and universities.³⁵

Dual enrollment articulation agreements are developed locally by the entities specified in law. Florida law specifies the information that must be addressed in the dual enrollment articulation agreements.³⁶ Such agreements must be submitted to the Florida Department of Education (DOE) by August 1 of each year.³⁷ District school boards may not refuse to enter into a dual enrollment articulation agreement with a local FCS institution if that institution has the capacity to offer dual enrollment courses.³⁸

Instructional Materials

Instructional materials assigned for use within dual enrollment courses must be made available to dual enrollment students from Florida public high schools free of charge. Florida law does not prohibit an FCS institution from providing instructional materials at no cost to a home education student or a student from a private school. Instructional materials purchased by a district school board or FCS institution board of trustees on behalf of dual enrollment students must be the property of the board against which the purchase is charged.³⁹

³¹ Florida Department of Education, *Dual Enrollment Frequently Asked Questions*, available at <http://www.fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf>, at 13.

³² Section 1007.271(21), F.S.

³³ Section 1007.271(13), F.S.

³⁴ Section 1007.271(24), F.S.

³⁵ Section 1007.271(23), F.S.

³⁶ Section 1007.271(13), (21), and (24), F.S.

³⁷ Section 1007.271(13), (21), (23), and (24), F.S.

³⁸ Section 1007.271(4), F.S.

³⁹ Section 1007.271(17), F.S.

Effect of Proposed Changes

The bill modifies s. 1007.271, F.S., regarding dual enrollment student eligibility, notification requirements, articulation agreements, and funding. Such changes may increase dual enrollment opportunities for students through programmatic and financial supports and provide additional information to parents and students about dual enrollment benefits and responsibilities.

The bill modifies student eligibility for and access to dual enrollment. Specifically, the bill:

- Clarifies that a student eligible for dual enrollment includes a student enrolled in a home education program specified in law.
- Specifies that the individual student exceptions to the required high school grade point average (GPA) in current law are only for career certificate dual enrollment.
- Authorizes an exception to the required GPA for college credit dual enrollment for students who achieve higher scores than the established minimum on the common placement test adopted by the State Board of Education (SBE). Such exception must be specified in the articulation agreement.
- Removes the authorization for an FCS institution to establish additional dual enrollment eligibility criteria, to specify that a postsecondary institution may not establish additional initial student academic eligibility requirements.
- Specifies that a district school board or FCS institution may not deny a student who has met the state eligibility requirements from participating in dual enrollment unless the institution documents that it does not have the capacity to accommodate all eligible students seeking to participate in the dual enrollment program. If the institution documents that it does not have the capacity to accommodate all eligible students, participation must be based on a first-come, first-served basis.
- Specifies that a home education student must meet the same minimum score requirement on a common placement test required of other dually enrolled students.

The bill expands the notification requirement to parents to include legal guardians, and requires that students and their parents or legal guardians be informed that dual enrollment course grades are included in the student's college GPA, become a part of the student's permanent academic record, and may affect the student's future financial aid eligibility. The bill also specifies that a school may not enroll a student in a dual enrollment course without an acknowledgment form on file, which must be signed by both the student and the student's parent or legal guardian.

The bill extends the deadline for annual reporting of articulation agreements to the DOE from August 1, to October 1, which may provide additional time for agreements to be negotiated and approved by the school district and postsecondary governing boards.

The bill modifies provisions relating to the cost of dual enrollment to students and to postsecondary institutions. Specifically, the bill:

- Specifies that instructional materials used in dual enrollment courses are free to students at private schools and home education programs.⁴⁰

⁴⁰ Section 27, ch. 2018-6, L.O.F., included a provision removing from the home education articulation agreement a provision that such students must be responsible for their own instructional materials.

- Specifies that the private school of a student's enrollment is exempt from the payment of tuition and fees to the postsecondary institution.
- Establishes the Dual Enrollment Scholarship Program as an additional funding source, for postsecondary institutions.

Dual Enrollment Scholarship Program

The bill creates s. 1009.31, F.S., to establish the Dual Enrollment Scholarship Program (program) within the DOE to support postsecondary institutions in providing dual enrollment to students in Florida secondary schools and home education programs.

For any student who meets the dual enrollment eligibility requirements established in law, the bill requires the program to:

- Beginning in the 2020 fall term, reimburse eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.
- Beginning in the 2021 summer term, reimburse institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer terms.

The specific reimbursements amounts are as follows:

- FCS institutions are reimbursed at the in-state resident tuition rate established in law.⁴¹
- State universities and independent postsecondary institutions are reimbursed at the standard tuition rate established in law.⁴²
- Workforce education instruction leading to a career certificate or an applied technology diploma shall be reimbursed at the standard tuition rate established in law.⁴³
- Institutions are reimbursed for instructional materials costs based on a rate as specified in the GAA.

The bill specifies that reimbursement for dual enrollment courses is contingent upon an appropriation in the GAA each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have reported eligible students to the DOE by the established deadlines.

Each participating institution must report to the DOE specified information about the student, postsecondary institution, course, and credits, and:

- Annually, by March 15, its eligible secondary students from private schools or home education programs who were enrolled during the previous fall or spring terms. For dual enrollment courses taken during the fall and spring terms, the DOE must reimburse institutions by April 15 of the same year.
- Annually, by July 15, its eligible public school, private school, or home education program students who were enrolled during the summer terms. For dual enrollment courses taken

⁴¹ The standard in-state tuition rate at an FCS institution is \$71.98 per credit hour. Section 1009.23(3)(a), F.S.

⁴² The standard in-state tuition rate at state universities is \$105.07 per credit hour. Section 1009.24(4)(a), F.S.

⁴³ The standard in-state tuition rate at state universities is \$2.33 per contact hour. Section 1009.22(4)(c), F.S.

during the summer terms, the DOE must reimburse institutions by August 15 of the same year, before the beginning of the next academic year.

Collegiate High School Program

Present Situation

In 2014, the Legislature codified the collegiate high school program and specified related requirements.⁴⁴ Florida law requires each Florida College System (FCS) institution to work with each district school board in its designated service area⁴⁵ to establish one or more collegiate high school programs.⁴⁶ In fall 2018, there were 11,146 students enrolled in a collegiate high school or collegiate high school program.⁴⁷

Purpose

At a minimum, collegiate high school programs must include an option for public school students in grade 11 or grade 12 participating in the program, for at least one full school year, to earn Career and Professional Education (CAPE) industry certifications and to successfully complete 30 credit hours through dual enrollment toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program.⁴⁸

Program Contract

Each district school board and its local FCS institution must execute a contract to establish one or more collegiate high school programs at a mutually agreed upon location or locations. If the FCS institution does not establish a program with a district school board in its designated service area, another FCS institution may execute a contract with that district school board to establish the program.⁴⁹

In addition to executing a contract with the local FCS institution, Florida law authorizes a district school board to execute a contract to establish a collegiate high school program with a state university or an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is nonprofit and located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees.⁵⁰

Florida law specifies the information that must be addressed in the contract that must be executed by January 1 of each school year for implementation of the program during the next school year.⁵¹

⁴⁴ Section 10, ch. 2014-184, L.O.F.

⁴⁵ Section 1000.21(3), F.S.

⁴⁶ Section 1007.273(1), F.S.

⁴⁷ Email, Florida Department of Education (Jan. 8, 2020).

⁴⁸ Section 1007.273(2), F.S.

⁴⁹ Section 1007.273(3), F.S.

⁵⁰ Section 1007.273(5), F.S.

⁵¹ Section 1007.273(3), F.S.

Student Performance Contract

Each student participating in a collegiate high school program must enter into a student performance contract that must be signed by the student, the parent, and a representative of the school district and the applicable FCS institution, state university, or independent college or university.⁵² The performance contract must include the schedule of courses, by semester, and industry certifications to be taken by the student, student attendance requirements, and course grade requirements.

Effect of Proposed Changes

The bill modifies s. 1007.273, F.S., and changes the name of the collegiate high school program to the early college program. In addition, the bill:

- Changes the purpose of the program to remove specified grade levels and credit thresholds to specify that an early college program means a structured high school acceleration program in which a cohort of students is enrolled full-time in postsecondary courses toward an associate degree. The bill requires that the early college program prioritize courses applicable as general education core courses⁵³ for an associate degree or a baccalaureate degree.
- Specifies that the early college program contract between a district school board and the local FCS institution, which includes a delineation of dual enrollment courses available, must include general education core courses.⁵⁴
- Requires the student performance contract for the early college program include a provision describing the applicability of dual enrollment courses in the program to an associate degree or a baccalaureate degree.
- Specifies that a charter school may execute a contract directly with the local FCS institution or another institution to establish an early college program at a mutually agreed upon location.

The bill establishes a reporting requirement relating to early college programs. Specifically, by November 30, 2021, and annually thereafter, the commissioner of education must report to the Governor, President of the Senate, and the Speaker of the House of Representatives the status of early college programs, including, at a minimum, a summary of student enrollment and completion at public and private postsecondary institutions.

⁵² Section 1007.273(4), F.S. To participate in a collegiate high school program, an independent college or university must be an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. Section 1007.273(5), F.S.

⁵³ Section 1007.25, F.S. and Rule 6A-14.0303, F.A.C.

⁵⁴ General education core course options consist of a maximum of five courses within each of the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. Beginning with students initially entering an FCS institution or state university in 2015-2016 and thereafter, each student must complete at least one identified core course in each subject area as part of the general education course requirements. The general education core course options must be adopted in rule by the State Board of Education (SBE) and in regulation by the Board of Governors. Section 1007.25(3), F.S. See also Rule 6A-10.0303 and BOG Regulation 8.005.

In addition, the bill includes a conforming provision to change the name of the collegiate high school program to the early college program related to the requirements for a standard high school diploma for students with disabilities.⁵⁵

Florida Education Finance Program (FEFP)

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida school districts. Under the FEFP, financial support for education is based on the full-time equivalent (FTE) student membership in public schools.⁵⁶ The number of FTE students in each of the funded education programs is multiplied by cost factors⁵⁷ relative to each program to obtain weighted FTE student values.⁵⁸ The base student allocation from state and local funds is determined annually by the Legislature in the General Appropriations Act (GAA) and is a component in the calculation of each school district's base funding.⁵⁹ In addition to the base funding, the Legislature may appropriate categorical funding for specified programs, activities or purposes, such as for mental health assistance, and funding compression.⁶⁰ School districts may also earn supplemental FTE funding through the FEFP for programs based on performance, such as College Board Advanced Placement bonus funding.⁶¹

Incentive Funding for Acceleration Programs

Present Situation

Dual enrollment funding for public schools is included in the calculation of FTE students within the FEFP.⁶² There is no provision in law to allow for additional performance funding for students earning dual enrollment credit.

Florida schools offer high school acceleration programs such as Advanced Placement (AP), International Baccalaureate (IB), and Advanced International Certificate of Education (AICE) to shorten the time necessary for a student to earn a high school diploma and a postsecondary degree, broaden the scope of curricular options available, and increase the depth of study available for a particular subject.⁶³ The law provides the following benefits to schools and students engaged in these programs:

- Successful completion of a course examination in any of these programs qualifies for college credit.⁶⁴

⁵⁵ Section 1003.4282(10)(c)2., F.S.

⁵⁶ Section 1011.62, F.S.

⁵⁷ Program cost factors are based on desired relative cost differences between the following programs as established in the annual General Appropriations Act: grades K-3; 4-8; 9-12; two program cost factors for exceptional students; secondary career education programs; and English for Speakers of Other Languages. Section 1011.62(1)(c), F.S.

⁵⁸ Section 1011.62, F.S.; Department of Education, *2019-20 Funding for Florida School Districts* available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 1.

⁵⁹ Department of Education, *2019-20 Funding for Florida School Districts* available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 17.

⁶⁰ Section 1011.62(6) F.S.

⁶¹ Section 1011.62(1) F.S.

⁶² Department of Education, *2019-20 Funding for Florida School Districts*, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 11.

⁶³ Section 1007.27(1), F.S.

⁶⁴ Section 1003.4295, F.S.

- The percentage of a school's students eligible to earn college credit through any of these programs has a positive effect on the school's grade.⁶⁵
- A grade earned in any of these programs is assigned additional weight for determining student eligibility for a Bright Futures Scholarship.⁶⁶

The FEFP also provides a funding incentive for school districts with students in AP, IB, AICE courses who successfully complete AP, IB, and AICE examinations or earn an IB or AICE diploma.⁶⁷ The additional FTE is calculated as follows:

- A value of 0.16 FTE student membership is calculated for each student in each AP course who receives a score of 3 or higher on the College Board AP examination.⁶⁸
- A value of 0.16 FTE student membership is calculated for each student enrolled in an IB course who receives a score of 4 or higher on a subject examination. A value of 0.3 FTE student membership is calculated for each student who receives an IB diploma.⁶⁹
- A value of 0.16 FTE student membership is calculated for each student enrolled in a full-credit AICE course, and 0.08 FTE student membership for each student enrolled in a half-credit AICE course, for each student who receives a score of E or higher on a subject examination. A value of 0.3 FTE student membership is calculated for each student who receives an AICE diploma.⁷⁰

Effect of Proposed Changes

The bill adds new provisions for FEFP funding for students enrolled in dual enrollment courses and early college programs that are similar to FTE student membership incentives districts earn for students who complete of AP, IB, and AICE examinations. Specifically, for the 2020-2021 school year and thereafter, the bill:

- Provides bonus FTE funding to public school districts for any student who completes a general education core course through dual enrollment with an earned grade of "C" or better. Specifically:
 - Students enrolled in an early college program generate a 0.16 FTE student membership bonus.
 - Students not enrolled in an early college program generate a 0.08 FTE student membership bonus.
- Provides bonus FTE funding for each associate degree earned through the dual enrollment program with 3.0 GPA or better. Students earning an associate degree with the required GPA generate a 0.3 FTE student membership bonus. Courses taken prior to 2020-2021 may be included in the associate degree.
- Specifies that bonus funding will be added to the total FTE student membership in basic programs for grades 9-12 in the subsequent fiscal year and requires school districts to

⁶⁵ Section 1008.34(3)(b)2.b., F.S.

⁶⁶ Section 1009.531(3)(a), F.S.

⁶⁷ Section 1011.62, F.S. Accelerated mechanisms include, but are not limited to, dual enrollment and early admission, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program. Section 1007.27(1), F.S.

⁶⁸ Section 1011.62(1)(n), F.S.

⁶⁹ Section 1011.62(1)(l), F.S.

⁷⁰ Section 1011.62(1)(m), F.S.

allocate at least 50 percent of the bonus funds to the schools that generated the funds to support academic guidance and postsecondary readiness.

Adding performance funding incentives for students taking dual enrollment core courses may incentivize school districts to increase the number of students enrolled in dual enrollment core courses in both dual enrollment and early college programs.

Mental Health Assistance Allocation

Present Situation

The mental health assistance allocation is a categorical fund established to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services.⁷¹ A total of \$75 million was appropriated to school districts through the mental health assistance allocation for the 2019-2020 school year.⁷² In order to receive the allocation, a school district must develop and submit a plan outlining the local program and planned expenditures to the district school board for approval. This plan must include all district schools, including charter schools, unless a charter school chooses to independently develop and submit a plan outlining the local program and planned expenditures.⁷³

The plans must include elements such as:⁷⁴

- Identification of strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.
- Strategies or programs to reduce the likelihood of at-risk students developing certain mental health problems.
- Strategies to identify mental health problems more effectively, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

School districts are required to annually submit a report to the DOE on program outcomes and expenditures for the previous fiscal year, by September 30.

Effect of Proposed Changes

The bill modifies s. 1011.62, F.S., effective July 1, 2020, to clarify and add new requirements for the mental health plans that must be submitted by school districts in order to receive the mental health assistance allocation. In addition to existing requirements, the bill requires plans to include input from school and community stakeholders and include mental health policies and procedures that implement and support:

- Universal supports to promote psychological well-being, and safe and supportive school environments.

⁷¹ Section 1011.62(16), F.S.

⁷² Specific Appropriation 93, s. 2, ch. 2019-115, L.O.F.

⁷³ Section 1011.62(16), F.S.

⁷⁴ Section 1011.62(16)2.(b). F.S.

- Methods for responding to a student with suicidal ideation, including training in suicide risk assessment and the use of suicide awareness, prevention, and screening instruments developed as required for continuing education and inservice training for youth suicide awareness and prevention; adoption of guidelines for informing parents of suicide risk; and implementation of school board policies for initiating involuntary examination of students at risk of suicide.
- A school crisis response plan that includes strategies to prevent, prepare for, respond to, and recover from a range of school crises. The plan must establish or coordinate the implementation of district-level and school-level crisis response teams whose membership includes, but is not limited to, representatives of school administration and school-based mental health service providers.

The bill also modifies district reporting requirements to the DOE and requires the DOE to submit a state summary of the required information from the school district reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by November 1 of each year. The bill requires the DOE report to include school district data required under current law and requires both reports to additionally include:

- Program outcomes and expenditures for all public schools in the district, including charter schools.
- District-level and school-level information, including multiple-year trend data, when available.
- The number and ratio of school social workers, school psychologists, and certified school counselors employed by the district or charter school and the total number of licensed mental health professionals employed directly by the district or charter school.

These changes may provide more suitable data to assist in the refinement of policies and improve the provision of school-based mental health services.

Funding Compression Allocation

Present Situation

The funding compression allocation is a categorical fund established to provide additional funding to school districts and developmental research schools whose total funds per FTE in the prior year were less than the statewide average. Florida law specifies that the Legislature may provide an annual funding compression allocation in the GAA.⁷⁵ In 2019, the Legislature appropriated \$54,190,616⁷⁶ for a funding compression allocation to school districts and developmental research schools whose total funds per FTE in the prior school year were less than the statewide average.⁷⁷ A district's allocation must not be greater than \$100 per FTE.⁷⁸ The funding compression allocation is scheduled to expire July 1, 2020.⁷⁹

⁷⁵ Section 1011.62(17), F.S.

⁷⁶ Florida Department of Education, *2019-20 FEFP Second Calculation, Prekindergarten through Grade 12 Funding Summary-Page 3* (July 19, 2019), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>, at 6.

⁷⁷ Specific appropriation 93, ch. 2019-115, L.O.F.

⁷⁸ *Id.*

⁷⁹ Section 1011.62(17), F.S.

Effect of Proposed Changes

The bill removes the July 1, 2020 expiration date for the funding compression allocation within the FEFP.

Teacher Salary Increase Allocation

Present Situation

Currently, there is not a statewide minimum salary for instructional personnel, including teachers. The salaries of instructional personnel are set by each school district.⁸⁰ Salary schedules provide differentiated pay for instructional personnel based on district-determined factors including employee performance.⁸¹

The performance salary schedule provides the opportunity for annual salary adjustments for instructional personnel and school administrators based on performance.⁸² Instructional personnel and school administrators hired on or after July 1, 2014,⁸³ and instructional personnel on annual contracts as of July 1, 2014,⁸⁴ must be placed on the performance salary schedule. Only teachers rated effective or highly effective may receive a salary adjustment under a performance salary schedule.⁸⁵

A grandfathered salary schedule is a salary schedule adopted by a district school board for paying personnel hired before July 1, 2014, in which compensation is generally based on seniority and educational degree level. In determining the grandfathered salary schedule for instructional personnel, a district school board must base a portion of each employee's compensation on the performance evaluation. In addition, the district must provide differentiated pay for instructional personnel and school administrators based on district-determined factors including, but not limited to, additional responsibilities, school demographics, critical teacher shortage areas, and level of job performance difficulties.⁸⁶

In 2013, the Legislature appropriated \$480 million in the GAA for the Teacher Salary Increase Allocation for salary increases for school district and charter school classroom teachers, guidance counselors, social workers, psychologists, librarians, principals, and assistant principals. The salary increases were based on performance evaluations and were required to be at least \$2,500 for personnel evaluated as "effective" and up to \$3,500 for personnel evaluated as "highly effective".⁸⁷

Currently, the only component of the FEFP that directly addresses teacher compensation is the Florida Best and Brightest Teacher Scholarship Program. The Florida Best and Brightest Teacher Scholarship Program was established in 2015 to provide eligible classroom teachers with an bonus award based on the teacher's evaluation rating and performance on the SAT or ACT

⁸⁰ Section 1012.22(1)(c), F.S.

⁸¹ Section 1011.60(4), F.S.

⁸² Section 1012.22(1)(c)5. Requirements for the performance evaluation are contained in s. 1012.34, F.S.

⁸³ Section 1012.22(1)(c)5., F.S.

⁸⁴ Section 1012.22(1)(c)4., F.S.

⁸⁵ Section 1012.22(1)(c)5.b., F.S.

⁸⁶ Section 1012.22(1)(c)4., F.S.

⁸⁷ Section 2, ch.2013-40, L.O.F.

standardized assessment.⁸⁸ In 2019, the Florida Best and Brightest Teacher Scholarship Program was revised to authorize three types of awards with distinct criteria for determining eligibility.⁸⁹ The funding for the program is provided through the Florida Best and Brightest Teacher and Principal Allocation categorical fund within the FEFP.⁹⁰ In 2018-2019, \$284.5 million was appropriated for the Florida Best and Brightest Teacher and Principal Allocation.⁹¹

Effect of Proposed Changes

The bill establishes a new teacher salary categorical fund to increase the minimum base salary for full-time classroom teachers or all instructional personnel, excluding substitute teachers. The bill:

- Specifies funds would be allocated based on each district's share of the base FEFP allocation.
- Specifies funds for the minimum base salary increases may be provided in multiple years.
- Defines "minimum base salary" as the base annual salary before payroll deductions and excluding additional supplements.
-

The bill specifies that the new categorical is subject to an appropriation in the GAA each year. The establishment of a new categorical fund within the FEFP specifically for teacher salary increases may improve teacher compensation, which in turn may incentivize more people to choose the teaching profession and may improve teacher retention.

The bill takes effect on July 1, 2020.

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.

⁸⁸ Section 2, ch.2015-232, L.O.F.

⁸⁹ Section 1012.731, F.S.

⁹⁰ Section 1011.62(18), F.S.

⁹¹ Section 2, ch.2018-9, L.O.F.

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

None.

B. Private Sector Impact:

The financial supports for the dual enrollment and early college programs may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

The bill does not require the appropriation of additional state funds. However, beginning in the 2021-2022 fiscal year, the bill may reallocate funds within the Florida Education Finance Program (FEFP) to those school districts with relatively more students successfully completing dual enrollment coursework.

For the 2020-2021 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost \$28.5 million. The estimate is based on tuition and instructional materials costs for the estimated number of private school and home education program students participating in dual enrollment in the fall and spring terms, and all dual enrollment students in the summer term.

The exception to the cost per student station requirements for projects funded solely through local impact fee may provide local school districts more flexibility regarding new construction projects.

If a county school board decides to levy a discretionary sales surtax, charter schools will receive a share of the revenue to assist with their capital outlay needs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.055, 1007.271, 1007.273, 1011.62, 1013.62, 1003.4282, and 1003.436.

The bill creates section 1009.31 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.)

Recommended CS by Appropriation Subcommittee on Education on January 29, 2020:

The committee substitute makes the following changes to the bill:

- Removes the provision that provided bonus FTE funding for earning an AP Capstone Diploma.
- Makes changes to the dual enrollment program.
- Creates the Dual Enrollment Scholarship.
- Creates the Teacher Salary Increase Allocation within the FEFP.
- Aligns the changes made to the Mental Health Assistance Allocation with those made in SB 7040: Implementation of the Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission.
- Modifies how school districts share capital outlay funding with charter schools.
- Modifies how charter schools may spend the surtax revenues.
- Prohibits charter schools from receiving capital outlay funds unless the charter school certifies that the funds will not be used for personal financial enrichment.
- Provides an exception that, if a new construction project is funded solely through local impact fees, such funds are exempt from the total cost per student station requirements.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) of section 212.055, Florida
Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent;
authorization and use of proceeds.—It is the legislative intent
that any authorization for imposition of a discretionary sales
surtax shall be published in the Florida Statutes as a



11 subsection of this section, irrespective of the duration of the
12 levy. Each enactment shall specify the types of counties
13 authorized to levy; the rate or rates which may be imposed; the
14 maximum length of time the surtax may be imposed, if any; the
15 procedure which must be followed to secure voter approval, if
16 required; the purpose for which the proceeds may be expended;
17 and such other requirements as the Legislature may provide.
18 Taxable transactions and administrative procedures shall be as
19 provided in s. 212.054.

20 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

21 (a) The school board in each county may levy, pursuant to
22 resolution conditioned to take effect only upon approval by a
23 majority vote of the electors of the county voting in a
24 referendum, a discretionary sales surtax at a rate that may not
25 exceed 0.5 percent.

26 (b) The resolution must ~~shall~~ include a statement that
27 provides a brief and general description of the school capital
28 outlay projects to be funded by the surtax. The resolution must
29 include a statement that the revenues collected must be shared
30 with eligible charter schools, in accordance with s.
31 1013.62(1)(a) and (b), based on their proportionate share of the
32 total school district enrollment. The statement must ~~shall~~
33 conform to the requirements of s. 101.161 and shall be placed on
34 the ballot by the governing body of the county. The following
35 question shall be placed on the ballot:

36 FOR THE CENTS TAX

37 AGAINST THE CENTS TAX



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(c) The resolution providing for the imposition of the surtax must ~~shall~~ set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used to service ~~for the purpose of servicing~~ bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. Surtax revenues shared with charter schools shall be expended by the charter school in a manner consistent with the allowable uses set forth in s. 1013.62(4). All revenues and expenditures shall be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9).

(d) Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 2. The amendment made by this act to s. 212.055(6), Florida Statutes, which amends the allowable uses of the school capital outlay surtax, applies to levies authorized by vote of



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67 the county's electors on or after July 1, 2020.

68 Section 3. Section 446.541, Florida Statutes, is created to
69 read:

70 446.541 Work-based learning.-

71 (1) It is the intent of the Legislature that, to the extent
72 possible, school districts place students in paid work
73 experiences for purposes of educational training and work-based
74 learning.

75 (2) For purposes of this section, the term "work-based
76 learning" is synonymous with the term "on-the-job training" and
77 means interactions with industry or community professionals in
78 off-campus workplaces which foster in-depth, firsthand
79 engagement with the tasks required in a given career field and
80 which are aligned to curriculum and instruction, through an
81 apprenticeship program or a preapprenticeship program or as a
82 student in a course identified in the Course Code Directory.

83 (3) (a) The following participants in work-based learning
84 are deemed to be employees of the state for purposes of workers'
85 compensation and shall be insured in the manner provided
86 pursuant to chapter 284, except as otherwise provided in this
87 section:

88 1. Individuals 18 years of age or younger who are enrolled
89 in a Florida-registered preapprenticeship program that requires
90 work-based learning or a registered apprenticeship program
91 administered under ss. 446.011-446.092.

92 2. Any students in grades 6 through 12 who are enrolled in
93 a course identified in the Course Code Directory which
94 incorporates a work-based learning component or an activity that
95 is unpaid.



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96 (b) Workers' compensation costs associated with such
97 participants shall not be included or combined with the premiums
98 otherwise due from the department pursuant to chapter 284, but
99 shall be billed separately to the department's workforce
100 education programs and are payable solely from appropriations
101 provided to the department's workforce education programs or
102 specifically for the payment of such costs.

103 (c) In order for the provisions of paragraph (a) to apply
104 to a participant, each preapprenticeship program and
105 apprenticeship program registered with the department and each
106 school board, community college, or career center offering
107 courses identified in the Course Code Directory which
108 incorporate a work-based learning component or an activity that
109 is unpaid shall provide the following information to the
110 department not later than 30 days after a participant begins his
111 or her participation in work-based learning:

112 1. The name of each such participant;

113 2. The amount of hourly compensation to be paid to such
114 participant, if any;

115 3. The number of hours per week that such participant will
116 be receiving on-the-job training as a participant in, and
117 required for, the preapprenticeship program, apprenticeship
118 program, or course which incorporates a work-based learning
119 component or an activity that is unpaid.

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121 The department shall provide such information to the Division of
122 Risk Management of the Department of Financial Services,
123 together with any additional information required by the
124 division for the purposes of administering chapter 284.



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125 (d) Notwithstanding ss. 284.36 and 284.44, the department
126 shall be responsible for paying workers' compensation costs for
127 participants who are entitled to workers' compensation benefits
128 pursuant to chapter 440 solely from funds appropriated to the
129 department for such purpose. Coverage for such workers'
130 compensation benefits shall be provided by the Division of Risk
131 Management of the Department of Financial Services. The costs
132 for such coverage shall be paid by the department to the
133 division. For fiscal year 2020-2021, the department shall pay
134 the division \$470,000 on August 15, 2020, on November 15, 2020,
135 on February 15, 2021, and on May 15, 2021, for such costs. For
136 subsequent fiscal years, the division shall bill the department
137 for such workers' compensation costs quarterly, based on such
138 costs from the preceding state fiscal year. The department shall
139 pay such quarterly bills on August 15, on October 15, on
140 February 15, and on May 15 of each fiscal year.

141 Section 4. Paragraph (b) of subsection (6) and paragraph
142 (e) of subsection (10) of section 1002.33, Florida Statutes, are
143 amended to read:

144 1002.33 Charter schools.—

145 (6) APPLICATION PROCESS AND REVIEW.—Charter school
146 applications are subject to the following requirements:

147 (b) A sponsor shall receive and review all applications for
148 a charter school using the evaluation instrument developed by
149 the Department of Education. A sponsor shall receive and
150 consider charter school applications received during ~~on or~~
151 ~~before August 1~~ of each calendar year for charter schools to be
152 opened at the beginning of the school district's next school
153 year, or to be opened at a time determined ~~agreed to~~ by the



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154 applicant ~~and the sponsor~~. A sponsor may not refuse to receive a
155 charter school application submitted by an applicant during the
156 calendar year. ~~before August 1 and may receive an application~~
157 ~~submitted later than August 1 if it chooses. Beginning in 2018~~
158 ~~and thereafter, a sponsor shall receive and consider charter~~
159 ~~school applications received on or before February 1 of each~~
160 ~~calendar year for charter schools to be opened 18 months later~~
161 ~~at the beginning of the school district's school year, or to be~~
162 ~~opened at a time determined by the applicant. A sponsor may not~~
163 ~~refuse to receive a charter school application submitted before~~
164 ~~February 1 and may receive an application submitted later than~~
165 ~~February 1 if it chooses.~~ A sponsor may not charge an applicant
166 for a charter any fee for the processing or consideration of an
167 application, and a sponsor may not base its consideration or
168 approval of a final application upon the promise of future
169 payment of any kind. Before approving or denying any
170 application, the sponsor shall allow the applicant, upon receipt
171 of written notification, at least 7 calendar days to make
172 technical or nonsubstantive corrections and clarifications,
173 including, but not limited to, corrections of grammatical,
174 typographical, and like errors or missing signatures, if such
175 errors are identified by the sponsor as cause to deny the final
176 application.

177 1. In order to facilitate an accurate budget projection
178 process, a sponsor shall be held harmless for FTE students who
179 are not included in the FTE projection due to approval of
180 charter school applications after the FTE projection deadline.
181 In a further effort to facilitate an accurate budget projection,
182 within 15 calendar days after receipt of a charter school



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183 application, a sponsor shall report to the Department of
184 Education the name of the applicant entity, the proposed charter
185 school location, and its projected FTE.

186 2. In order to ensure fiscal responsibility, an application
187 for a charter school shall include a full accounting of expected
188 assets, a projection of expected sources and amounts of income,
189 including income derived from projected student enrollments and
190 from community support, and an expense projection that includes
191 full accounting of the costs of operation, including start-up
192 costs.

193 3.a. A sponsor shall by a majority vote approve or deny an
194 application no later than 90 calendar days after the application
195 is received, unless the sponsor and the applicant mutually agree
196 in writing to temporarily postpone the vote to a specific date,
197 at which time the sponsor shall by a majority vote approve or
198 deny the application. If the sponsor fails to act on the
199 application, an applicant may appeal to the State Board of
200 Education as provided in paragraph (c). If an application is
201 denied, the sponsor shall, within 10 calendar days after such
202 denial, articulate in writing the specific reasons, based upon
203 good cause, supporting its denial of the application and shall
204 provide the letter of denial and supporting documentation to the
205 applicant and to the Department of Education.

206 b. An application submitted by a high-performing charter
207 school identified pursuant to s. 1002.331 or a high-performing
208 charter school system identified pursuant to s. 1002.332 may be
209 denied by the sponsor only if the sponsor demonstrates by clear
210 and convincing evidence that:

211 (I) The application of a high-performing charter school



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212 does not materially comply with the requirements in paragraph
213 (a) or, for a high-performing charter school system, the
214 application does not materially comply with s. 1002.332(2)(b);

215 (II) The charter school proposed in the application does
216 not materially comply with the requirements in paragraphs
217 (9)(a)-(f);

218 (III) The proposed charter school's educational program
219 does not substantially replicate that of the applicant or one of
220 the applicant's high-performing charter schools;

221 (IV) The applicant has made a material misrepresentation or
222 false statement or concealed an essential or material fact
223 during the application process; or

224 (V) The proposed charter school's educational program and
225 financial management practices do not materially comply with the
226 requirements of this section.

227
228 Material noncompliance is a failure to follow requirements or a
229 violation of prohibitions applicable to charter school
230 applications, which failure is quantitatively or qualitatively
231 significant either individually or when aggregated with other
232 noncompliance. An applicant is considered to be replicating a
233 high-performing charter school if the proposed school is
234 substantially similar to at least one of the applicant's high-
235 performing charter schools and the organization or individuals
236 involved in the establishment and operation of the proposed
237 school are significantly involved in the operation of replicated
238 schools.

239 c. If the sponsor denies an application submitted by a
240 high-performing charter school or a high-performing charter



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241 school system, the sponsor must, within 10 calendar days after
242 such denial, state in writing the specific reasons, based upon
243 the criteria in sub-subparagraph b., supporting its denial of
244 the application and must provide the letter of denial and
245 supporting documentation to the applicant and to the Department
246 of Education. The applicant may appeal the sponsor's denial of
247 the application in accordance with paragraph (c).

248 4. For budget projection purposes, the sponsor shall report
249 to the Department of Education the approval or denial of an
250 application within 10 calendar days after such approval or
251 denial. In the event of approval, the report to the Department
252 of Education shall include the final projected FTE for the
253 approved charter school.

254 5. Upon approval of an application, the initial startup
255 shall commence with the beginning of the public school calendar
256 for the district in which the charter is granted. A charter
257 school may defer the opening of the school's operations for up
258 to 3 years to provide time for adequate facility planning. The
259 charter school must provide written notice of such intent to the
260 sponsor and the parents of enrolled students at least 30
261 calendar days before the first day of school.

262 (10) ELIGIBLE STUDENTS.—

263 (e) A charter school may limit the enrollment process only
264 to target the following student populations:

265 1. Students within specific age groups or grade levels.

266 2. Students considered at risk of dropping out of school or
267 academic failure. Such students shall include exceptional
268 education students.

269 3. Students enrolling in a charter school-in-the-workplace



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270 or charter school-in-a-municipality established pursuant to
271 subsection (15).

272 4. Students residing within a reasonable distance of the
273 charter school, as described in paragraph (20)(c). Such students
274 shall be subject to a random lottery and to the racial/ethnic
275 balance provisions described in subparagraph (7)(a)8. or any
276 federal provisions that require a school to achieve a
277 racial/ethnic balance reflective of the community it serves or
278 within the racial/ethnic range of other public schools in the
279 same school district.

280 5. Students who meet reasonable academic, artistic, or
281 other eligibility standards established by the charter school
282 and included in the charter school application and charter or,
283 in the case of existing charter schools, standards that are
284 consistent with the school's mission and purpose. Such standards
285 shall be in accordance with current state law and practice in
286 public schools and may not discriminate against otherwise
287 qualified individuals.

288 6. Students articulating from one charter school to another
289 pursuant to an articulation agreement between the charter
290 schools that has been approved by the sponsor.

291 7. Students living in a development in which a developer,
292 including any affiliated business entity or charitable
293 foundation, contributes to the formation, acquisition,
294 construction, or operation of one or more charter schools or
295 charter ~~provides the school facilities facility~~ and related
296 property in an amount equal to or having a total an appraised
297 value of at least \$5 million to be used as a charter schools
298 ~~school~~ to mitigate the educational impact created by the



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299 development of new residential dwelling units. Students living
300 in the development are ~~shall be~~ entitled to ~~no more than~~ 50
301 percent of the student stations in the charter schools ~~school~~.
302 The students who are eligible for enrollment are subject to a
303 random lottery, the racial/ethnic balance provisions, or any
304 federal provisions, as described in subparagraph 4. The
305 remainder of the student stations must ~~shall~~ be filled in
306 accordance with subparagraph 4.

307 Section 5. Subsection (3) of section 1002.331, Florida
308 Statutes, is amended to read:

309 1002.331 High-performing charter schools.-

310 (3) (a) 1. A high-performing charter school may submit an
311 application pursuant to s. 1002.33(6) in any school district in
312 the state to establish and operate a new charter school that
313 will substantially replicate its educational program. An
314 application submitted by a high-performing charter school must
315 state that the application is being submitted pursuant to this
316 paragraph and must include the verification letter provided by
317 the Commissioner of Education pursuant to subsection (4).

318 2. If the sponsor fails to act on the application within 90
319 days after receipt, the application is deemed approved and the
320 procedure in s. 1002.33(7) applies.

321 (b) A high-performing charter school may submit two
322 applications for a charter school ~~not establish more than two~~
323 ~~charter schools~~ within the state under paragraph (a) to be
324 opened at a time determined by the high-performing charter
325 school. ~~in any year.~~ A subsequent application to establish a
326 charter school under paragraph (a) may not be submitted unless
327 each charter school application commences operations or an



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328 application is otherwise withdrawn. ~~each charter school~~
329 ~~established in this manner achieves high-performing charter~~
330 ~~school status.~~ However, a high-performing charter school may
331 establish more than one charter school within the state under
332 paragraph (a) in any year if it operates in the area of a
333 persistently low-performing school and serves students from that
334 school.

335 (c) This section applies to any high-performing charter
336 school with an existing approved application.

337 Section 6. Paragraph (e) of subsection (1) of section
338 1002.45, Florida Statutes, is amended to read:

339 1002.45 Virtual instruction programs.—

340 (1) PROGRAM.—

341 (e) Each school district shall:

342 1. Provide to the department by each October 1, a copy of
343 each contract and the amounts paid per unweighted full-time
344 equivalent student for services procured pursuant to
345 subparagraphs (c)1. and 2.

346 2. Expend the difference in funds provided for a student
347 participating in the school district virtual instruction program
348 pursuant to subsection (7) and the price paid for contracted
349 services procured pursuant to subparagraphs (c)1. and 2. for
350 implementation of the school district's digital classrooms plan
351 pursuant to s. 1011.62.

352 3. At the end of each fiscal year, but no later than
353 September 1, report to the department an itemized list of the
354 technological tools purchased with these funds.

355 4. Limit virtual instruction out-of-district full-time
356 equivalent student membership to no more than the full-time



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357 equivalent student membership in virtual program classes within
358 the district. On July 1, 2020, if a pre-existing contract with
359 an approved provider or virtual charter school is out of
360 compliance with this provision, no additional out-of-district
361 students may be served until full-time equivalent membership in
362 virtual program classes in the district exceeds out-of-district
363 full-time equivalent student membership in the program. For this
364 pre-existing contract, out-of-district students participating in
365 the program prior to July 1, 2020, shall be guaranteed continued
366 enrollment in the program until they voluntarily exit the
367 program or graduate from high school, whichever comes first.

368 Section 7. Paragraph (b) of subsection (1) of section
369 1003.4156, Florida Statutes, is amended to read:

370 1003.4156 General requirements for middle grades
371 promotion.—

372 (1) In order for a student to be promoted to high school
373 from a school that includes middle grades 6, 7, and 8, the
374 student must successfully complete the following courses:

375 (b) Three middle grades or higher courses in mathematics.
376 Each school that includes middle grades must offer at least one
377 high school level mathematics course for which students may earn
378 high school credit. Successful completion of a high school level
379 Algebra I or Geometry course is not contingent upon the
380 student's performance on the statewide, standardized end-of-
381 course (EOC) assessment. To earn high school credit for Algebra
382 I, a middle grades student must take the statewide, standardized
383 Algebra I EOC assessment, which constitutes 30 percent of the
384 student's final course grade, and earn a passing grade in pass
385 the course, and in addition, beginning with the 2013-2014 school



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386 ~~year and thereafter, a student's performance on the Algebra I~~
387 ~~EOC assessment constitutes 30 percent of the student's final~~
388 ~~course grade.~~ To earn high school credit for a Geometry course,
389 a middle grades student must, until the Geometry EOC assessment
390 is discontinued, take the statewide, standardized Geometry EOC
391 assessment, which constitutes 30 percent of the student's final
392 course grade, and earn a passing grade in the course.

393 Section 8. Paragraphs (a), (b), and (d) of subsection (3),
394 subsection (7), and paragraph (e) of subsection (10) of section
395 1003.4282, Florida Statutes, are amended to read:

396 1003.4282 Requirements for a standard high school diploma.—

397 (3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT
398 REQUIREMENTS.—

399 (a) *Four credits in English Language Arts (ELA).*—The four
400 credits must be in ELA I, II, III, and IV. A student must pass
401 the statewide, standardized grade 10 ~~Reading assessment or, when~~
402 ~~implemented, the grade 10~~ ELA assessment, or earn a concordant
403 score, in order to earn a standard high school diploma.

404 (b) *Four credits in mathematics.*—

405 1. A student must earn one credit in Algebra I and one
406 credit in Geometry. A student's performance on the statewide,
407 standardized Algebra I end-of-course (EOC) assessment
408 constitutes 30 percent of the student's final course grade. A
409 student must pass the statewide, standardized Algebra I EOC
410 assessment, or earn a comparative score, in order to earn a
411 standard high school diploma. Until the Geometry EOC assessment
412 is discontinued, a student's performance on the statewide,
413 standardized Geometry EOC assessment constitutes 30 percent of
414 the student's final course grade.



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415 2. A student who earns an industry certification for which
416 there is a statewide college credit articulation agreement
417 approved by the State Board of Education may substitute the
418 certification for one mathematics credit. Substitution may occur
419 for up to two mathematics credits, except for Algebra I and
420 Geometry. A student may earn two mathematics credits by
421 successfully completing Algebra I through two full-year courses.
422 A certified school counselor or the principal's designee must
423 advise the student that admission to a state university may
424 require the student to earn 3 additional mathematics credits
425 that are at least as rigorous as Algebra I.

426 3. A student who earns a computer science credit may
427 substitute the credit for up to one credit of the mathematics
428 requirement, with the exception of Algebra I and Geometry, if
429 the commissioner identifies the computer science credit as being
430 equivalent in rigor to the mathematics credit. An identified
431 computer science credit may not be used to substitute for both a
432 mathematics and a science credit. A student who earns an
433 industry certification in 3D rapid prototype printing may
434 satisfy up to two credits of the mathematics requirement, with
435 the exception of Algebra I, if the commissioner identifies the
436 certification as being equivalent in rigor to the mathematics
437 credit or credits.

438 (d) *Three credits in social studies.*—A student must earn
439 one credit in United States History; one credit in World
440 History; one-half credit in economics; and one-half credit in
441 United States Government. The United States History EOC
442 assessment constitutes 30 percent of the student's final course
443 grade. Beginning with the 2020-2021 school year, all students



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444 shall take the assessment of civic literacy adopted by the State
445 Board of Education under s. 1007.25(4) by grade 12. A student
446 who earns a passing score on the assessment is exempt from the
447 postsecondary civic literacy assessment required by s.
448 1007.25(4).

449 (7) UNIFORM TRANSFER OF HIGH SCHOOL CREDITS. ~~Beginning with~~
450 ~~the 2012-2013 school year,~~ If a student transfers to a Florida
451 public high school from out of country, out of state, a private
452 school, or a home education program and the student's transcript
453 shows a credit in Algebra I, the student's transferring course
454 final grade and credit shall be honored. However, the student
455 must pass the statewide, standardized Algebra I EOC assessment
456 in order to earn a standard high school diploma unless the
457 student earned a comparative score, passed a statewide
458 assessment in Algebra I administered by the transferring entity,
459 or passed the statewide mathematics assessment the transferring
460 entity uses to satisfy the requirements of the Elementary and
461 Secondary Education Act, as amended by the Every Student
462 Succeeds Act (ESSA) of 2015, 20 U.S.C. ss. 6301 et seq. If a
463 student's transcript shows a credit in high school reading or
464 English Language Arts II or III, in order to earn a standard
465 high school diploma, the student must take and pass the
466 statewide, standardized grade 10 ~~Reading assessment or, when~~
467 ~~implemented, the grade 10~~ ELA assessment, or earn a concordant
468 score. If a transfer student's transcript shows a final course
469 grade and course credit in ~~Algebra I,~~ Geometry, Biology I, or
470 United States History, the transferring course final grade and
471 credit shall be honored without the student taking the requisite
472 statewide, standardized EOC assessment and without the



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473 assessment results constituting 30 percent of the student's
474 final course grade.

475 (10) STUDENTS WITH DISABILITIES.—Beginning with students
476 entering grade 9 in the 2014-2015 school year, this subsection
477 applies to a student with a disability.

478 (e) Any waiver of the statewide, standardized assessment
479 requirements by the individual education plan team, pursuant to
480 s. 1008.22(3)(d) ~~s. 1008.22(3)(e)~~, must be approved by the
481 parent and is subject to verification for appropriateness by an
482 independent reviewer selected by the parent as provided for in
483 s. 1003.572.

484
485 The State Board of Education shall adopt rules under ss.
486 120.536(1) and 120.54 to implement this subsection, including
487 rules that establish the minimum requirements for students
488 described in this subsection to earn a standard high school
489 diploma. The State Board of Education shall adopt emergency
490 rules pursuant to ss. 120.536(1) and 120.54.

491 Section 9. Paragraph (a) of subsection (1) of section
492 1003.4285, Florida Statutes, is amended to read:

493 1003.4285 Standard high school diploma designations.—

494 (1) Each standard high school diploma shall include, as
495 applicable, the following designations if the student meets the
496 criteria set forth for the designation:

497 (a) *Scholar designation*.—In addition to the requirements of
498 s. 1003.4282, in order to earn the Scholar designation, a
499 student must satisfy the following requirements:

500 1. Mathematics.—Earn one credit in Algebra II or an equally
501 rigorous course and one credit in statistics or an equally



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502 rigorous course. ~~Beginning with students entering grade 9 in the~~
503 ~~2014-2015 school year, pass the Geometry statewide, standardized~~
504 ~~assessment.~~

505 2. Science.—Pass the statewide, standardized Biology I EOC
506 assessment and earn one credit in chemistry or physics and one
507 credit in a course equally rigorous to chemistry or physics.
508 However, a student enrolled in an Advanced Placement (AP),
509 International Baccalaureate (IB), or Advanced International
510 Certificate of Education (AICE) Biology course who takes the
511 respective AP, IB, or AICE Biology assessment and earns the
512 minimum score necessary to earn college credit as identified
513 pursuant to s. 1007.27(2) meets the requirement of this
514 subparagraph without having to take the statewide, standardized
515 Biology I EOC assessment.

516 3. Social studies.—Pass the statewide, standardized United
517 States History EOC assessment. However, a student enrolled in an
518 AP, IB, or AICE course that includes United States History
519 topics who takes the respective AP, IB, or AICE assessment and
520 earns the minimum score necessary to earn college credit as
521 identified pursuant to s. 1007.27(2) meets the requirement of
522 this subparagraph without having to take the statewide,
523 standardized United States History EOC assessment.

524 4. Foreign language.—Earn two credits in the same foreign
525 language.

526 5. Electives.—Earn at least one credit in an Advanced
527 Placement, an International Baccalaureate, an Advanced
528 International Certificate of Education, or a dual enrollment
529 course.

530 Section 10. Present subsections (1), (2), and (3) of



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531 section 1003.573, Florida Statutes, are redesignated as
532 subsections (7), (8), and (4), respectively, new subsections
533 (1), (2), (3), (5) and (6) are added to that section, and
534 present subsections (1)-(5) are amended, to read:

535 1003.573 Seclusion and Use of restraint of and seclusion on
536 students with disabilities in public schools.-

537 (1) DEFINITIONS.-As used in this section, the term:

538 (a) "Crisis intervention plan" means an individualized
539 action plan for school personnel to implement when a student
540 exhibits dangerous behavior that may lead to imminent risk of
541 serious injury.

542 (b) "Imminent risk of serious injury" means the threat
543 posed by dangerous behavior that may cause serious physical harm
544 to self or others.

545 (c) "Restraint" means the use of a mechanical or physical
546 restraint.

547 1. "Mechanical restraint" means the use of a device that
548 restricts a student's freedom of movement. The term does not
549 include the use of devices prescribed or recommended by physical
550 or behavioral health professionals when used for indicated
551 purposes.

552 2. "Physical restraint" means the use of manual restraint
553 techniques that involve significant physical force applied by a
554 teacher or other staff member to restrict the movement of all or
555 part of a student's body. The term does not include briefly
556 holding a student in order to calm or comfort the student or
557 physically escorting a student to a safe location.

558 (d) "Positive behavior interventions and supports" means
559 the use of behavioral interventions to prevent dangerous



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560 behaviors that may cause serious physical harm to the student or
561 others.

562 (e) "Seclusion" means the involuntary confinement of a
563 student in a room or area alone and preventing the student from
564 leaving the room or area. The term does not include time-out
565 used as a behavior management technique intended to calm a
566 student.

567 (f) "Student" means a child with an individual education
568 plan enrolled in grades kindergarten through 12 in a school, as
569 defined in s. 1003.01(2), or in the Florida School for the Deaf
570 and Blind. The term does not include students in
571 prekindergarten, students who reside in residential care
572 facilities under s. 1003.58, or students participating in a
573 Department of Juvenile Justice education program under s.
574 1003.53.

575 (2) SECLUSION.—Each school district shall prohibit school
576 personnel from using seclusion.

577 (3) RESTRAINT.—

578 (a) Authorized school personnel may use restraint only when
579 all positive behavior interventions and supports have been
580 exhausted. Restraint may be used only when there is an imminent
581 risk of serious injury and shall be discontinued as soon as the
582 threat posed by the dangerous behavior has dissipated.

583 Straightjackets, zip ties, handcuffs, or tie-downs may not be
584 used to obstruct or restrict breathing or blood flow. Restraint
585 techniques may not be used to inflict pain to induce compliance.

586 (b) Notwithstanding the authority provided in s. 1003.32,
587 restraint shall be used only to protect the safety of students,
588 school personnel, or others and may not be used for student



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589 discipline or to correct student noncompliance.

590 (c) The degree of force applied during physical restraint
591 must be only that degree of force necessary to protect the
592 student or others from imminent risk of serious injury.

593 (4) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.-

594 (a) Each school district shall adopt positive behavior
595 interventions and supports and identify all school personnel
596 authorized to use the interventions and supports. Each school
597 district shall develop policies and procedures that are
598 consistent with this section and that govern the following:

599 1. Incident-reporting procedures.

600 2. Data collection and monitoring, including when, where,
601 and why students are restrained and ~~or secluded~~; the frequency
602 of occurrences of such restraint ~~or seclusion~~; and the ~~prone or~~
603 ~~mechanical restraint that is most used.~~

604 3. Monitoring and reporting of data collected.

605 4. Training programs and procedures relating to ~~manual or~~
606 ~~physical~~ restraint as described in subsection (3) and seclusion.

607 5. The district's plan for selecting personnel to be
608 trained pursuant to this subsection.

609 6. The district's plan for reducing the use of restraint,
610 ~~and seclusion~~ particularly in settings in which it occurs
611 frequently or with students who are restrained repeatedly, ~~and~~
612 ~~for reducing the use of prone restraint and mechanical~~
613 ~~restraint.~~ The plan must include a goal for reducing the use of
614 restraint ~~and seclusion~~ and must include activities, skills, and
615 resources needed to achieve that goal. Activities may include,
616 but are not limited to:

617 a. Additional training in positive behavior interventions



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618 and supports. ~~behavioral support and crisis management;~~
619 b. Parental involvement.~~;~~
620 c. Data review.~~;~~
621 d. Updates of students' functional behavioral analysis and
622 positive behavior intervention plans.~~;~~
623 e. Additional student evaluations.~~;~~
624 f. Debriefing with staff.~~;~~
625 g. Use of schoolwide positive behavior support.~~;~~ ~~and~~
626 h. Changes to the school environment.
627 i. Analysis of data to determine trends.
628 j. Ongoing reduction of the use of restraint.
629 (b) Any revisions a school district makes to its ~~to the~~
630 ~~district's~~ policies and procedures pursuant to this section,
631 ~~which must be prepared as part of its special policies and~~
632 ~~procedures,~~ must be filed with the bureau chief of the Bureau of
633 Exceptional Education and Student Services within 90 days after
634 the revision ~~no later than January 31, 2012.~~
635 (c) At the beginning of each school year, each school
636 district shall publicly post its policies and procedures on
637 positive behavior interventions and supports as adopted by the
638 school district.
639 (5) TRAINING.—Each school district shall provide training
640 to all school personnel authorized to use positive behavior
641 interventions and supports pursuant to school district policy.
642 Training shall be provided annually and must include:
643 (a) The use of positive behavior interventions and
644 supports.
645 (b) Risk assessment procedures to identify when restraint
646 may be used.



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647 (c) Examples of when positive behavior interventions and
648 support techniques have failed to reduce the imminent risk of
649 serious injury.

650 (d) Examples of safe and appropriate restraint techniques
651 and how to use these techniques with multiple staff members
652 working as a team.

653 (e) Instruction in the district's documentation and
654 reporting requirements.

655 (f) Procedures to identify and deal with possible medical
656 emergencies arising during the use of restraint.

657 (g) Cardiopulmonary resuscitation.

658

659 Each school district shall publish the procedures for the
660 training required under this subsection in the district's
661 special policies and procedures manual.

662 (6) CRISIS INTERVENTION PLAN.—

663 (a) Upon the second time a student is restrained during a
664 semester, the school shall develop a crisis intervention plan
665 for the student. The crisis intervention plan shall be developed
666 by a team comprised of the student's parent, school personnel,
667 and applicable physical and behavioral health professionals.

668 (b) The crisis intervention plan must include:

669 1. Specific positive behavior interventions and supports to
670 use in response to dangerous behaviors that create a threat of
671 imminent risk of serious injury.

672 2. Known physical and behavioral health concerns that will
673 limit the use of restraint for the student.

674 3. A timetable for the review and, if necessary, revision
675 of the crisis intervention plan.



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676 (c) The school must provide a copy of the crisis
677 intervention plan to the student's parent.

678 (7)(1) DOCUMENTATION AND REPORTING.—

679 (a) A school shall prepare an incident report within 24
680 hours after a student is released from restraint ~~or seclusion~~.
681 If the student's release occurs on a day before the school
682 closes for the weekend, a holiday, or another reason, the
683 incident report must be completed by the end of the school day
684 on the day the school reopens.

685 (b) The following must be included in the incident report:

686 1. The name of the student restrained ~~or secluded~~.

687 2. The age, grade, ethnicity, and disability of the student
688 restrained ~~or secluded~~.

689 3. The date and time of the event and the duration of the
690 restraint ~~or seclusion~~.

691 4. The location at which the restraint ~~or seclusion~~
692 occurred.

693 5. A description of the type of restraint used in terms
694 established by the department ~~of Education~~.

695 6. The name of the person using or assisting in the
696 restraint ~~or seclusion~~ of the student and the date the person
697 was last trained in the use of positive behavior interventions
698 and supports.

699 7. The name of any nonstudent who was present to witness
700 the restraint ~~or seclusion~~.

701 8. A description of the incident, including all of the
702 following:

703 a. The context in which the restraint ~~or seclusion~~
704 occurred.



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705 b. The student's behavior leading up to and precipitating
706 the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,
707 including an indication as to why there was an imminent risk of
708 serious injury ~~or death~~ to the student or others.

709 c. The ~~specific~~ positive behavior interventions and
710 supports ~~behavioral strategies~~ used to prevent and deescalate
711 the behavior.

712 d. What occurred with the student immediately after the
713 termination of the restraint ~~or seclusion~~.

714 e. Any injuries, visible marks, or possible medical
715 emergencies that may have occurred during the restraint ~~or~~
716 ~~seclusion~~, documented according to district policies.

717 f. Evidence of steps taken to notify the student's parent
718 or guardian.

719 g. The date the crisis intervention plan was last reviewed
720 and whether changes were recommended.

721 (c) A school shall notify the parent or guardian of a
722 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
723 used. Such notification must be in writing and provided before
724 the end of the school day on which the restraint ~~or seclusion~~
725 occurs. Reasonable efforts must also be taken to notify the
726 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
727 these efforts must be documented. The school shall obtain, and
728 keep in its records, the parent's or guardian's signed
729 acknowledgment that he or she was notified of his or her child's
730 restraint ~~or seclusion~~.

731 (d) A school shall also provide the parent or guardian with
732 the completed incident report in writing by mail within 3 school
733 days after a student was ~~manually or physically~~ restrained ~~or~~



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734 ~~secluded~~. The school shall obtain, and keep in its records, the
735 parent's or guardian's signed acknowledgment that he or she
736 received a copy of the incident report.

737 (8) ~~(2)~~ MONITORING.—

738 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint
739 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the
740 classroom, building, district, and state levels.

741 (b) Any documentation prepared by a school pursuant to ~~as~~
742 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
743 principal, the district director of Exceptional Student
744 Education, and the bureau chief of the Bureau of Exceptional
745 Education and Student Services electronically each month that
746 the school is in session.

747 (c) The department shall maintain aggregate data of
748 incidents of ~~manual or physical~~ restraint ~~and seclusion~~ and
749 disaggregate the data for analysis by county, school, student
750 exceptionality, and other variables, including the type and
751 method of restraint ~~or seclusion~~ used. This information shall be
752 updated monthly, de-identified, and made available to the public
753 through the department's website no later than October 1, 2020.

754 (d) The department shall establish standards for
755 documenting, reporting, and monitoring the incident reports
756 related to the use of ~~manual or physical~~ restraint ~~or mechanical~~
757 ~~restraint, and occurrences of seclusion~~. These standards shall
758 be provided to school districts ~~by October 1, 2011~~.

759 ~~(4) PROHIBITED RESTRAINT. School personnel may not use a~~
760 ~~mechanical restraint or a manual or physical restraint that~~
761 ~~restricts a student's breathing.~~

762 ~~(5) SECLUSION. School personnel may not close, lock, or~~



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763 ~~physically block a student in a room that is unlit and does not~~
764 ~~meet the rules of the State Fire Marshal for seclusion time-out~~
765 ~~rooms.~~

766 Section 11. Section 1003.574, Florida Statutes, is created
767 to read:

768 1003.574 Video cameras in public school classrooms; pilot
769 program.—Beginning with the 2020-2021 school year, the Video
770 Cameras in Public School Classrooms Pilot Program is created for
771 a period of 3 school years.

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

773 (a) "Incident" means an event, a circumstance, an act, or
774 an omission that results in the abuse or neglect of a student
775 by:

- 776 1. An employee of a public school or school district; or
777 2. Another student.

778 (b) "School district" means Broward County Public Schools
779 and Volusia County Schools.

780 (c) "Self-contained classroom" means a classroom at a
781 public school in which a majority of the students in regular
782 attendance are provided special education services and are
783 assigned to one or more such classrooms for at least 50 percent
784 of the instructional day.

785 (2) (a) A school district shall provide a video camera to
786 any school with a self-contained classroom upon the written
787 request of a parent of a student in the classroom.

788 (b) Within 30 days after receipt of the request from a
789 parent, a video camera shall be operational in each self-
790 contained classroom in which the parent's student is in regular
791 attendance for the remainder of the school year, unless the



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792 parent withdraws his or her request in writing.

793 (3) If the student who is the subject of the initial
794 request is no longer in attendance in the classroom and a school
795 discontinues operation of a video camera during a school year,
796 no later than the fifth school day before the date the operation
797 of the video camera is discontinued, the school must notify the
798 parents of each student in regular attendance in the classroom
799 that operation of the video camera will cease unless the
800 continued use of the camera is requested by a parent. No later
801 than the 10th school day before the end of each school year, the
802 school must notify the parents of each student in regular
803 attendance in the classroom that operation of the video camera
804 will not continue during the following school year unless a
805 written request is submitted by a parent for the next school
806 year.

807 (4) (a) A video camera placed in a self-contained classroom
808 must be capable of all of the following:

809 1. Monitoring all areas of the self-contained classroom,
810 including, without limitation, any room attached to the self-
811 contained classroom which is used for other purposes.

812 2. Recording audio from all areas of the self-contained
813 classroom, including, without limitation, any room attached to
814 the self-contained classroom which is used for other purposes.

815 (b) A video camera placed in a self-contained classroom may
816 not monitor a restroom or any other area in the self-contained
817 classroom where a student changes his or her clothes, except for
818 the entryway, exit, or hallway outside a restroom or other area
819 where a student changes his or her clothes because of the layout
820 of the self-contained classroom.



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821 (c) A video camera placed in a self-contained classroom is
822 not required to be in operation when students are not present in
823 the self-contained classroom.

824 (d) If there is an interruption in the operation of the
825 video camera for any reason, an explanation must be submitted in
826 writing to the school principal and the district school board
827 which explains the reason for and duration of the interruption.
828 The written explanation must be maintained at the district
829 school board office for at least 1 year.

830 (5) Before a school initially places a video camera in a
831 self-contained classroom pursuant to this section, the school
832 shall provide written notice of the placement of such video
833 camera to all of the following:

834 (a) The parent of each student who is assigned to the self-
835 contained classroom.

836 (b) Each student who is assigned to the self-contained
837 classroom.

838 (c) The school district.

839 (d) Each school employee who is assigned to work with one
840 or more students in the self-contained classroom.

841 (6) A school shall:

842 (a) Retain video recorded from a video camera placed
843 pursuant to this section for at least 3 months after the date
844 the video was recorded, after which the recording shall be
845 deleted or otherwise made unretrievable; or

846 (b) Retain the recording until the conclusion of any
847 investigation or any administrative or legal proceedings that
848 result from the recording have been completed, including,
849 without limitation, the exhaustion of all appeals.



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850 (7) A school or school district may not:
851 (a) Allow regular, continuous, or continual monitoring of
852 videos recorded under this section; or
853 (b) Use videos recorded under this section for teacher
854 evaluations or any purpose other than for ensuring the health,
855 safety, and well-being of students receiving special education
856 services in a self-contained classroom.
857 (8) The principal of the school is the custodian of a video
858 camera operated pursuant to this section, all recordings
859 generated by that video camera, and access to such recordings.
860 (a) The release or viewing of any video recording under
861 this section must comply with s. 1002.22.
862 (b) A school or school district shall:
863 1. Conceal the identity of any student who appears in a
864 video recording but is not involved in the alleged incident
865 documented by a video recording that the school allows to be
866 viewed under subsection (9), including, without limitation,
867 blurring the face of the uninvolved student.
868 2. Protect the confidentiality of all student records
869 contained in a video recording in accordance with s. 1002.22.
870 (9) (a) Within 7 days after receiving a request to view a
871 video recording, a school or school district shall allow the
872 following individuals or entities to view a video recording made
873 under this section:
874 1. A school or school district employee who is involved in
875 an alleged incident that is documented by the video recording as
876 part of the investigative process;
877 2. A parent of a student who is involved in an alleged
878 incident that is documented by the video recording and has been



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879 reported to the school or school district;

880 3. A school or school district employee as part of an
881 investigation into an alleged incident that is documented by the
882 video recording and has been reported to the school or school
883 district;

884 4. A law enforcement officer as part of an investigation
885 into an alleged incident that is documented by the video
886 recording and has been reported to the law enforcement agency;
887 or

888 5. The Department of Children and Families as part of a
889 child abuse or neglect investigation.

890 (b) A person who requests to view a recording shall make
891 himself or herself available for viewing the recording within 30
892 days after being notified by the school or school district that
893 the person's request has been granted.

894 (c) A person who views the recording and suspects that
895 child abuse has occurred must report the suspected child abuse
896 to the Department of Children and Families.

897 (10) (a) Any individual may appeal to the State Board of
898 Education regarding an action by a school or school district
899 which the individual alleges to be in violation of this section.

900 (b) The state board shall grant a hearing on an appeal
901 under this subsection within 45 days after receiving the appeal.

902 (11) A school or school district does not violate
903 subsection (8) if a contractor or other employee of the school
904 or school district incidentally views a video recording made
905 under this section in connection with the performance of his or
906 her duties related to either of the following:

907 (a) The installation, operation, or maintenance of video



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908 equipment; or

909 (b) The retention of video recordings.

910 (12) This section does not:

911 (a) Limit the access of the parent of a student, under the
912 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
913 1232g, or any other law, to a video recording regarding his or
914 her student.

915 (b) Waive any immunity from liability of a school district
916 or an employee of a school district.

917 (c) Create any liability for a cause of action against a
918 school or school district or an employee of a school or school
919 district carrying out the duties and responsibilities required
920 by this section.

921 (d) Apply to self-contained classrooms in which the only
922 students receiving special education services are those who have
923 been deemed gifted.

924 (13) The department shall collect information relating to
925 the installation and maintenance of video cameras under this
926 section.

927 (14) The State Board of Education may adopt rules to
928 implement this section.

929 Section 12. Paragraph (b) of subsection (3), of section
930 1004.04, Florida Statutes, is amended to read:

931 1004.04 Public accountability and state approval for
932 teacher preparation programs.—

933 (3) INITIAL STATE PROGRAM APPROVAL.—

934 (b) Each teacher preparation program approved by the
935 Department of Education, as provided for by this section, shall
936 require students, at a minimum, to ~~meet, at a minimum,~~ the



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937 ~~following as prerequisites for admission into the program:~~

938 1. Have a grade point average of at least 2.5 on a 4.0
939 scale for the general education component of undergraduate
940 studies or have completed the requirements for a baccalaureate
941 degree with a minimum grade point average of 2.5 on a 4.0 scale
942 from any college or university accredited by a regional
943 accrediting association as defined by State Board of Education
944 rule or any college or university otherwise approved pursuant to
945 State Board of Education rule.

946 2. Demonstrate mastery of general knowledge ~~sufficient for~~
947 ~~entry into the program~~, including the ability to read, write,
948 and perform in mathematics, by passing the General Knowledge
949 Test of the Florida Teacher Certification Examination or, for a
950 graduate level program, obtain a baccalaureate degree from an
951 institution that is accredited or approved pursuant to the rules
952 of the State Board of Education.

953

954 ~~Each teacher preparation program may waive these admissions~~
955 ~~requirements for up to 10 percent of the students admitted.~~
956 ~~Programs shall implement strategies to ensure that students~~
957 ~~admitted under a waiver receive assistance to demonstrate~~
958 ~~competencies to successfully meet requirements for certification~~
959 ~~and shall annually report to the Department of Education the~~
960 ~~status of each candidate admitted under such a waiver.~~

961 Section 13. Effective upon becoming a law, subsection (5)
962 is added to section 1006.33, Florida Statutes, to read:

963 1006.33 Bids or proposals; advertisement and its contents.—

964 (5) Notwithstanding the requirements of this section and
965 rules adopted to implement this section, for the 2020 adoption



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966 cycle, the department may establish timeframes for the
967 advertisement and submission of bids for instructional
968 materials.

969 Section 14. Subsection (4) of section 1007.25, Florida
970 Statutes, is amended to read:

971 1007.25 General education courses; common prerequisites;
972 other degree requirements.-

973 (4) Beginning with students initially entering a Florida
974 College System institution or state university in the 2020-2021
975 ~~2018-2019~~ school year and thereafter, each student must
976 demonstrate competency in civic literacy. ~~Students must have the~~
977 ~~option to demonstrate competency~~ through the successful
978 completion of a civic literacy course and ~~or~~ by achieving a
979 passing score on an assessment. The State Board of Education
980 must adopt in rule and the Board of Governors must adopt in
981 regulation at least one existing assessment that measures
982 competencies consistent with the required course competencies
983 outlined in paragraph (b). A student may fulfill the assessment
984 requirement by earning a passing score on the assessment while
985 in high school under s. 1003.4282(3)(d). The chair of the State
986 Board of Education and the chair of the Board of Governors, or
987 their respective designees, shall jointly appoint a faculty
988 committee to:

989 (a) Develop a new course in civic literacy or revise an
990 existing general education core course in American History or
991 American Government to include civic literacy.

992 (b) Establish course competencies and identify outcomes
993 that include, at a minimum, an understanding of the basic
994 principles of American democracy and how they are applied in our



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995 republican form of government, an understanding of the United
996 States Constitution, knowledge of the founding documents and how
997 they have shaped the nature and functions of our institutions of
998 self-governance, and an understanding of landmark Supreme Court
999 cases and their impact on law and society.

1000 Section 15. Subsections (7) and (8) of section 1007.27,
1001 Florida Statutes, are amended to read:

1002 1007.27 Articulated acceleration mechanisms.—

1003 (7) The International Baccalaureate Program shall be the
1004 curriculum in which eligible secondary students are enrolled in
1005 a program of studies offered through the International
1006 Baccalaureate Program administered by the International
1007 Baccalaureate Office. The State Board of Education and the Board
1008 of Governors shall specify in the statewide articulation
1009 agreement required by s. 1007.23(1) the cutoff scores and
1010 International Baccalaureate Examinations which will be used to
1011 grant postsecondary credit at Florida College System
1012 institutions and universities. Any changes to the articulation
1013 agreement, which have the effect of raising the required cutoff
1014 score or of changing the International Baccalaureate
1015 Examinations which will be used to grant postsecondary credit,
1016 shall only apply to students taking International Baccalaureate
1017 Examinations after such changes are adopted by the State Board
1018 of Education and the Board of Governors. ~~Students shall be
1019 awarded a maximum of 30 semester credit hours pursuant to this
1020 subsection.~~ The specific course for which a student may receive
1021 such credit shall be specified in the statewide articulation
1022 agreement required by s. 1007.23(1). Students enrolled pursuant
1023 to this subsection shall be exempt from the payment of any fees



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1024 for administration of the examinations regardless of whether or
1025 not the student achieves a passing score on the examination.
1026 (8) The Advanced International Certificate of Education
1027 Program and the International General Certificate of Secondary
1028 Education (pre-AICE) Program shall be the curricula in which
1029 eligible secondary students are enrolled in programs of study
1030 offered through the Advanced International Certificate of
1031 Education Program or the International General Certificate of
1032 Secondary Education (pre-AICE) Program administered by the
1033 University of Cambridge Local Examinations Syndicate. The State
1034 Board of Education and the Board of Governors shall specify in
1035 the statewide articulation agreement required by s. 1007.23(1)
1036 the cutoff scores and Advanced International Certificate of
1037 Education examinations which will be used to grant postsecondary
1038 credit at Florida College System institutions and universities.
1039 Any changes to the cutoff scores, which changes have the effect
1040 of raising the required cutoff score or of changing the Advanced
1041 International Certification of Education examinations which will
1042 be used to grant postsecondary credit, shall apply to students
1043 taking Advanced International Certificate of Education
1044 examinations after such changes are adopted by the State Board
1045 of Education and the Board of Governors. ~~Students shall be~~
1046 ~~awarded a maximum of 30 semester credit hours pursuant to this~~
1047 ~~subsection.~~ The specific course for which a student may receive
1048 such credit shall be determined by the Florida College System
1049 institution or university that accepts the student for
1050 admission. Students enrolled in either program of study pursuant
1051 to this subsection shall be exempt from the payment of any fees
1052 for administration of the examinations regardless of whether the



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1053 student achieves a passing score on the examination.

1054 Section 16. Section 1007.271, Florida Statutes, is amended
1055 to read:

1056 1007.271 Dual enrollment programs.—

1057 (1) The dual enrollment program is the enrollment of an
1058 eligible secondary student ~~or home education student~~ in a
1059 postsecondary course creditable toward high school completion
1060 and a career certificate or an associate or baccalaureate
1061 degree. A student who is enrolled in postsecondary instruction
1062 that is not creditable toward a high school diploma may not be
1063 classified as a dual enrollment student.

1064 (2) For the purpose of this section, an eligible secondary
1065 student is a student who is enrolled in any of grades 6 through
1066 12 in a Florida public school or in a Florida private school
1067 that is in compliance with s. 1002.42(2) and provides a
1068 secondary curriculum pursuant to s. 1003.4282, or who is
1069 enrolled in a home education program pursuant to s. 1002.41.

1070 Students who are eligible for dual enrollment pursuant to this
1071 section may enroll in dual enrollment courses conducted during
1072 school hours, after school hours, and during the summer term.
1073 However, if the student is projected to graduate from high
1074 school before the scheduled completion date of a postsecondary
1075 course, the student may not register for that course through
1076 dual enrollment. The student may apply to the postsecondary
1077 institution and pay the required registration, tuition, and fees
1078 if the student meets the postsecondary institution's admissions
1079 requirements under s. 1007.263. Instructional time for dual
1080 enrollment may vary from 900 hours; however, the full-time
1081 equivalent student membership value shall be subject to the



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1082 provisions in s. 1011.61(4). A student enrolled as a dual
1083 enrollment student is exempt from the payment of registration,
1084 tuition, and laboratory fees. Applied academics for adult
1085 education instruction, developmental education, and other forms
1086 of precollegiate instruction, as well as physical education
1087 courses that focus on the physical execution of a skill rather
1088 than the intellectual attributes of the activity, are ineligible
1089 for inclusion in the dual enrollment program. Recreation and
1090 leisure studies courses shall be evaluated individually in the
1091 same manner as physical education courses for potential
1092 inclusion in the program.

1093 (3) ~~Student eligibility requirements~~ For initial enrollment
1094 in college credit dual enrollment courses, a student must
1095 achieve ~~include~~ a 3.0 unweighted high school grade point average
1096 and the minimum score on a common placement test adopted by the
1097 State Board of Education which indicates that the student is
1098 ready for college-level coursework. ~~Student eligibility~~
1099 ~~requirements~~ For continued enrollment in college credit dual
1100 enrollment courses, a student must maintain a minimum ~~must~~
1101 ~~include the maintenance~~ of a 3.0 unweighted high school grade
1102 point average and the minimum postsecondary grade point average
1103 established by the postsecondary institution. Regardless of
1104 meeting student eligibility requirements for continued
1105 enrollment, a student may lose the opportunity to participate in
1106 a dual enrollment course if the student is disruptive to the
1107 learning process such that the progress of other students or the
1108 efficient administration of the course is hindered. Student
1109 eligibility requirements for initial and continued enrollment in
1110 career certificate dual enrollment courses must include a 2.0



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1111 unweighted high school grade point average. An exception
1112 ~~Exceptions~~ to the required grade point average for career
1113 certificate dual enrollment averages may be granted on an
1114 individual student basis. An exception to the required grade
1115 point average for college credit dual enrollment may be granted
1116 for students who achieve higher scores than the established
1117 minimum on the common placement test adopted by the State Board
1118 of Education. Any exception to the required grade point average
1119 must be specified in ~~if the educational entities agree and the~~
1120 ~~terms of the agreement are contained within~~ the dual enrollment
1121 articulation agreement established pursuant to subsection (21).
1122 A postsecondary institution Florida College System institution
1123 ~~boards of trustees~~ may not establish additional initial student
1124 academic eligibility requirements, which shall be included in
1125 ~~the dual enrollment articulation agreement, to ensure student~~
1126 ~~readiness for postsecondary instruction. Additional requirements~~
1127 ~~included in the agreement may not arbitrarily prohibit students~~
1128 ~~who have demonstrated the ability to master advanced courses~~
1129 ~~from participating in dual enrollment courses or limit the~~
1130 ~~number of dual enrollment courses in which a student may enroll~~
1131 ~~based solely upon enrollment by the student at an independent~~
1132 ~~postsecondary institution.~~

1133 (4) District school boards may not refuse to enter into a
1134 dual enrollment articulation agreement with a local Florida
1135 College System institution if that Florida College System
1136 institution has the capacity to offer dual enrollment courses.

1137 (5) A district school board or Florida College System
1138 institution may not deny a student who has met the state
1139 eligibility requirements from participating in dual enrollment



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1140 unless the institution documents that it does not have the
1141 capacity to accommodate all eligible students seeking to
1142 participate in the dual enrollment program. If the institution
1143 documents that it does not have the capacity to accommodate all
1144 eligible students, participation must be based on a first-come,
1145 first-served basis.

1146 (6)-(5)(a) Each faculty member providing instruction in
1147 college credit dual enrollment courses must:

1148 1. Meet the qualifications required by the entity
1149 accrediting the postsecondary institution offering the course.
1150 The qualifications apply to all faculty members regardless of
1151 the location of instruction. The postsecondary institution
1152 offering the course must require compliance with these
1153 qualifications.

1154 2. Provide the institution offering the dual enrollment
1155 course a copy of his or her postsecondary transcript.

1156 3. Provide a copy of the current syllabus for each course
1157 taught to the discipline chair or department chair of the
1158 postsecondary institution before the start of each term. The
1159 content of each syllabus must meet the same standards required
1160 for all college-level courses offered by that postsecondary
1161 institution.

1162 4. Adhere to the professional rules, guidelines, and
1163 expectations stated in the postsecondary institution's faculty
1164 or adjunct faculty handbook. Any exceptions must be included in
1165 the dual enrollment articulation agreement.

1166 5. Adhere to the rules, guidelines, and expectations stated
1167 in the postsecondary institution's student handbook which apply
1168 to faculty members. Any exceptions must be noted in the dual



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1169 enrollment articulation agreement.

1170 (b) Each president, or designee, of a postsecondary
1171 institution offering a college credit dual enrollment course
1172 must:

1173 1. Provide a copy of the institution's current faculty or
1174 adjunct faculty handbook to all faculty members teaching a dual
1175 enrollment course.

1176 2. Provide to all faculty members teaching a dual
1177 enrollment course a copy of the institution's current student
1178 handbook, which may include, but is not limited to, information
1179 on registration policies, the student code of conduct, grading
1180 policies, and critical dates.

1181 3. Designate an individual or individuals to observe all
1182 faculty members teaching a dual enrollment course, regardless of
1183 the location of instruction.

1184 4. Use the same criteria to evaluate faculty members
1185 teaching a dual enrollment course as the criteria used to
1186 evaluate all other faculty members.

1187 5. Provide course plans and objectives to all faculty
1188 members teaching a dual enrollment course.

1189 ~~(7)-(6)~~ The following curriculum standards apply to college
1190 credit dual enrollment:

1191 (a) Dual enrollment courses taught on the high school
1192 campus must meet the same competencies required for courses
1193 taught on the postsecondary institution campus. To ensure
1194 equivalent rigor with courses taught on the postsecondary
1195 institution campus, the postsecondary institution offering the
1196 course is responsible for providing in a timely manner a
1197 comprehensive, cumulative end-of-course assessment or a series



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1198 of assessments of all expected learning outcomes to the faculty
1199 member teaching the course. Completed, scored assessments must
1200 be returned to the postsecondary institution and held for 1
1201 year.

1202 (b) Instructional materials used in dual enrollment courses
1203 must be the same as or comparable to those used in courses
1204 offered by the postsecondary institution with the same course
1205 prefix and number. The postsecondary institution must advise the
1206 school district of instructional materials requirements as soon
1207 as that information becomes available but no later than one term
1208 before a course is offered.

1209 (c) Course requirements, such as tests, papers, or other
1210 assignments, for dual enrollment students must be at the same
1211 level of rigor or depth as those for all nondual enrollment
1212 postsecondary students. All faculty members teaching dual
1213 enrollment courses must observe the procedures and deadlines of
1214 the postsecondary institution for the submission of grades. A
1215 postsecondary institution must advise each faculty member
1216 teaching a dual enrollment course of the institution's grading
1217 guidelines before the faculty member begins teaching the course.

1218 (d) Dual enrollment courses taught on a high school campus
1219 may not be combined with any noncollege credit high school
1220 course.

1221 (8)~~(7)~~ Career dual enrollment shall be provided as a
1222 curricular option for secondary students to pursue in order to
1223 earn industry certifications adopted pursuant to s. 1008.44,
1224 which count as credits toward the high school diploma. Career
1225 dual enrollment shall be available for secondary students
1226 seeking a degree and industry certification through a career



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1227 education program or course. Each career center established
1228 under s. 1001.44 shall enter into an agreement with each high
1229 school in any school district it serves. Beginning with the
1230 2019-2020 school year, the agreement must be completed annually
1231 and submitted by the career center to the Department of
1232 Education by October ~~August~~ 1. The agreement must:

1233 (a) Identify the courses and programs that are available to
1234 students through career dual enrollment and the clock hour
1235 credits that students will earn upon completion of each course
1236 and program.

1237 (b) Delineate the high school credit earned for the
1238 completion of each career dual enrollment course.

1239 (c) Identify any college credit articulation agreements
1240 associated with each clock hour program.

1241 (d) Describe how students and their parents or legal
1242 guardians will be informed of career dual enrollment
1243 opportunities and related workforce demand, how students can
1244 apply to participate in a career dual enrollment program and
1245 register for courses through his or her high school, and the
1246 postsecondary career education expectations for participating
1247 students.

1248 (e) Establish any additional eligibility requirements for
1249 participation and a process for determining eligibility and
1250 monitoring the progress of participating students.

1251 (f) Delineate costs incurred by each entity and determine
1252 how transportation will be provided for students who are unable
1253 to provide their own transportation.

1254 (9) ~~(8)~~ Each district school board shall inform all
1255 secondary students and their parents or legal guardians of dual



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1256 enrollment as an educational option and mechanism for
1257 acceleration. Students and their parents or legal guardians
1258 shall be informed of student eligibility requirements, the
1259 option for taking dual enrollment courses beyond the regular
1260 school year, and the minimum academic credits required for
1261 graduation. In addition, students and their parents or legal
1262 guardians shall be informed that dual enrollment course grades
1263 are included in the student's college grade point average,
1264 become a part of the student's permanent academic record, and
1265 may affect the student's future financial aid eligibility. A
1266 school may not enroll a student in a dual enrollment course
1267 without an acknowledgment form on file, which must be signed by
1268 both the student and the student's parent or legal guardian,
1269 indicating they have been informed of the dual enrollment
1270 educational option and its provisions. District school boards
1271 shall annually assess the demand for dual enrollment and provide
1272 that information to each partnering postsecondary institution.
1273 Alternative grade calculation, weighting systems, and
1274 information regarding student education options that
1275 discriminate against dual enrollment courses are prohibited.

1276 (10)-(9) The Commissioner of Education shall appoint faculty
1277 committees representing public school, Florida College System
1278 institution, and university faculties to identify postsecondary
1279 courses that meet the high school graduation requirements of s.
1280 1003.4282 and to establish the number of postsecondary semester
1281 credit hours of instruction and equivalent high school credits
1282 earned through dual enrollment pursuant to this section that are
1283 necessary to meet high school graduation requirements. Such
1284 equivalencies shall be determined solely on comparable course



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1285 content and not on seat time traditionally allocated to such
1286 courses in high school. The Commissioner of Education shall
1287 recommend to the State Board of Education those postsecondary
1288 courses identified to meet high school graduation requirements,
1289 based on mastery of course outcomes, by their course numbers,
1290 and all high schools shall accept these postsecondary education
1291 courses toward meeting the requirements of s. 1003.4282.

1292 (11)~~(10)~~ Early admission is a form of dual enrollment
1293 through which eligible secondary students enroll in a
1294 postsecondary institution on a full-time basis in courses that
1295 are creditable toward the high school diploma and the associate
1296 or baccalaureate degree. A student must enroll in a minimum of
1297 12 college credit hours per semester or the equivalent to
1298 participate in the early admission program; however, a student
1299 may not be required to enroll in more than 15 college credit
1300 hours per semester or the equivalent. Students enrolled pursuant
1301 to this subsection are exempt from the payment of registration,
1302 tuition, and laboratory fees.

1303 (12)~~(11)~~ Career early admission is a form of career dual
1304 enrollment through which eligible secondary students enroll full
1305 time in a career center or a Florida College System institution
1306 in postsecondary programs leading to industry certifications, as
1307 listed in the CAPE Postsecondary Industry Certification Funding
1308 List pursuant to s. 1008.44, which are creditable toward the
1309 high school diploma and the certificate or associate degree.
1310 Participation in the career early admission program is limited
1311 to students who have completed a minimum of 4 semesters of full-
1312 time secondary enrollment, including studies undertaken in the
1313 ninth grade. Students enrolled pursuant to this section are



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1314 exempt from the payment of registration, tuition, and laboratory
1315 fees.

1316 ~~(12) The State Board of Education shall adopt rules for any~~
1317 ~~dual enrollment programs involving requirements for high school~~
1318 ~~graduation.~~

1319 (13) (a) The dual enrollment program for a home education
1320 student, including, but not limited to, students with
1321 disabilities, consists of the enrollment of an eligible home
1322 education secondary student in a postsecondary course creditable
1323 toward an associate degree, a career certificate, or a
1324 baccalaureate degree. To participate in the dual enrollment
1325 program, an eligible home education secondary student must:

1326 1. Provide proof of enrollment in a home education program
1327 pursuant to s. 1002.41.

1328 2. Be responsible for his or her own transportation unless
1329 provided for in the articulation agreement.

1330 3. Sign a home education articulation agreement pursuant to
1331 paragraph (b).

1332 (b) Each public postsecondary institution eligible to
1333 participate in the dual enrollment program pursuant to s.
1334 1011.62(1)(i) must enter into a home education articulation
1335 agreement with each home education student seeking enrollment in
1336 a dual enrollment course and the student's parent or legal
1337 guardian. By October ~~August~~ 1 of each year, the eligible
1338 postsecondary institution shall complete and submit the home
1339 education articulation agreement to the Department of Education.
1340 The home education articulation agreement must include, at a
1341 minimum:

1342 1. A delineation of courses and programs available to



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1343 dually enrolled home education students. Courses and programs
1344 may be added, revised, or deleted at any time by the
1345 postsecondary institution. Any course or program limitations may
1346 not exceed the limitations for other dually enrolled students.

1347 2. The initial and continued eligibility requirements for
1348 home education student participation, not to exceed those
1349 required of other dually enrolled students. A home education
1350 student must meet the same minimum score requirement on a common
1351 placement test which is required of other dually enrolled
1352 students. A high school grade point average may not be required
1353 for home education students ~~who meet the minimum score on a~~
1354 ~~common placement test adopted by the State Board of Education~~
1355 ~~which indicates that the student is ready for college-level~~
1356 ~~coursework;~~ however, home education student eligibility
1357 requirements for continued enrollment in dual enrollment courses
1358 must include the maintenance of the minimum postsecondary grade
1359 point average established by the postsecondary institution for
1360 other dually enrolled students.

1361 3. The student's responsibilities for providing his or her
1362 own transportation.

1363 4. A copy of the statement on transfer guarantees developed
1364 by the Department of Education under subsection (15).

1365 (14) The Department of Education shall approve any course
1366 for inclusion in the dual enrollment program that is contained
1367 within the statewide course numbering system. However,
1368 developmental education and physical education and other courses
1369 that focus on the physical execution of a skill rather than the
1370 intellectual attributes of the activity, may not be so approved
1371 but must be evaluated individually for potential inclusion in



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1372 the dual enrollment program. This subsection may not be
1373 construed to mean that an independent postsecondary institution
1374 eligible for inclusion in a dual enrollment or early admission
1375 program pursuant to subsection (23) ~~s. 1011.62~~ must participate
1376 in the statewide course numbering system developed pursuant to
1377 s. 1007.24 to participate in a dual enrollment program.

1378 (15) The Department of Education shall develop a statement
1379 on transfer guarantees to inform students and their parents or
1380 legal guardians, prior to enrollment in a dual enrollment
1381 course, of the potential for the dual enrollment course to
1382 articulate as an elective or a general education course into a
1383 postsecondary education certificate or degree program. The
1384 statement shall be provided to each district school
1385 superintendent, who shall include the statement in the
1386 information provided to all secondary students and their parents
1387 or legal guardians as required pursuant to this subsection. The
1388 statement may also include additional information, including,
1389 but not limited to, dual enrollment options, guarantees,
1390 privileges, and responsibilities.

1391 (16) Students who meet the eligibility requirements of this
1392 section and who choose to participate in dual enrollment
1393 programs are exempt from the payment of registration, tuition,
1394 and laboratory fees.

1395 (17) Instructional materials assigned for use within dual
1396 enrollment courses shall be made available to dual enrollment
1397 students from Florida public ~~high~~ schools, private schools, and
1398 home education programs free of charge. ~~This subsection does not~~
1399 ~~prohibit a Florida College System institution from providing~~
1400 ~~instructional materials at no cost to a home education student~~



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1401 ~~or student from a private school.~~ Instructional materials
1402 purchased by a district school board or Florida College System
1403 institution board of trustees on behalf of dual enrollment
1404 students shall be the property of the board against which the
1405 purchase is charged.

1406 (18) School districts and Florida College System
1407 institutions must weigh dual enrollment courses the same as
1408 advanced placement, International Baccalaureate, and Advanced
1409 International Certificate of Education courses when grade point
1410 averages are calculated. Alternative grade calculation systems,
1411 alternative grade weighting systems, and information regarding
1412 student education options that discriminate against dual
1413 enrollment courses are prohibited.

1414 (19) The Commissioner of Education may approve dual
1415 enrollment agreements for limited course offerings that have
1416 statewide appeal. Such programs shall be limited to a single
1417 site with multiple county participation.

1418 (20) A postsecondary institution shall assign letter grades
1419 to each student enrolled in a dual enrollment course. The letter
1420 grade assigned by the postsecondary institution shall be posted
1421 to the student's high school transcript by the school district.

1422 (21) Each district school superintendent and each public
1423 postsecondary institution president shall develop a
1424 comprehensive dual enrollment articulation agreement for the
1425 respective school district and postsecondary institution. The
1426 superintendent and president shall establish an articulation
1427 committee for the purpose of developing the agreement. Each
1428 state university president may designate a university
1429 representative to participate in the development of a dual



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1430 enrollment articulation agreement. A dual enrollment
1431 articulation agreement shall be completed and submitted annually
1432 by the postsecondary institution to the Department of Education
1433 on or before October ~~August~~ 1. The agreement must include, but
1434 is not limited to:

1435 (a) A ratification or modification of all existing
1436 articulation agreements.

1437 (b) A description of the process by which students and
1438 their parents are informed about opportunities for student
1439 participation in the dual enrollment program.

1440 (c) A delineation of courses and programs available to
1441 students eligible to participate in dual enrollment.

1442 (d) A description of the process by which students and
1443 their parents exercise options to participate in the dual
1444 enrollment program.

1445 (e) The agreed-upon common placement test scores and
1446 corresponding grade point average that may be accepted for
1447 initial student eligibility if an exception to the minimum grade
1448 point average is authorized pursuant to subsection (3) ~~A list of~~
1449 ~~any additional initial student eligibility requirements for~~
1450 ~~participation in the dual enrollment program.~~

1451 (f) A delineation of the high school credit earned for the
1452 passage of each dual enrollment course.

1453 (g) A description of the process for informing students and
1454 their parents of college-level course expectations.

1455 (h) The policies and procedures, if any, for determining
1456 exceptions to the required grade point averages on an individual
1457 student basis.

1458 (i) The registration policies for dual enrollment courses



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1459 as determined by the postsecondary institution.

1460 (j) Exceptions, if any, to the professional rules,
1461 guidelines, and expectations stated in the faculty or adjunct
1462 faculty handbook for the postsecondary institution.

1463 (k) Exceptions, if any, to the rules, guidelines, and
1464 expectations stated in the student handbook of the postsecondary
1465 institution which apply to faculty members.

1466 (l) The responsibilities of the school district regarding
1467 the determination of student eligibility before participating in
1468 the dual enrollment program and the monitoring of student
1469 performance while participating in the dual enrollment program.

1470 (m) The responsibilities of the postsecondary institution
1471 regarding the transmission of student grades in dual enrollment
1472 courses to the school district.

1473 (n) A funding provision that delineates costs incurred by
1474 each entity.

1475 1. School districts shall pay public postsecondary
1476 institutions the in-state resident standard tuition rate per
1477 credit hour from funds provided in the Florida Education Finance
1478 Program when dual enrollment course instruction takes place on
1479 the postsecondary institution's campus and the course is taken
1480 during the fall or spring term. When dual enrollment is provided
1481 on the high school site by postsecondary institution faculty,
1482 the school district shall reimburse the costs associated with
1483 the postsecondary institution's proportion of salary and
1484 benefits to provide the instruction. When dual enrollment course
1485 instruction is provided on the high school site by school
1486 district faculty, the school district is not responsible for
1487 payment to the postsecondary institution. A postsecondary



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1488 institution may enter into an agreement with the school district
1489 to authorize teachers to teach dual enrollment courses at the
1490 high school site or the postsecondary institution. A school
1491 district may not deny a student access to dual enrollment unless
1492 the student is ineligible to participate in the program subject
1493 to provisions specifically outlined in this section.

1494 2. Subject to annual appropriation in the General
1495 Appropriations Act, a public postsecondary institution shall
1496 receive an amount of funding equivalent to the standard tuition
1497 rate per credit hour for each dual enrollment course taken by a
1498 private school or home education student at the postsecondary
1499 institution during the fall and spring terms, pursuant to s.
1500 1009.31.

1501 ~~3.2.~~ Subject to annual appropriation in the General
1502 Appropriations Act, a public postsecondary institution shall
1503 receive an amount of funding equivalent to the standard tuition
1504 rate per credit hour for each dual enrollment course taken by a
1505 student during the summer term, pursuant to s. 1009.31.

1506 (o) Any institutional responsibilities for student
1507 transportation, if provided.

1508 (22) The Department of Education shall develop an
1509 electronic submission system for dual enrollment articulation
1510 agreements and shall review, for compliance, each dual
1511 enrollment articulation agreement submitted pursuant to
1512 subsections (13), (21), and (24). The Commissioner of Education
1513 shall notify the district school superintendent and the Florida
1514 College System institution president if the dual enrollment
1515 articulation agreement does not comply with statutory
1516 requirements and shall submit any dual enrollment articulation



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1517 agreement with unresolved issues of noncompliance to the State
1518 Board of Education.

1519 (23) District school boards and Florida College System
1520 institutions may enter into additional dual enrollment
1521 articulation agreements with state universities for the purposes
1522 of this section. School districts may also enter into dual
1523 enrollment articulation agreements with eligible independent
1524 colleges and universities ~~pursuant to s. 1011.62(1)(i)~~. An
1525 independent college or university that is not for profit, is
1526 accredited by a regional or national accrediting agency
1527 recognized by the United States Department of Education, and
1528 confers degrees as defined in s. 1005.02 shall be eligible for
1529 inclusion in the dual enrollment or early admission program. By
1530 October ~~August~~ 1 of each year, the district school board and the
1531 Florida College System institution shall complete and submit the
1532 dual enrollment articulation agreement with the state university
1533 or an eligible independent college or university, as applicable,
1534 to the Department of Education.

1535 (24) (a) The dual enrollment program for a private school
1536 student consists of the enrollment of an eligible private school
1537 student in a postsecondary course creditable toward an associate
1538 degree, a career certificate, or a baccalaureate degree. In
1539 addition, a private school in which a student, including, but
1540 not limited to, students with disabilities, is enrolled must
1541 award credit toward high school completion for the postsecondary
1542 course under the dual enrollment program. To participate in the
1543 dual enrollment program, an eligible private school student
1544 must:

1545 1. Provide proof of enrollment in a private school pursuant



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1546 to subsection (2).

1547 2. Be responsible for his or her own ~~instructional~~
1548 ~~materials and~~ transportation unless provided for in the
1549 articulation agreement.

1550 3. Sign a private school articulation agreement pursuant to
1551 paragraph (b).

1552 (b) Each public postsecondary institution eligible to
1553 participate in the dual enrollment program pursuant to s.
1554 1011.62(1)(i) must enter into a private school articulation
1555 agreement with each eligible private school in its geographic
1556 service area seeking to offer dual enrollment courses to its
1557 students, including, but not limited to, students with
1558 disabilities. By October ~~August~~ 1 of each year, the eligible
1559 postsecondary institution shall complete and submit the private
1560 school articulation agreement to the Department of Education.
1561 The private school articulation agreement must include, at a
1562 minimum:

1563 1. A delineation of courses and programs available to the
1564 private school student. The postsecondary institution may add,
1565 revise, or delete courses and programs at any time.

1566 2. The initial and continued eligibility requirements for
1567 private school student participation, not to exceed those
1568 required of other dual enrollment students.

1569 3. The student's responsibilities for providing his or her
1570 own ~~instructional materials and~~ transportation.

1571 4. A provision clarifying that the private school will
1572 award appropriate credit toward high school completion for the
1573 postsecondary course under the dual enrollment program.

1574 5. A provision expressing that the private school of



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1575 enrollment is exempt from the payment of costs associated with
1576 tuition and fees, including registration, and laboratory fees,
1577 will not be passed along to the student.

1578 (25) For students with disabilities, a postsecondary
1579 institution eligible to participate in dual enrollment pursuant
1580 to s. 1011.62(1)(i) shall include in its dual enrollment
1581 articulation agreement, services and resources that are
1582 available to students with disabilities who register in a dual
1583 enrollment course at the eligible institution and provide
1584 information regarding such services and resources to the Florida
1585 Center for Students with Unique Abilities. The Department of
1586 Education shall provide to the center the Internet website link
1587 to dual enrollment articulation agreements specific to students
1588 with disabilities. The center shall include in the information
1589 that it is responsible for disseminating to students with
1590 disabilities and their parents or legal guardians pursuant to s.
1591 1004.6495, dual enrollment articulation agreements and
1592 opportunities for meaningful campus experience through dual
1593 enrollment.

1594 (26) By November 30, 2021, and by November 30 annually
1595 thereafter, the commissioner must report the status of dual
1596 enrollment programs, including, at a minimum, a summary of
1597 student enrollment and completion for public school, private
1598 school, and home education program students enrolled at public
1599 and private postsecondary institutions, to the Governor, the
1600 President of the Senate, and the Speaker of the House of
1601 Representatives.

1602 (27) The State Board of Education shall adopt rules for any
1603 dual enrollment programs involving requirements for high school



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1604 graduation.

1605 Section 17. Section 1007.273, Florida Statutes, is amended
1606 to read:

1607 1007.273 Early college program ~~Collegiate high school~~
1608 ~~program.~~—

1609 (1) Each Florida College System institution shall work with
1610 each district school board in its designated service area to
1611 establish one or more early college ~~collegiate high school~~
1612 programs. As used in this section, the term "early college
1613 program" means a structured high school acceleration program in
1614 which a cohort of students is taking postsecondary courses full
1615 time toward an associate degree. The early college program must
1616 prioritize courses applicable as general education core courses
1617 under s. 1007.25 for an associate degree or a baccalaureate
1618 degree.

1619 ~~(2) At a minimum, collegiate high school programs must~~
1620 ~~include an option for public school students in grade 11 or~~
1621 ~~grade 12 participating in the program, for at least 1 full~~
1622 ~~school year, to earn CAPE industry certifications pursuant to s.~~
1623 ~~1008.44 and to successfully complete 30 credit hours through the~~
1624 ~~dual enrollment program under s. 1007.271 toward the first year~~
1625 ~~of college for an associate degree or baccalaureate degree while~~
1626 ~~enrolled in the program.~~

1627 ~~(2)(3)~~ Each district school board and its local Florida
1628 College System institution shall execute a contract to establish
1629 one or more early college ~~collegiate high school~~ programs at a
1630 mutually agreed-upon ~~agreed upon~~ location or locations.
1631 ~~Beginning with the 2015-2016 school year, If the Florida College~~
1632 ~~System~~ institution does not establish an early college ~~a~~ program



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1633 with a district school board in its designated service area,
1634 another Florida College System institution may execute a
1635 contract with that district school board to establish the early
1636 college program. The contract must be executed by January 1 of
1637 each school year for implementation of the program during the
1638 next school year. The contract must:

1639 (a) Identify the grade levels to be included in the early
1640 college program ~~collegiate high school program which must, at a~~
1641 ~~minimum, include grade 12.~~

1642 (b) Describe the early college ~~collegiate high school~~
1643 program, including the delineation of courses that must, at a
1644 minimum, include general education core courses pursuant to s.
1645 1007.25; and industry certifications offered, including online
1646 course availability; the high school and college credits earned
1647 for each postsecondary course completed and industry
1648 certification earned; student eligibility criteria; and the
1649 enrollment process and relevant deadlines.

1650 (c) Describe the methods, medium, and process by which
1651 students and their parents or legal guardians are annually
1652 informed about the availability of the early college ~~collegiate~~
1653 ~~high school~~ program, the return on investment associated with
1654 participation in the early college program, and the information
1655 described in paragraphs (a) and (b).

1656 (d) Identify the delivery methods for instruction and the
1657 instructors for all courses.

1658 (e) Identify student advising services and progress
1659 monitoring mechanisms.

1660 (f) Establish a program review and reporting mechanism
1661 regarding student performance outcomes.



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1662 (g) Describe the terms of funding arrangements to implement
1663 the early college ~~collegiate high school~~ program pursuant to
1664 subsection (5).

1665 (3)(4) Each student participating in an early college a
1666 ~~collegiate high school~~ program must enter into a student
1667 performance contract, which must be signed by the student, the
1668 parent or legal guardian, and a representative of the school
1669 district and the ~~applicable~~ Florida College System institution
1670 partner, state university, or other eligible postsecondary
1671 institution partner participating pursuant to subsection (4)
1672 ~~(5)~~. The performance contract must, at a minimum, specify
1673 ~~include~~ the schedule of courses, by semester, and industry
1674 certifications to be taken by the student, if any; student
1675 attendance requirements; and course grade requirements; and the
1676 applicability of such courses to an associate degree or a
1677 baccalaureate degree.

1678 (4)(5) In addition to executing a contract with the local
1679 Florida College System institution under this section, a
1680 district school board may execute a contract to establish an
1681 early college a ~~collegiate high school~~ program with a state
1682 university or an institution that is eligible to participate in
1683 the William L. Boyd, IV, Effective Access to Student Education
1684 Grant Program, that is a nonprofit independent college or
1685 university located and chartered in this state, and that is
1686 accredited by the Commission on Colleges of the Southern
1687 Association of Colleges and Schools to grant baccalaureate
1688 degrees. Such university or institution must meet the
1689 requirements specified under subsections (2) and (3) ~~subsections~~
1690 ~~(3) and (4)~~. A charter school may execute a contract directly



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1691 with the local Florida College System institution or another
1692 institution as authorized under this section to establish an
1693 early college program at a mutually agreed-upon location.

1694 (5)(6) The early college collegiate high school program
1695 shall be funded pursuant to ss. 1007.271 and 1011.62. The State
1696 Board of Education shall enforce compliance with this section by
1697 withholding the transfer of funds for the school districts and
1698 the Florida College System institutions in accordance with s.
1699 1008.32.

1700 (6) By November 30, 2021, and annually thereafter, the
1701 commissioner must report the status of early college programs,
1702 including, at a minimum, a summary of student enrollment in
1703 public and private postsecondary institutions and completion
1704 information, to the Governor, the President of the Senate, and
1705 the Speaker of the House of Representatives.

1706 Section 18. Paragraph (a) of subsection (1) and subsection
1707 (2) of section 1008.212, Florida Statutes, are amended to read:
1708 1008.212 Students with disabilities; extraordinary
1709 exemption.-

1710 (1) As used in this section, the term:

1711 (a) "Circumstance" means a situation in which
1712 accommodations allowable for use on the statewide standardized
1713 assessment, a statewide standardized end-of-course assessment,
1714 or an alternate assessment pursuant to s. 1008.22(3)(d) ~~s.~~
1715 ~~1008.22(3)(e)~~ are not offered to a student during the current
1716 year's assessment administration due to technological
1717 limitations in the testing administration program which lead to
1718 results that reflect the student's impaired sensory, manual, or
1719 speaking skills rather than the student's achievement of the



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1720 benchmarks assessed by the statewide standardized assessment, a
1721 statewide standardized end-of-course assessment, or an alternate
1722 assessment.

1723 (2) A student with a disability for whom the individual
1724 education plan (IEP) team determines is prevented by a
1725 circumstance or condition from physically demonstrating the
1726 mastery of skills that have been acquired and are measured by
1727 the statewide standardized assessment, a statewide standardized
1728 end-of-course assessment, or an alternate assessment pursuant to
1729 s. 1008.22(3)(d) ~~s. 1008.22(3)(e)~~ shall be granted an
1730 extraordinary exemption from the administration of the
1731 assessment. A learning, emotional, behavioral, or significant
1732 cognitive disability, or the receipt of services through the
1733 homebound or hospitalized program in accordance with rule 6A-
1734 6.03020, Florida Administrative Code, is not, in and of itself,
1735 an adequate criterion for the granting of an extraordinary
1736 exemption.

1737 Section 19. Present paragraph (c) of subsection (3) of
1738 section 1008.22, Florida Statutes, is redesignated as paragraph
1739 (d) and amended, a new paragraph (c) and paragraph (h) are added
1740 to that subsection, and paragraphs (a), (b), (d), and (g) of
1741 that subsection, paragraphs (a), (b), (c), and (h) of subsection
1742 (7), and subsections (8) and (9) of that section are amended, to
1743 read:

1744 1008.22 Student assessment program for public schools.—

1745 (3) STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.—The
1746 Commissioner of Education shall design and implement a
1747 statewide, standardized assessment program aligned to the core
1748 curricular content established in the Next Generation Sunshine



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1749 State Standards. The commissioner also must develop or select
1750 and implement a common battery of assessment tools that will be
1751 used in all juvenile justice education programs in the state.
1752 These tools must accurately measure the core curricular content
1753 established in the Next Generation Sunshine State Standards.
1754 Participation in the assessment program is mandatory for all
1755 school districts and all students attending public schools,
1756 including adult students seeking a standard high school diploma
1757 under s. 1003.4282 and students in Department of Juvenile
1758 Justice education programs, except as otherwise provided by law.
1759 If a student does not participate in the assessment program, the
1760 school district must notify the student's parent and provide the
1761 parent with information regarding the implications of such
1762 nonparticipation. The statewide, standardized assessment program
1763 shall be designed and implemented as follows:

1764 (a) *Statewide, standardized comprehensive assessments.*—The
1765 statewide, standardized ~~Reading assessment shall be administered~~
1766 ~~annually in grades 3 through 10. The statewide, standardized~~
1767 ~~Writing assessment shall be administered annually at least once~~
1768 ~~at the elementary, middle, and high school levels. When the~~
1769 ~~Reading and Writing assessments are replaced by English Language~~
1770 ~~Arts (ELA) assessments, ELA assessments shall be administered to~~
1771 students in grades 3 through 10. The grade 9 ELA assessment
1772 shall be last administered in the 2021-2022 school year. Retake
1773 opportunities for the ~~grade 10 Reading assessment or, upon~~
1774 ~~implementation, the grade 10 ELA assessment must be provided.~~
1775 ~~Students taking the ELA assessments shall not take the~~
1776 ~~statewide, standardized assessments in Reading or Writing.~~
1777 Reading passages and writing prompts for ELA assessments shall



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1778 incorporate grade-level core curricula content from social
1779 studies. The statewide, standardized Mathematics assessments
1780 shall be administered annually in grades 3 through 8. ~~Students~~
1781 ~~taking a revised Mathematics assessment shall not take the~~
1782 ~~discontinued assessment.~~ The statewide, standardized Science
1783 assessment shall be administered annually at least once at the
1784 elementary and middle grades levels. In order to earn a standard
1785 high school diploma, a student who has not earned a passing
1786 score on the ~~grade 10 Reading assessment or, upon~~
1787 ~~implementation, the grade 10 ELA assessment must earn a passing~~
1788 score on the assessment retake or earn a concordant score as
1789 authorized under subsection (9). Statewide, standardized ELA and
1790 mathematics assessments in grades 3 through 6 must be delivered
1791 in a paper-based format.

1792 (b) *End-of-course (EOC) assessments.*—EOC assessments must
1793 be statewide, standardized, and developed or approved by the
1794 Department of Education as follows:

1795 1. EOC assessments for Algebra I, Geometry, Biology I,
1796 United States History, and Civics shall be administered to
1797 students enrolled in such courses as specified in the course
1798 code directory. The Geometry EOC assessment shall be
1799 administered to students enrolled in such courses as specified
1800 in the course code directory until the assessment is
1801 discontinued.

1802 2. Students enrolled in a course, as specified in the
1803 course code directory, with an associated statewide,
1804 standardized EOC assessment must take the EOC assessment for
1805 such course and may not take the corresponding subject or grade-
1806 level statewide, standardized assessment pursuant to paragraph



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1807 (a). Sections 1003.4156 and 1003.4282 govern the use of
1808 statewide, standardized EOC assessment results for students.

1809 3. The commissioner may select one or more nationally
1810 developed comprehensive examinations, which may include
1811 examinations for a College Board Advanced Placement course,
1812 International Baccalaureate course, or Advanced International
1813 Certificate of Education course, or industry-approved
1814 examinations to earn national industry certifications identified
1815 in the CAPE Industry Certification Funding List, for use as EOC
1816 assessments under this paragraph if the commissioner determines
1817 that the content knowledge and skills assessed by the
1818 examinations meet or exceed the grade-level expectations for the
1819 core curricular content established for the course in the Next
1820 Generation Sunshine State Standards. Use of any such examination
1821 as an EOC assessment must be approved by the state board in
1822 rule.

1823 4. Contingent upon funding provided in the General
1824 Appropriations Act, including the appropriation of funds
1825 received through federal grants, the commissioner may establish
1826 an implementation schedule for the development and
1827 administration of additional statewide, standardized EOC
1828 assessments that must be approved by the state board in rule. If
1829 approved by the state board, student performance on such
1830 assessments constitutes 30 percent of a student's final course
1831 grade.

1832 5. All statewide, standardized EOC assessments must be
1833 administered online ~~except as otherwise provided in paragraph~~
1834 ~~(e)~~.

1835 6. A student enrolled in an Advanced Placement (AP),



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1836 International Baccalaureate (IB), or Advanced International
1837 Certificate of Education (AICE) course who takes the respective
1838 AP, IB, or AICE assessment and earns the minimum score necessary
1839 to earn college credit, as identified in s. 1007.27(2), meets
1840 the requirements of this paragraph and does not have to take the
1841 EOC assessment for the corresponding course.

1842 (c) Nationally recognized high school assessments.-

1843 1. Beginning with the 2020-2021 school year, each school
1844 district shall provide for the administration of the SAT or the
1845 ACT to each public school student in grade 11 in the district,
1846 including students attending public high schools, alternative
1847 schools, and centers of the Department of Juvenile Justice.

1848 2. School districts must choose either the SAT or the ACT
1849 for districtwide administration.

1850 3. Funding for the SAT and the ACT for all grade 11
1851 students shall be as provided in the General Appropriations Act.

1852 (d)(e) Students with disabilities; Florida Alternate
1853 Assessment.-

1854 1. Each district school board must provide instruction to
1855 prepare students with disabilities in the core content knowledge
1856 and skills necessary for successful grade-to-grade progression
1857 and high school graduation.

1858 2. A student with a disability, as defined in s. 1007.02,
1859 for whom the individual education plan (IEP) team determines
1860 that the statewide, standardized assessments under this section
1861 cannot accurately measure the student's abilities, taking into
1862 consideration all allowable accommodations, shall have
1863 assessment results waived for the purpose of receiving a course
1864 grade and a standard high school diploma. Such waiver shall be



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1865 designated on the student's transcript. The statement of waiver
1866 shall be limited to a statement that performance on an
1867 assessment was waived for the purpose of receiving a course
1868 grade or a standard high school diploma, as applicable.

1869 3. The State Board of Education shall adopt rules, based
1870 upon recommendations of the commissioner, for the provision of
1871 assessment accommodations for students with disabilities and for
1872 students who have limited English proficiency.

1873 a. Accommodations that negate the validity of a statewide,
1874 standardized assessment are not allowed during the
1875 administration of the assessment. However, instructional
1876 accommodations are allowed in the classroom if identified in a
1877 student's IEP. Students using instructional accommodations in
1878 the classroom that are not allowed on a statewide, standardized
1879 assessment may have assessment results waived if the IEP team
1880 determines that the assessment cannot accurately measure the
1881 student's abilities.

1882 b. If a student is provided with instructional
1883 accommodations in the classroom that are not allowed as
1884 accommodations for statewide, standardized assessments, the
1885 district must inform the parent in writing and provide the
1886 parent with information regarding the impact on the student's
1887 ability to meet expected performance levels. A parent must
1888 provide signed consent for a student to receive classroom
1889 instructional accommodations that would not be available or
1890 permitted on a statewide, standardized assessment and
1891 acknowledge in writing that he or she understands the
1892 implications of such instructional accommodations.

1893 c. If a student's IEP states that online administration of



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1894 a statewide, standardized assessment will significantly impair
1895 the student's ability to perform, the assessment shall be
1896 administered in hard copy.

1897 4. For students with significant cognitive disabilities,
1898 the Department of Education shall provide for implementation of
1899 the Florida Alternate Assessment to accurately measure the core
1900 curricular content established in the Next Generation Sunshine
1901 State Standards.

1902 ~~(d) Implementation schedule.—~~

1903 ~~1. The Commissioner of Education shall establish and~~
1904 ~~publish on the department's website an implementation schedule~~
1905 ~~to transition from the statewide, standardized Reading and~~
1906 ~~Writing assessments to the ELA assessments and to the revised~~
1907 ~~Mathematics assessments, including the Algebra I and Geometry~~
1908 ~~EOC assessments. The schedule must take into consideration~~
1909 ~~funding, sufficient field and baseline data, access to~~
1910 ~~assessments, instructional alignment, and school district~~
1911 ~~readiness to administer the assessments online. All such~~
1912 ~~assessments must be delivered through computer-based testing,~~
1913 ~~however, the following assessments must be delivered in a~~
1914 ~~computer-based format, as follows: the grade 3 Mathematics~~
1915 ~~assessment beginning in the 2016-2017 school year; the grade 4~~
1916 ~~ELA assessment, beginning in the 2015-2016 school year; and the~~
1917 ~~grade 4 Mathematics assessment, beginning in the 2016-2017~~
1918 ~~school year. Notwithstanding the requirements of this~~
1919 ~~subparagraph, statewide, standardized ELA and mathematics~~
1920 ~~assessments in grades 3 through 6 must be delivered only in a~~
1921 ~~paper-based format, beginning with the 2017-2018 school year,~~
1922 ~~and all such assessments must be paper-based no later than the~~



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1923 ~~2018-2019 school year.~~

1924 ~~2. The Department of Education shall publish minimum and~~
1925 ~~recommended technology requirements that include specifications~~
1926 ~~for hardware, software, networking, security, and broadband~~
1927 ~~capacity to facilitate school district compliance with the~~
1928 ~~requirements of this section.~~

1929 ~~(g) Contracts for assessments.-~~

1930 ~~1. The commissioner shall provide for the assessments to be~~
1931 ~~developed or obtained, as appropriate, through contracts and~~
1932 ~~project agreements with private vendors, public vendors, public~~
1933 ~~agencies, postsecondary educational institutions, or school~~
1934 ~~districts. The commissioner may enter into contracts for the~~
1935 ~~continued administration of the assessments authorized and~~
1936 ~~funded by the Legislature. Contracts may be initiated in 1~~
1937 ~~fiscal year and continue into the next fiscal year and may be~~
1938 ~~paid from the appropriations of either or both fiscal years. The~~
1939 ~~commissioner may negotiate for the sale or lease of tests,~~
1940 ~~scoring protocols, test scoring services, and related materials~~
1941 ~~developed pursuant to law.~~

1942 ~~2. A student's performance results on statewide,~~
1943 ~~standardized assessments, EOC assessments, and Florida~~
1944 ~~Alternative Assessments administered pursuant to this subsection~~
1945 ~~must be provided to the student's teachers and parents by the~~
1946 ~~end of the school year, unless the commissioner determines that~~
1947 ~~extenuating circumstances exist and reports the extenuating~~
1948 ~~circumstances to the State Board of Education. This subparagraph~~
1949 ~~does not apply to existing contracts for such assessments, but~~
1950 ~~shall apply to new contracts and any renewal of existing~~
1951 ~~contracts for such assessments.~~



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1952 ~~3. If liquidated damages are applicable, the department~~
1953 ~~shall collect liquidated damages that are due in response to the~~
1954 ~~administration of the spring 2015 computer-based assessments of~~
1955 ~~the department's Florida Standards Assessment contract with~~
1956 ~~American Institutes for Research, and expend the funds to~~
1957 ~~reimburse parties that incurred damages.~~

1958 (h) Assessment flexibility.—The Department of Education
1959 shall seek approval from the United States Department of
1960 Education to use the nationally recognized high school
1961 assessments administered under paragraph (c) as the state's high
1962 school assessment in mathematics under federal law. If the
1963 department receives approval, the commissioner may discontinue
1964 the Geometry end-of-course assessment.

1965 (7) ASSESSMENT SCHEDULES AND REPORTING OF RESULTS.—

1966 (a) The Commissioner of Education shall establish schedules
1967 for the administration of statewide, standardized assessments
1968 and the reporting of student assessment results. The
1969 commissioner shall consider the observance of religious and
1970 school holidays when developing the schedules. The assessment
1971 and reporting schedules must provide the earliest possible
1972 reporting of student assessment results to the school districts,
1973 ~~consistent with the requirements of paragraph (3)(g).~~ Assessment
1974 results for the statewide, standardized ELA and mathematics
1975 assessments and all statewide, standardized EOC assessments must
1976 be made available no later than June 30, except for results for
1977 the grade 3 statewide, standardized ELA assessment, which must
1978 be made available no later than May 31. School districts shall
1979 administer statewide, standardized assessments in accordance
1980 with the schedule established by the commissioner.



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1981 (b) By January of each year, ~~beginning in 2018,~~ the
1982 commissioner shall publish on the department's website a uniform
1983 calendar that includes the assessment and reporting schedules
1984 for, at a minimum, the next 2 school years. The uniform calendar
1985 must be provided to school districts in an electronic format
1986 that allows each school district and public school to populate
1987 the calendar with, at minimum, the following information for
1988 reporting the district assessment schedules under paragraph (d):

1989 1. Whether the assessment is a district-required assessment
1990 or a state-required assessment.

1991 2. The specific date or dates that each assessment will be
1992 administered.

1993 3. The time allotted to administer each assessment.

1994 4. Whether the assessment is a computer-based assessment or
1995 a paper-based assessment.

1996 5. The grade level or subject area associated with the
1997 assessment.

1998 6. The date that the assessment results are expected to be
1999 available to teachers and parents.

2000 7. The type of assessment, the purpose of the assessment,
2001 and the use of the assessment results.

2002 8. A glossary of assessment terminology.

2003 9. Estimates of average time for administering state-
2004 required and district-required assessments, by grade level.

2005 (c) ~~Beginning with the 2018-2019 school year,~~ The spring
2006 administration of the statewide, standardized assessments in
2007 paragraphs (3) (a) and (b), excluding assessment retakes, must be
2008 in accordance with the following schedule:

2009 1. The grade 3 statewide, standardized ELA assessment and



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2010 the writing portion of the statewide, standardized ELA
2011 assessment ~~for grades 4 through 10~~ must be administered no
2012 earlier than April 1 each year within an assessment window not
2013 to exceed 2 weeks.

2014 2. With the exception of assessments identified in
2015 subparagraph 1., any statewide, standardized assessment that is
2016 delivered in a paper-based format must be administered no
2017 earlier than May 1 each year within an assessment window not to
2018 exceed 2 weeks.

2019 3. With the exception of assessments identified in
2020 subparagraphs 1. and 2., any statewide, standardized assessment
2021 must be administered within a 4-week assessment window that
2022 opens no earlier than May 1 each year.

2023
2024 ~~Each school district shall administer the assessments identified~~
2025 ~~under subparagraphs 2. and 3. no earlier than 4 weeks before the~~
2026 ~~last day of school for the district.~~

2027 (h) The results of statewide, standardized ELA, ~~and~~
2028 mathematics, science, and social studies assessments, including
2029 assessment retakes, shall be reported in an easy-to-read and
2030 understandable format and delivered in time to provide useful,
2031 actionable information to students, parents, and each student's
2032 current teacher of record and teacher of record for the
2033 subsequent school year; however, in any case, the district shall
2034 provide the results pursuant to this paragraph within 1 week
2035 after receiving the results from the department. A report of
2036 student assessment results must, at a minimum, contain:

2037 1. A clear explanation of the student's performance on the
2038 applicable statewide, standardized assessments.



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2039 2. Information identifying the student's areas of strength
2040 and areas in need of improvement.

2041 3. Specific actions that may be taken, and the available
2042 resources that may be used, by the student's parent to assist
2043 his or her child based on the student's areas of strength and
2044 areas in need of improvement.

2045 4. Longitudinal information, if available, on the student's
2046 progress in each subject area based on previous statewide,
2047 standardized assessment data.

2048 5. Comparative information showing the student's score
2049 compared to other students in the school district, in the state,
2050 or, if available, in other states.

2051 6. Predictive information, if available, showing the
2052 linkage between the scores attained by the student on the
2053 statewide, standardized assessments and the scores he or she may
2054 potentially attain on nationally recognized college entrance
2055 examinations.

2056 (8) PUBLICATION OF ASSESSMENTS.—To promote transparency in
2057 the statewide assessment program, in any procurement for the
2058 statewide, standardized assessments in ELA, assessment in grades
2059 3 through 10 and the mathematics, science, and social studies
2060 assessment in grades 3 through 8, the Department of Education
2061 shall solicit cost proposals for publication of the state
2062 assessments on its website in accordance with this subsection.

2063 (a) The department shall publish each assessment
2064 administered under paragraph (3) (a) and subparagraph (3) (b)1.,
2065 excluding assessment retakes, at least once on a triennial basis
2066 pursuant to a schedule determined by the Commissioner of
2067 Education. Each assessment, when published, must have been



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2068 administered during the most recent school year and be in a
2069 format that facilitates the sharing of assessment items.

2070 (b) The initial publication of assessments must occur no
2071 later than June 30, 2024 ~~2021~~, subject to appropriation, and
2072 must include, at a minimum, the grade 3 ELA and mathematics
2073 assessments, the grade 10 ELA assessment, and the Algebra I EOC
2074 assessment.

2075 (c) The department must provide materials on its website to
2076 help the public interpret assessment information published
2077 pursuant to this subsection.

2078 (9) CONCORDANT SCORES.—The Commissioner of Education must
2079 identify scores on the SAT and ACT that if achieved satisfy the
2080 graduation requirement that a student pass the ~~grade 10~~
2081 ~~statewide, standardized Reading assessment or, upon~~
2082 ~~implementation, the grade 10 ELA assessment.~~ The commissioner
2083 may identify concordant scores on assessments other than the SAT
2084 and ACT. If the content or scoring procedures change for the
2085 ~~grade 10 Reading assessment or, upon implementation, the grade~~
2086 10 ELA assessment, new concordant scores must be determined. If
2087 new concordant scores are not timely adopted, the last-adopted
2088 concordant scores remain in effect until such time as new scores
2089 are adopted. The state board shall adopt concordant scores in
2090 rule.

2091 Section 20. Paragraph (a) of subsection (2) of section
2092 1008.25, Florida Statutes, is amended to read:

2093 1008.25 Public school student progression; student support;
2094 reporting requirements.—

2095 (2) STUDENT PROGRESSION PLAN.—Each district school board
2096 shall establish a comprehensive plan for student progression



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2097 which must provide for a student's progression from one grade to
2098 another based on the student's mastery of the standards in s.
2099 1003.41, specifically English Language Arts, mathematics,
2100 science, and social studies standards. The plan must:

2101 (a) Include criteria that emphasize student reading
2102 proficiency in kindergarten through grade 3 and provide targeted
2103 instructional support for students with identified deficiencies
2104 in English Language Arts, mathematics, science, and social
2105 studies. High schools shall use all available assessment
2106 results, ~~including the results of statewide, standardized~~
2107 ~~English Language Arts assessments and end-of-course assessments~~
2108 ~~for Algebra I and Geometry,~~ to advise students of any identified
2109 deficiencies and to provide appropriate postsecondary
2110 preparatory instruction before high school graduation. The
2111 results of evaluations used to monitor a student's progress in
2112 grades K-12 must be provided to the student's teacher in a
2113 timely manner and as otherwise required by law. Thereafter,
2114 evaluation results must be provided to the student's parent in a
2115 timely manner. When available, instructional personnel must be
2116 provided with information on student achievement of standards
2117 and benchmarks in order to improve instruction.

2118 Section 21. Paragraphs (a) of subsection (1) of section
2119 1008.34, Florida Statutes, is amended to read:

2120 1008.34 School grading system; school report cards;
2121 district grade.—

2122 (1) DEFINITIONS.—For purposes of the statewide,
2123 standardized assessment program and school grading system, the
2124 following terms are defined:

2125 (a) "Achievement level," "student achievement," or



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2126 "achievement" describes the level of content mastery a student
2127 has acquired in a particular subject as measured by a statewide,
2128 standardized assessment administered pursuant to s.
2129 1008.22(3) (a) and (b). There are five achievement levels. Level
2130 1 is the lowest achievement level, level 5 is the highest
2131 achievement level, and level 3 indicates satisfactory
2132 performance. A student passes an assessment if the student
2133 achieves a level 3, level 4, or level 5. For purposes of the
2134 Florida Alternate Assessment administered pursuant to s.
2135 1008.22(3) (d) ~~s. 1008.22(3) (e)~~, the state board shall provide,
2136 in rule, the number of achievement levels and identify the
2137 achievement levels that are considered passing.

2138 Section 22. Subsection (2) of section 1008.3415, Florida
2139 Statutes, is amended to read:

2140 1008.3415 School grade or school improvement rating for
2141 exceptional student education centers.-

2142 (2) Notwithstanding s. 1008.34, the achievement levels and
2143 Learning Gains of a student with a disability who attends an
2144 exceptional student education center and has not been enrolled
2145 in or attended a public school other than an exceptional student
2146 education center for grades K-12 within the school district
2147 shall not be included in the calculation of the home school's
2148 grade if the student is identified as an emergent student on the
2149 alternate assessment described in s. 1008.22(3) (d) ~~s.~~
2150 ~~1008.22(3) (e)~~.

2151 Section 23. Paragraph (f) is added to subsection (1) of
2152 section 1008.44, Florida Statutes, and paragraph (a) of
2153 subsection (1) and paragraph (b) of subsection (4) are amended,
2154 to read:



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2155 1008.44 CAPE Industry Certification Funding List and CAPE
2156 Postsecondary Industry Certification Funding List.—

2157 (1) Pursuant to ss. 1003.4203 and 1003.492, the Department
2158 of Education shall, at least annually, identify, under rules
2159 adopted by the State Board of Education, and the Commissioner of
2160 Education may at any time recommend adding the following
2161 certificates, certifications, and courses:

2162 (a) CAPE industry certifications identified on the CAPE
2163 Industry Certification Funding List that must be applied in the
2164 distribution of funding to school districts pursuant to s.
2165 1011.62(1)(o). The CAPE Industry Certification Funding List
2166 shall incorporate by reference the industry certifications on
2167 the career pathways list approved for the Florida Gold Seal CAPE
2168 ~~Vocational~~ Scholars award. In addition, by August 1 of each
2169 year, the not-for-profit corporation established pursuant to s.
2170 445.004 may annually select one industry certification, that
2171 does not articulate for college credit, for inclusion on the
2172 CAPE Industry Certification Funding List for a period of 3 years
2173 unless otherwise approved by the curriculum review committee
2174 pursuant to s. 1003.491. Such industry certifications, if earned
2175 by a student, shall be eligible for additional full-time
2176 equivalent membership, pursuant to s. 1011.62(1)(o)1.

2177 (f) Industry certifications associated with aviation-
2178 related and aerospace-related occupations must be identified by
2179 the Commissioner of Education and, if earned by a student, are
2180 eligible for additional full-time equivalent membership pursuant
2181 to s. 1011.62(1)(o)1.e. These industry certifications must be
2182 identified on the CAPE Industry Certification Funding List.

2183 (4)



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2184 (b) For the purpose of calculating additional full-time
2185 equivalent membership pursuant to s. 1011.62(1)(o)1.e., the
2186 Commissioner of Education may limit CAPE industry certifications
2187 and CAPE Digital Tool certificates to students in certain grades
2188 based on formal recommendations by providers of CAPE industry
2189 certifications and CAPE Digital Tool certificates.

2190 Section 24. Section 1009.31, Florida Statutes, is created
2191 to read:

2192 1009.31 Dual Enrollment Scholarship Program.—

2193 (1) The Legislature finds and declares that dual enrollment
2194 is an integral part of the education system in this state and
2195 should be available for all eligible secondary students without
2196 cost to the student. There is established the Dual Enrollment
2197 Scholarship Program to support public postsecondary institutions
2198 in providing dual enrollment.

2199 (2) The department shall administer the Dual Enrollment
2200 Scholarship Program in accordance with rules of the State Board
2201 of Education.

2202 (3) (a) Beginning in the 2020 fall term, the program shall
2203 reimburse eligible public postsecondary institutions for tuition
2204 and related instructional materials costs for dual enrollment
2205 courses taken by private school or home education program
2206 secondary students during the fall or spring terms.

2207 (b) Beginning in the 2021 summer term, the program shall
2208 reimburse eligible public postsecondary institutions for tuition
2209 and related instructional materials costs for dual enrollment
2210 courses taken by public school, private school, or home
2211 education program secondary students during the summer term.

2212 (4) A student participating in a dual enrollment program



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2213 must meet the minimum eligibility requirements specified in s.
2214 1007.271 in order for the institution to receive a
2215 reimbursement.

2216 (5) Annually, by March 15, each participating public
2217 institution must report to the department its eligible secondary
2218 students from private schools or home education programs who
2219 were enrolled during the previous fall or spring terms.

2220 Annually, by July 15, each participating institution must report
2221 to the department its eligible public school, private school, or
2222 home education program students who were enrolled during the
2223 summer term. For each dual enrollment course in which the
2224 student is enrolled, the report must include a unique student
2225 identifier, the postsecondary institution name, the
2226 postsecondary course number, the postsecondary course name, and
2227 the number of postsecondary course credits earned by the
2228 student.

2229 (6) (a) Florida College System institutions shall be
2230 reimbursed for college credit instruction at the in-state
2231 resident tuition rate established in s. 1009.23(3) (a).

2232 (b) State universities shall be reimbursed at the standard
2233 tuition rate established in s. 1009.24(4) (a).

2234 (c) Workforce education instruction leading to a career
2235 certificate or an applied technology diploma shall be reimbursed
2236 at the standard tuition rate established in s. 1009.22(3) (c).

2237 (d) Institutions shall be reimbursed for instructional
2238 materials costs based on a rate as specified in the General
2239 Appropriations Act.

2240 (7) For dual enrollment courses taken during the fall and
2241 spring terms, the department must reimburse institutions by



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2242 April 15 of the same year. For dual enrollment courses taken
2243 during the summer term, the department must reimburse
2244 institutions by August 15 of the same year, before the beginning
2245 of the next academic year.

2246 (8) Reimbursement for dual enrollment courses is contingent
2247 upon an appropriation in the General Appropriations Act each
2248 year. If the statewide reimbursement amount is greater than the
2249 appropriation, the institutional reimbursement amounts specified
2250 in subsection (6) shall be prorated among the institutions that
2251 have reported eligible students to the department by the
2252 deadlines specified in subsection (5).

2253 (9) The State Board of Education shall adopt rules to
2254 implement this section.

2255 Section 25. Subsection (22) is added to section 1011.62,
2256 Florida Statutes, and paragraphs (i) of subsection (1),
2257 paragraph (a) of subsection (4), and subsections (11), (14),
2258 (17) and (18) of section 1011.62, Florida Statutes, are amended
2259 to read:

2260 1011.62 Funds for operation of schools.—If the annual
2261 allocation from the Florida Education Finance Program to each
2262 district for operation of schools is not determined in the
2263 annual appropriations act or the substantive bill implementing
2264 the annual appropriations act, it shall be determined as
2265 follows:

2266 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
2267 OPERATION.—The following procedure shall be followed in
2268 determining the annual allocation to each district for
2269 operation:

2270 (i) *Calculation of full-time equivalent membership with*



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2271 *respect to dual enrollment instruction.-*

2272 1. Full-time equivalent students.-Students enrolled in dual
2273 enrollment instruction pursuant to s. 1007.271 may be included
2274 in calculations of full-time equivalent student memberships for
2275 basic programs for grades 9 through 12 by a district school
2276 board. Instructional time for dual enrollment may vary from 900
2277 hours; however, the full-time equivalent student membership
2278 value shall be subject to the provisions in s. 1011.61(4). Dual
2279 enrollment full-time equivalent student membership shall be
2280 calculated in an amount equal to the hours of instruction that
2281 would be necessary to earn the full-time equivalent student
2282 membership for an equivalent course if it were taught in the
2283 school district. Students in dual enrollment courses may also be
2284 calculated as the proportional shares of full-time equivalent
2285 enrollments they generate for a Florida College System
2286 institution or university conducting the dual enrollment
2287 instruction. Early admission students shall be considered dual
2288 enrollments for funding purposes. Students may be enrolled in
2289 dual enrollment instruction provided by an eligible independent
2290 college or university and may be included in calculations of
2291 full-time equivalent student memberships for basic programs for
2292 grades 9 through 12 by a district school board. However, those
2293 provisions of law which exempt dual enrolled and early admission
2294 students from payment of instructional materials and tuition and
2295 fees, including laboratory fees, shall not apply to students who
2296 select the option of enrolling in an eligible independent
2297 institution. ~~An independent college or university, which is not~~
2298 ~~for profit, is accredited by a regional or national accrediting~~
2299 ~~agency recognized by the United States Department of Education,~~



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2300 ~~and confers degrees as defined in s. 1005.02 shall be eligible~~
2301 ~~for inclusion in the dual enrollment or early admission program.~~
2302 ~~Students enrolled in dual enrollment instruction shall be exempt~~
2303 ~~from the payment of tuition and fees, including laboratory fees.~~
2304 No student enrolled in college credit mathematics or English
2305 dual enrollment instruction shall be funded as a dual enrollment
2306 unless the student has successfully completed the relevant
2307 section of the entry-level examination required pursuant to s.
2308 1008.30.

2309 2. Additional full-time equivalent student membership.—For
2310 students enrolled in an early college program pursuant to s.
2311 1007.273, a value of 0.16 full-time equivalent student
2312 membership shall be calculated for each student who completes a
2313 general education core course through the dual enrollment
2314 program with a grade of "B" or better. For students who are not
2315 enrolled in an early college program, a value of 0.08 full-time
2316 equivalent student membership shall be calculated for each
2317 student who completes a general education core course through
2318 the dual enrollment program with a grade of "B" or better. In
2319 addition, a value of 0.3 full-time equivalent student membership
2320 shall be calculated for any student who receives an associate
2321 degree through the dual enrollment program with a 3.0 grade
2322 point average or better. This value shall be added to the total
2323 full-time equivalent student membership in basic programs for
2324 grades 9 through 12 in the subsequent fiscal year. This section
2325 shall be effective for credit earned by dually enrolled students
2326 for courses taken in the 2020-2021 school year and each school
2327 year thereafter. If the associate degree described in this
2328 paragraph is earned in 2020-2021 following completion of courses



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2329 taken in the 2020-2021 school year, then courses taken toward
2330 the degree as part of the dual enrollment program before 2020-
2331 2021 may not preclude eligibility for the 0.3 additional full-
2332 time equivalent student membership bonus. Each school district
2333 shall allocate at least 80 percent of the funds received from
2334 the dual enrollment bonus FTE funding, in accordance with this
2335 paragraph, to the school in which the student who generated the
2336 funds was enrolled. All funds allocated to the school shall be
2337 expended to support student academic guidance, postsecondary
2338 readiness, and programs that assist academically disadvantaged
2339 students in preparing for more rigorous courses. School
2340 districts shall allocate the remaining 20 percent of the funds
2341 received from the dual enrollment bonus FTE funding for programs
2342 that assist academically disadvantaged students in preparing for
2343 more rigorous courses.

2344 3. Qualifying courses.—For the purposes of this paragraph,
2345 general education core courses are those that are identified in
2346 rule by the State Board of Education and in regulation by the
2347 Board of Governors pursuant to s. 1007.25(3).

2348 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
2349 Legislature shall prescribe the aggregate required local effort
2350 for all school districts collectively as an item in the General
2351 Appropriations Act for each fiscal year. The amount that each
2352 district shall provide annually toward the cost of the Florida
2353 Education Finance Program for kindergarten through grade 12
2354 programs shall be calculated as follows:

2355 (a) *Estimated taxable value calculations.*—

2356 1.a. Not later than 2 working days before July 19, the
2357 Department of Revenue shall certify to the Commissioner of



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2358 Education its most recent estimate of the taxable value for
2359 school purposes in each school district and the total for all
2360 school districts in the state for the current calendar year
2361 based on the latest available data obtained from the local
2362 property appraisers. The value certified shall be the taxable
2363 value for school purposes for that year, and no further
2364 adjustments shall be made, except those made pursuant to
2365 paragraphs (c) and (d), or an assessment roll change required by
2366 final judicial decisions as specified in paragraph (18) (b)
2367 ~~(19) (b)~~. Not later than July 19, the Commissioner of Education
2368 shall compute a millage rate, rounded to the next highest one
2369 one-thousandth of a mill, which, when applied to 96 percent of
2370 the estimated state total taxable value for school purposes,
2371 would generate the prescribed aggregate required local effort
2372 for that year for all districts. The Commissioner of Education
2373 shall certify to each district school board the millage rate,
2374 computed as prescribed in this subparagraph, as the minimum
2375 millage rate necessary to provide the district required local
2376 effort for that year.

2377 b. The General Appropriations Act shall direct the
2378 computation of the statewide adjusted aggregate amount for
2379 required local effort for all school districts collectively from
2380 ad valorem taxes to ensure that no school district's revenue
2381 from required local effort millage will produce more than 90
2382 percent of the district's total Florida Education Finance
2383 Program calculation as calculated and adopted by the
2384 Legislature, and the adjustment of the required local effort
2385 millage rate of each district that produces more than 90 percent
2386 of its total Florida Education Finance Program entitlement to a



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2387 level that will produce only 90 percent of its total Florida
2388 Education Finance Program entitlement in the July calculation.

2389 2. On the same date as the certification in sub-
2390 subparagraph 1.a., the Department of Revenue shall certify to
2391 the Commissioner of Education for each district:

2392 a. Each year for which the property appraiser has certified
2393 the taxable value pursuant to s. 193.122(2) or (3), if
2394 applicable, since the prior certification under sub-subparagraph
2395 1.a.

2396 b. For each year identified in sub-subparagraph a., the
2397 taxable value certified by the appraiser pursuant to s.
2398 193.122(2) or (3), if applicable, since the prior certification
2399 under sub-subparagraph 1.a. This is the certification that
2400 reflects all final administrative actions of the value
2401 adjustment board.

2402 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
2403 annually provide in the Florida Education Finance Program a
2404 virtual education contribution. The amount of the virtual
2405 education contribution shall be the difference between the
2406 amount per FTE established in the General Appropriations Act for
2407 virtual education and the amount per FTE for each district and
2408 the Florida Virtual School, which may be calculated by taking
2409 the sum of the base FEEP allocation, the discretionary local
2410 effort, the state-funded discretionary contribution, the
2411 discretionary millage compression supplement, the research-based
2412 reading instruction allocation, the teacher salary increase
2413 allocation ~~best and brightest teacher and principal allocation,~~
2414 and the instructional materials allocation, and then dividing by
2415 the total unweighted FTE. This difference shall be multiplied by



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2416 the virtual education unweighted FTE for programs and options
2417 identified in s. 1002.455 and the Florida Virtual School and its
2418 franchises to equal the virtual education contribution and shall
2419 be included as a separate allocation in the funding formula.

2420 (14) QUALITY ASSURANCE GUARANTEE.—The Legislature may
2421 annually in the General Appropriations Act determine a
2422 percentage increase in funds per K-12 unweighted FTE as a
2423 minimum guarantee to each school district. The guarantee shall
2424 be calculated from prior year base funding per unweighted FTE
2425 student, which shall include the adjusted FTE dollars as
2426 provided in subsection (18) ~~(19)~~, quality guarantee funds, and
2427 actual nonvoted discretionary local effort from taxes. From the
2428 base funding per unweighted FTE, the increase shall be
2429 calculated for the current year. The current year funds from
2430 which the guarantee shall be determined shall include the
2431 adjusted FTE dollars as provided in subsection (18) ~~(19)~~ and
2432 potential nonvoted discretionary local effort from taxes. A
2433 comparison of current year funds per unweighted FTE to prior
2434 year funds per unweighted FTE shall be computed. For those
2435 school districts which have less than the legislatively assigned
2436 percentage increase, funds shall be provided to guarantee the
2437 assigned percentage increase in funds per unweighted FTE
2438 student. Should appropriated funds be less than the sum of this
2439 calculated amount for all districts, the commissioner shall
2440 prorate each district's allocation. This provision shall be
2441 implemented to the extent specifically funded.

2442 (17) FUNDING COMPRESSION ALLOCATION.—The Legislature may
2443 provide an annual funding compression allocation in the General
2444 Appropriations Act. The allocation is created to provide



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2445 additional funding to school districts and developmental
2446 research schools whose total funds per FTE in the prior year
2447 were less than the statewide average. Using the most recent
2448 prior year FEFP calculation for each eligible school district,
2449 the total funds per FTE shall be subtracted from the state
2450 average funds per FTE, not including any adjustments made
2451 pursuant to paragraph (18) (b) ~~(19) (b)~~. The resulting funds per
2452 FTE difference, or a portion thereof, as designated in the
2453 General Appropriations Act, shall then be multiplied by the
2454 school district's total unweighted FTE to provide the
2455 allocation. If the calculated funds are greater than the amount
2456 included in the General Appropriations Act, they must be
2457 prorated to the appropriation amount based on each participating
2458 school district's share. ~~This subsection expires July 1, 2020.~~

2459 ~~(18) THE FLORIDA BEST AND BRIGHTEST TEACHER AND PRINCIPAL~~
2460 ~~ALLOCATION.—~~

2461 ~~(a) The Florida Best and Brightest Teacher and Principal~~
2462 ~~Allocation is created to recruit, retain, and recognize~~
2463 ~~classroom teachers and instructional personnel who meet the~~
2464 ~~criteria established in s. 1012.731 and reward principals who~~
2465 ~~meet the criteria established in s. 1012.732. Subject to annual~~
2466 ~~appropriation, each school district shall receive an allocation~~
2467 ~~based on the district's proportionate share of FEFP base~~
2468 ~~funding. The Legislature may specify a minimum allocation for~~
2469 ~~all districts in the General Appropriations Act.~~

2470 ~~(b) From the allocation, each district shall provide the~~
2471 ~~following:~~

2472 ~~1. A one-time recruitment award, as provided in s.~~
2473 ~~1012.731(3)(a);~~



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2474 ~~2. A retention award, as provided in s. 1012.731(3)(b); and~~
2475 ~~3. A recognition award, as provided in s. 1012.731(3)(c)~~
2476 ~~from the remaining balance of the appropriation after the~~
2477 ~~payment of all other awards authorized under ss. 1012.731 and~~
2478 ~~1012.732.~~

2479 ~~(c) From the allocation, each district shall provide~~
2480 ~~eligible principals an award as provided in s. 1012.732(3).~~

2481
2482 ~~If a district's calculated awards exceed the allocation, the~~
2483 ~~district may prorate the awards.~~

2484 (22) TEACHER SALARY INCREASE ALLOCATION.—The Teacher Salary
2485 Increase Allocation is created to increase teacher salaries and
2486 improve this state's relative teacher salary position when
2487 compared with teacher salaries in other states.

2488 (a) Subject to annual appropriation, funds may be provided
2489 for each school district to increase the minimum base salary for
2490 full-time classroom teachers as defined in s. 1012.01(2)(a) or
2491 all instructional personnel as defined in s. 1012.01(2)(a)-(d),
2492 plus certified prekindergarten teachers, but not including
2493 substitute teachers, by no less than the amount designated in
2494 the General Appropriations Act. In addition, funds may also be
2495 provided in an amount designated in the General Appropriations
2496 Act for salary increases for full-time instructional personnel
2497 as determined by the school board and the local bargaining unit.

2498 (b) Funds for this purpose shall be allocated on each
2499 district's share of the base FEFP allocation. Funds for the
2500 minimum base salary increase may be provided in multiple years
2501 in order to achieve a particular salary goal. The minimum base
2502 salary is the base annual salary before payroll deductions and



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2503 excluding supplements as defined in s. 1012.22(1)(c).

2504 Section 26. Effective July 1, 2021, paragraph (o) of
2505 subsection (1) of section 1011.62, Florida Statutes, is amended
2506 to read:

2507 1011.62 Funds for operation of schools.—If the annual
2508 allocation from the Florida Education Finance Program to each
2509 district for operation of schools is not determined in the
2510 annual appropriations act or the substantive bill implementing
2511 the annual appropriations act, it shall be determined as
2512 follows:

2513 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
2514 OPERATION.—The following procedure shall be followed in
2515 determining the annual allocation to each district for
2516 operation:

2517 (o) *Calculation of additional full-time equivalent*
2518 *membership based on successful completion of a career-themed*
2519 *course pursuant to ss. 1003.491, 1003.492, and 1003.493, or*
2520 *courses with embedded CAPE industry certifications or CAPE*
2521 *Digital Tool certificates, and issuance of industry*
2522 *certification identified on the CAPE Industry Certification*
2523 *Funding List pursuant to rules adopted by the State Board of*
2524 *Education or CAPE Digital Tool certificates pursuant to s.*
2525 *1003.4203.—*

2526 1.a. A value of 0.025 full-time equivalent student
2527 membership shall be calculated for CAPE Digital Tool
2528 certificates earned by students in elementary and middle school
2529 grades.

2530 b. A value of 0.1 or 0.2 full-time equivalent student
2531 membership shall be calculated for each student who completes a



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2532 course as defined in s. 1003.493(1)(b) or courses with embedded
2533 CAPE industry certifications and who is issued an industry
2534 certification identified annually on the CAPE Industry
2535 Certification Funding List approved under rules adopted by the
2536 State Board of Education. For a CAPE industry certification that
2537 has a statewide articulation agreement of 4 to 14 college
2538 credits, a value of 0.2 full-time equivalent membership shall be
2539 calculated. For a CAPE industry certification that has a
2540 statewide articulation agreement of 1 to 3 college credits and
2541 is deemed by the department to be of sufficient rigor and to be
2542 linked to a high-skill occupation, a value of 0.2 full-time
2543 equivalent membership shall be calculated. For all other CAPE
2544 industry certifications with a statewide articulation agreement
2545 of 1 to 3 college credits, a value of 0.1 full-time equivalent
2546 membership shall be calculated ~~A value of 0.2 full-time~~
2547 ~~equivalent membership shall be calculated for each student who~~
2548 ~~is issued a CAPE industry certification that has a statewide~~
2549 ~~articulation agreement for college credit approved by the State~~
2550 ~~Board of Education.~~ For CAPE industry certifications that do not
2551 articulate for college credit, the Department of Education shall
2552 calculate ~~assign~~ a full-time equivalent value of 0.1 for each
2553 certification. Middle grades students who earn additional FTE
2554 membership for a CAPE Digital Tool certificate pursuant to sub-
2555 subparagraph a. may not use the previously funded examination to
2556 satisfy the requirements for earning an industry certification
2557 under this sub-subparagraph. ~~Additional FTE membership for an~~
2558 ~~elementary or middle grades student may not exceed 0.1 for~~
2559 ~~certificates or certifications earned within the same fiscal~~
2560 ~~year.~~ The State Board of Education shall include the assigned



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2561 values on the CAPE Industry Certification Funding List under
2562 rules adopted by the state board. Such value shall be added to
2563 the total full-time equivalent student membership for grades 6
2564 through 12 in the subsequent year. CAPE industry certifications
2565 earned through dual enrollment must be reported and funded
2566 pursuant to s. 1011.80. However, if a student earns a
2567 certification through a dual enrollment course and the
2568 certification is not a fundable certification on the
2569 postsecondary certification funding list, or the dual enrollment
2570 certification is earned as a result of an agreement between a
2571 school district and a nonpublic postsecondary institution, the
2572 bonus value shall be funded in the same manner as other nondual
2573 enrollment course industry certifications. In such cases, the
2574 school district may provide for an agreement between the high
2575 school and the technical center, or the school district and the
2576 postsecondary institution may enter into an agreement for
2577 equitable distribution of the bonus funds.

2578 c. A value of 0.3 full-time equivalent student membership
2579 shall be calculated for student completion of the courses and
2580 the embedded certifications identified on the CAPE Industry
2581 Certification Funding List and approved by the commissioner
2582 pursuant to ss. 1003.4203(5) (a) and 1008.44.

2583 d. A value of 0.5 full-time equivalent student membership
2584 shall be calculated for CAPE Acceleration Industry
2585 Certifications that articulate for 15 to 29 college credit
2586 hours, and 1.0 full-time equivalent student membership shall be
2587 calculated for CAPE Acceleration Industry Certifications that
2588 articulate for 30 or more college credit hours pursuant to CAPE
2589 Acceleration Industry Certifications approved by the



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2590 commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.

2591 e. In addition to the full-time equivalent student
2592 membership calculated under paragraphs (a)-(d), a supplemental
2593 value of 0.2 full-time equivalent student membership shall be
2594 calculated for industry certifications identified on the CAPE
2595 Industry Certification Funding List as leading to employment in
2596 aviation-related or aerospace-related occupations and meeting
2597 specified criteria prescribed by the department.

2598 2. Each district must allocate at least 80 percent of the
2599 funds provided for CAPE industry certification, in accordance
2600 with this paragraph, to the program that generated the funds.
2601 The remaining 20 percent may be used for other CAPE program
2602 expenses, such as administrative costs, which may not exceed 5
2603 percent of the funds provided, and new industry certification
2604 programs. All such funds must be used for CAPE programs. CAPE
2605 funding ~~This allocation~~ may not be used to supplant funds
2606 provided for basic operation of the program, such as teacher
2607 salaries and other costs that are funded with non-CAPE funds for
2608 other courses.

2609 3. For CAPE industry certifications earned in the 2013-2014
2610 school year and in subsequent years, the school district shall
2611 distribute to each classroom teacher who provided direct
2612 instruction toward the attainment of a CAPE industry
2613 certification that qualified for additional full-time equivalent
2614 membership under subparagraph 1.:

2615 a. A bonus of \$25 for each student taught by a teacher who
2616 provided instruction in a course that led to the attainment of a
2617 CAPE industry certification on the CAPE Industry Certification
2618 Funding List with a weight of 0.1.



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2619 b. A bonus of \$50 for each student taught by a teacher who
2620 provided instruction in a course that led to the attainment of a
2621 CAPE industry certification on the CAPE Industry Certification
2622 Funding List with a weight of 0.2.

2623 c. A bonus of \$75 for each student taught by a teacher who
2624 provided instruction in a course that led to the attainment of a
2625 CAPE industry certification on the CAPE Industry Certification
2626 Funding List with a weight of 0.3.

2627 d. A bonus of \$100 for each student taught by a teacher who
2628 provided instruction in a course that led to the attainment of a
2629 CAPE industry certification on the CAPE Industry Certification
2630 Funding List with a weight of 0.5 or 1.0.

2631
2632 ~~Bonuses awarded pursuant to this paragraph shall be provided to~~
2633 ~~teachers who are employed by the district in the year in which~~
2634 ~~the additional FTE membership calculation is included in the~~
2635 ~~calculation.~~ Bonuses awarded to teachers pursuant to this
2636 paragraph must ~~shall~~ be calculated based upon the associated
2637 weight of a CAPE industry certification on the CAPE Industry
2638 Certification Funding List for the year in which the
2639 certification is earned by the student. Any bonus awarded to a
2640 teacher pursuant to this paragraph is in addition to any regular
2641 wage or other bonus the teacher received or is scheduled to
2642 receive. A bonus may not be awarded to a teacher who fails to
2643 maintain the security of any CAPE industry certification
2644 examination or who otherwise violates the security or
2645 administration protocol of any assessment instrument that may
2646 result in a bonus being awarded to the teacher under this
2647 paragraph.



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2648 Section 27. Effective July 1, 2021, paragraph (b) of
2649 subsection (7) of section 1011.80, Florida Statutes, is amended
2650 to read:

2651 1011.80 Funds for operation of workforce education
2652 programs.—

2653 (7)

2654 (b) Performance funding for industry certifications for
2655 school district workforce education programs is contingent upon
2656 specific appropriation in the General Appropriations Act and
2657 shall be determined as follows:

2658 1. Occupational areas for which industry certifications may
2659 be earned, as established in the General Appropriations Act, are
2660 eligible for performance funding. Priority shall be given to the
2661 occupational areas emphasized in state, national, or corporate
2662 grants provided to Florida educational institutions.

2663 2. The Chancellor of Career and Adult Education shall
2664 identify the industry certifications eligible for funding on the
2665 CAPE Postsecondary Industry Certification Funding List approved
2666 by the State Board of Education pursuant to s. 1008.44, based on
2667 the occupational areas specified in the General Appropriations
2668 Act.

2669 3.a. Except as provided in sub-subparagraph b., each school
2670 district shall be provided \$1,000 for each industry
2671 certification earned by a workforce education student. If funds
2672 are insufficient to fully fund the calculated total award, such
2673 funds shall be prorated.

2674 b. For each professional-level Federal Aviation
2675 Administration industry certification earned by a workforce
2676 education student, each school district shall be provided a



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2677 total of \$6,000. If funds are insufficient to fully fund the
2678 calculated total award, such funds shall be prorated.

2679 Section 28. Effective July 1, 2021, paragraph (c) of
2680 subsection (2) of section 1011.81, Florida Statutes, is amended
2681 to read:

2682 1011.81 Florida College System Program Fund.—

2683 (2) Performance funding for industry certifications for
2684 Florida College System institutions is contingent upon specific
2685 appropriation in the General Appropriations Act and shall be
2686 determined as follows:

2687 (c) 1. Except as provided in subparagraph 2., each Florida
2688 College System institution shall be provided \$1,000 for each
2689 industry certification earned by a student. If funds are
2690 insufficient to fully fund the calculated total award, such
2691 funds shall be prorated.

2692 2. For each professional-level Federal Aviation
2693 Administration industry certification earned by a student, each
2694 Florida College System institution shall be provided a total of
2695 \$6,000. If funds are insufficient to fully fund the calculated
2696 total award, such funds shall be prorated.

2697 Section 29. Paragraph (a) of subsection (7) of section
2698 1012.34, Florida Statutes, is amended to read:

2699 1012.34 Personnel evaluation procedures and criteria.—

2700 (7) MEASUREMENT OF STUDENT PERFORMANCE.—

2701 (a) The Commissioner of Education shall approve a formula
2702 to measure individual student learning growth on the statewide,
2703 standardized assessments in English Language Arts and
2704 mathematics administered under s. 1008.22 and annually by July
2705 31 provide the results of student learning growth measured by



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2706 such formula to school districts. A third party, independent of
2707 the assessment developer, must analyze student learning growth
2708 data calculated using the formula and provide access to a data
2709 visualization tool that enables teachers to understand and
2710 evaluate the data and school administrators to improve
2711 instruction, evaluate programs, allocate resources, plan
2712 professional development, and communicate with stakeholders. The
2713 formula must take into consideration each student's prior
2714 academic performance. The formula must not set different
2715 expectations for student learning growth based upon a student's
2716 gender, race, ethnicity, or socioeconomic status. In the
2717 development of the formula, the commissioner shall consider
2718 other factors such as a student's attendance record, disability
2719 status, or status as an English language learner. The
2720 commissioner may select additional formulas to measure student
2721 performance as appropriate for the remainder of the statewide,
2722 standardized assessments included under s. 1008.22 and continue
2723 to select formulas as new assessments are implemented in the
2724 state system.

2725 Section 30. Subsections (1) and (2) of section 1012.582,
2726 Florida Statutes, are amended to read:

2727 1012.582 Continuing education and inservice training for
2728 teaching students with developmental and emotional or behavioral
2729 disabilities.—

2730 (1) The Commissioner of Education shall develop
2731 recommendations to incorporate instruction regarding autism
2732 spectrum disorder, Down syndrome, ~~and~~ other developmental
2733 disabilities, and emotional or behavioral disabilities into
2734 continuing education or inservice training requirements for



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2735 instructional personnel. These recommendations shall address:

2736 (a) Early identification of, and intervention for, students
2737 who have autism spectrum disorder, Down syndrome, ~~or~~ other
2738 developmental disabilities, or emotional or behavioral
2739 disabilities.

2740 (b) Curriculum planning and curricular and instructional
2741 modifications, adaptations, and specialized strategies and
2742 techniques.

2743 (c) The use of available state and local resources.

2744 (d) The use of positive behavior interventions and
2745 behavioral supports to deescalate problem behaviors.

2746 (e) The Appropriate use of ~~manual-physical~~ restraint and
2747 ~~seclusion~~ techniques, positive behavior interventions and
2748 supports, and effective classroom behavior management
2749 strategies.

2750 (2) In developing the recommendations, the commissioner
2751 shall consult with the State Surgeon General, the Director of
2752 the Agency for Persons with Disabilities, representatives from
2753 the education community in the state, and representatives from
2754 entities that promote awareness about autism spectrum disorder,
2755 Down syndrome, ~~and~~ other developmental disabilities, and
2756 emotional or behavioral disabilities and provide programs and
2757 services to persons with ~~developmental~~ disabilities, including,
2758 but not limited to, regional autism centers pursuant to s.
2759 1004.55.

2760 Section 31. Section 1012.731, Florida Statutes, is
2761 repealed.

2762 Section 32. Section 1012.732, Florida Statutes, is
2763 repealed.



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2764 Section 33. Subsections (1) and (3) of section 1013.62,
2765 Florida Statutes, are amended to read:

2766 1013.62 Charter schools capital outlay funding.—

2767 (1) ~~For the 2018-2019 fiscal year,~~ Charter school capital
2768 outlay funding shall consist of state funds appropriated in the
2769 ~~2018-2019~~ General Appropriations Act; however, if the amount of
2770 state funds appropriated for charter school capital outlay in a
2771 given fiscal year is less than \$165 million, charter school
2772 capital outlay funding for that fiscal year shall consist of the
2773 appropriated state funds and revenue resulting from the
2774 discretionary millage authorized in s. 1011.71(2). ~~Beginning in~~
2775 ~~fiscal year 2019-2020,~~ ~~charter school capital outlay funding~~
2776 ~~shall consist of state funds when such funds are appropriated in~~
2777 ~~the General Appropriations Act and revenue resulting from the~~
2778 ~~discretionary millage authorized in s. 1011.71(2) if the amount~~
2779 ~~of state funds appropriated for charter school capital outlay in~~
2780 ~~any fiscal year is less than the average charter school capital~~
2781 ~~outlay funds per unweighted full-time equivalent student for the~~
2782 ~~2018-2019 fiscal year, multiplied by the estimated number of~~
2783 ~~charter school students for the applicable fiscal year, and~~
2784 ~~adjusted by changes in the Consumer Price Index issued by the~~
2785 ~~United States Department of Labor from the previous fiscal year.~~
2786 Nothing in this subsection prohibits a school district from
2787 distributing to charter schools funds resulting from the
2788 discretionary millage authorized in s. 1011.71(2).

2789 (a) To be eligible to receive capital outlay funds, a
2790 charter school must:

2791 1.a. Have been in operation for 2 or more years;

2792 b. Be governed by a governing board established in the



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2793 state for 2 or more years which operates both charter schools
2794 and conversion charter schools within the state;
2795 c. Be an expanded feeder chain of a charter school within
2796 the same school district that is currently receiving charter
2797 school capital outlay funds;
2798 d. Have been accredited by a regional accrediting
2799 association as defined by State Board of Education rule; or
2800 e. Serve students in facilities that are provided by a
2801 business partner for a charter school-in-the-workplace pursuant
2802 to s. 1002.33(15) (b) .
2803 2. Have an annual audit that does not reveal any of the
2804 financial emergency conditions provided in s. 218.503(1) for the
2805 most recent fiscal year for which such audit results are
2806 available.
2807 3. Have satisfactory student achievement based on state
2808 accountability standards applicable to the charter school.
2809 4. Have received final approval from its sponsor pursuant
2810 to s. 1002.33 for operation during that fiscal year.
2811 5. Serve students in facilities that are not provided by
2812 the charter school's sponsor.
2813 (b) A charter school is not eligible to receive capital
2814 outlay funds if it was created by the conversion of a public
2815 school and operates in facilities provided by the charter
2816 school's sponsor for a nominal fee, or at no charge, or if it is
2817 directly or indirectly operated by the school district.
2818 (3) If the school board levies the discretionary millage
2819 authorized in s. 1011.71(2), and the state funds appropriated
2820 for charter school capital outlay in any fiscal year are less
2821 than \$165 million ~~the average charter school capital outlay~~



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2822 ~~funds per unweighted full-time equivalent student for the 2018-~~
2823 ~~2019 fiscal year, multiplied by the estimated number of charter~~
2824 ~~school students for the applicable fiscal year, and adjusted by~~
2825 ~~changes in the Consumer Price Index issued by the United States~~
2826 ~~Department of Labor from the previous fiscal year, the~~
2827 department shall use the following calculation methodology to
2828 determine the amount of revenue that a school district must
2829 distribute to each eligible charter school:

2830 (a) Reduce the total discretionary millage revenue by the
2831 school district's annual debt service obligation incurred as of
2832 March 1, 2017, which has not been subsequently retired, and any
2833 amount of participation requirement pursuant to s.
2834 1013.64(2)(a)8. that is being satisfied by revenues raised by
2835 the discretionary millage.

2836 (b) Divide the school district's adjusted discretionary
2837 millage revenue by the district's total capital outlay full-time
2838 equivalent membership and the total number of unweighted full-
2839 time equivalent students of each eligible charter school to
2840 determine a capital outlay allocation per full-time equivalent
2841 student.

2842 (c) Multiply the capital outlay allocation per full-time
2843 equivalent student by the total number of full-time equivalent
2844 students of each eligible charter school to determine the
2845 capital outlay allocation for each charter school.

2846 (d) If applicable, reduce the capital outlay allocation
2847 identified in paragraph (c) by the total amount of state funds
2848 allocated to each eligible charter school in subsection (2) to
2849 determine the maximum calculated capital outlay allocation.

2850 (e) School districts shall distribute capital outlay funds



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2851 to charter schools no later than February 1 of each year, as
2852 required by this subsection, based on the amount of funds
2853 received by the district school board. School districts shall
2854 distribute any remaining capital outlay funds, as required by
2855 this subsection, upon the receipt of such funds until the total
2856 amount calculated pursuant to this subsection is distributed.

2857

2858 By October 1 of each year, each school district shall certify to
2859 the department the amount of debt service and participation
2860 requirement that complies with the requirement of paragraph (a)
2861 and can be reduced from the total discretionary millage revenue.
2862 The Auditor General shall verify compliance with the
2863 requirements of paragraph (a) and s. 1011.71(2)(e) during
2864 scheduled operational audits of school districts.

2865 Section 34. Paragraph (b) of subsection (6) of section
2866 1013.64, Florida Statutes, is amended to read:

2867 1013.64 Funds for comprehensive educational plant needs;
2868 construction cost maximums for school district capital
2869 projects.—Allocations from the Public Education Capital Outlay
2870 and Debt Service Trust Fund to the various boards for capital
2871 outlay projects shall be determined as follows:

2872 (6)

2873 (b)1. A district school board may not use funds from the
2874 following sources: Public Education Capital Outlay and Debt
2875 Service Trust Fund; School District and Community College
2876 District Capital Outlay and Debt Service Trust Fund; Classrooms
2877 First Program funds provided in s. 1013.68; nonvoted 1.5-mill
2878 levy of ad valorem property taxes provided in s. 1011.71(2);
2879 Classrooms for Kids Program funds provided in s. 1013.735;



2880 District Effort Recognition Program funds provided in s.
2881 1013.736; or High Growth District Capital Outlay Assistance
2882 Grant Program funds provided in s. 1013.738 to pay for any
2883 portion of the cost of any new construction of educational plant
2884 space with a total cost per student station, including change
2885 orders, which exceeds:

- 2886 a. \$17,952 for an elementary school;
- 2887 b. \$19,386 for a middle school; or
- 2888 c. \$25,181 for a high school,

2889
2890 (January 2006) as adjusted annually to reflect increases or
2891 decreases in the Consumer Price Index. The department, in
2892 conjunction with the Office of Economic and Demographic
2893 Research, shall review and adjust the cost per student station
2894 limits to reflect actual construction costs by January 1, 2020,
2895 and annually thereafter. The adjusted cost per student station
2896 shall be used by the department for computation of the statewide
2897 average costs per student station for each instructional level
2898 pursuant to paragraph (d). The department shall also collaborate
2899 with the Office of Economic and Demographic Research to select
2900 an industry-recognized construction index to replace the
2901 Consumer Price Index by January 1, 2020, adjusted annually to
2902 reflect changes in the construction index.

2903 2. School districts shall maintain accurate documentation
2904 related to the costs of all new construction of educational
2905 plant space reported to the Department of Education pursuant to
2906 paragraph (d). The Auditor General shall review the
2907 documentation maintained by the school districts and verify
2908 compliance with the limits under this paragraph during its



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2909 | scheduled operational audits of the school district.

2910 | 3. Except for educational facilities and sites subject to a
2911 | lease-purchase agreement entered pursuant to s. 1011.71(2)(e),
2912 | or funded solely through local impact fees, in addition to the
2913 | funding sources listed in subparagraph 1., a district school
2914 | board may not use funds from any sources for new construction of
2915 | educational plant space with a total cost per student station,
2916 | including change orders, which equals more than the current
2917 | adjusted amounts provided in sub-subparagraphs 1.a.-c. However,
2918 | if a contract has been executed for architectural and design
2919 | services or for construction management services before July 1,
2920 | 2017, a district school board may use funds from any source for
2921 | the new construction of educational plant space and such funds
2922 | are exempt from the total cost per student station requirements.

2923 | 4. A district school board must not use funds from the
2924 | Public Education Capital Outlay and Debt Service Trust Fund or
2925 | the School District and Community College District Capital
2926 | Outlay and Debt Service Trust Fund for any new construction of
2927 | an ancillary plant that exceeds 70 percent of the average cost
2928 | per square foot of new construction for all schools.

2929 | Section 35. Paragraph (c) of subsection (10) of section
2930 | 1003.4282, Florida Statutes, is amended to read:

2931 | 1003.4282 Requirements for a standard high school diploma.-

2932 | (10) STUDENTS WITH DISABILITIES.-Beginning with students
2933 | entering grade 9 in the 2014-2015 school year, this subsection
2934 | applies to a student with a disability.

2935 | (c) A student with a disability who meets the standard high
2936 | school diploma requirements in this section may defer the
2937 | receipt of a standard high school diploma if the student:



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2938 1. Has an individual education plan that prescribes special
2939 education, transition planning, transition services, or related
2940 services through age 21; and

2941 2. Is enrolled in accelerated college credit instruction
2942 pursuant to s. 1007.27, industry certification courses that lead
2943 to college credit, an early college ~~a collegiate high school~~
2944 program, courses necessary to satisfy the Scholar designation
2945 requirements, or a structured work-study, internship, or
2946 preapprenticeship program.

2947

2948 The State Board of Education shall adopt rules under ss.
2949 120.536(1) and 120.54 to implement this subsection, including
2950 rules that establish the minimum requirements for students
2951 described in this subsection to earn a standard high school
2952 diploma. The State Board of Education shall adopt emergency
2953 rules pursuant to ss. 120.536(1) and 120.54.

2954 Section 36. Paragraph (a) of subsection (1) of section
2955 1003.436, Florida Statutes, is amended to read:

2956 1003.436 Definition of "credit."—

2957 (1) (a) For the purposes of requirements for high school
2958 graduation, one full credit means a minimum of 135 hours of bona
2959 fide instruction in a designated course of study that contains
2960 student performance standards, except as otherwise provided
2961 through the Credit Acceleration Program (CAP) under s.

2962 1003.4295(3). One full credit means a minimum of 120 hours of
2963 bona fide instruction in a designated course of study that
2964 contains student performance standards for purposes of meeting
2965 high school graduation requirements in a district school that
2966 has been authorized to implement block scheduling by the



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2967 district school board. The State Board of Education shall
2968 determine the number of postsecondary credit hours earned
2969 through dual enrollment pursuant to s. 1007.271 that satisfy the
2970 requirements of a dual enrollment articulation agreement
2971 according to s. 1007.271(21) and that equal one full credit of
2972 the equivalent high school course identified pursuant to s.
2973 1007.271(10) ~~s. 1007.271(9)~~.

2974 Section 37. Subsection (1) of section 1011.71, Florida
2975 Statutes, is amended to read:

2976 1011.71 District school tax.—

2977 (1) If the district school tax is not provided in the
2978 General Appropriations Act or the substantive bill implementing
2979 the General Appropriations Act, each district school board
2980 desiring to participate in the state allocation of funds for
2981 current operation as prescribed by s. 1011.62(18) ~~s. 1011.62(19)~~
2982 shall levy on the taxable value for school purposes of the
2983 district, exclusive of millage voted under s. 9(b) or s. 12,
2984 Art. VII of the State Constitution, a millage rate not to exceed
2985 the amount certified by the commissioner as the minimum millage
2986 rate necessary to provide the district required local effort for
2987 the current year, pursuant to s. 1011.62(4)(a)1. In addition to
2988 the required local effort millage levy, each district school
2989 board may levy a nonvoted current operating discretionary
2990 millage. The Legislature shall prescribe annually in the
2991 appropriations act the maximum amount of millage a district may
2992 levy.

2993 Section 38. Except as otherwise expressly provided in this
2994 act and except for this section, which shall take effect upon
2995 becoming a law, this act shall take effect July 1, 2020.



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===== 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 education; amending s. 212.055,
F.S.; requiring that a resolution to levy a
discretionary sales tax include a statement containing
certain information; requiring surtax revenues shared
with charter schools to be expended by the charter
schools in a certain manner; requiring all revenues
and expenditures be accounted for in a monthly or
quarterly charter school financial report; providing
applicability; creating s. 446.541, F.S.; providing
legislative intent; defining terms; providing that
individuals enrolled in certain apprenticeship or
preapprenticeship programs or work-based learning
courses are deemed to be employees of the state for
purposes of workers' compensation; specifying
responsibilities and payment for the costs of workers'
compensation benefits; requiring reporting within a
specified timeframe regarding participants in work-
based learning; amending s. 1002.33, F.S.; prohibiting
sponsors from refusing to receive a charter school
application submitted during the calendar year;
authorizing charter schools to limit the enrollment
process to target certain additional student
populations; amending s. 1002.331, F.S.; specifying



3025 how many application a high-performing charter school
3026 may submit in any school district in the state to
3027 establish and operate a new charter school; amending
3028 s. 1002.45, F.S.; requiring school districts to limit
3029 out-of-district participation for virtual instruction
3030 programs and virtual charter schools; amending s.
3031 1003.4156, F.S.; conforming provisions to changes made
3032 by the act; amending s. 1003.4282, F.S.; deleting
3033 obsolete language; requiring students to take a
3034 specified assessment relating to civic literacy;
3035 providing that such assessment meets certain
3036 postsecondary requirements under specified
3037 circumstances; amending s. 1003.4285, F.S.; revising
3038 the requirements for earning the Scholar designation
3039 on a standard high school diploma to conform to
3040 changes made by the act; amending s. 1003.573, F.S.;
3041 defining terms; requiring school districts to prohibit
3042 the use of seclusion on students with disabilities in
3043 public schools; providing requirements for the use of
3044 restraint; prohibiting specified restraint techniques;
3045 revising school district policies and procedures
3046 relating to restraint; requiring school districts to
3047 adopt positive behavior interventions and supports and
3048 identify all school personnel authorized to use such
3049 interventions and supports; requiring each school
3050 district to develop certain policies and procedures;
3051 requiring any revisions made to such policies and
3052 procedures to be filed with the Bureau of Exceptional
3053 Education and Student Services within a certain



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3054 timeframe; requiring each school district to publicly
3055 post specified policies and procedures; requiring
3056 school districts to provide training on certain
3057 interventions and supports to specified personnel;
3058 providing requirements for such training; requiring
3059 each school district to publish training procedures in
3060 its special policies and procedures manual; requiring
3061 schools to develop a crisis intervention plan for
3062 certain students; providing requirements for such
3063 plans; revising the requirements for documenting,
3064 reporting, and monitoring the use of restraint;
3065 requiring the department to make certain information
3066 available to the public by a specified date;
3067 conforming provisions to changes made by the act;
3068 creating s. 1003.574, F.S.; creating the Video Cameras
3069 in Public School Classrooms Pilot Program for a
3070 specified time period; defining terms; requiring a
3071 video camera to be placed in specified classrooms upon
3072 the request of a parent; requiring video cameras to be
3073 operational within a specified time period; providing
3074 requirements for the discontinuation of such video
3075 cameras; providing requirements for such video
3076 cameras; providing an exception; requiring a written
3077 explanation if the operation of such cameras is
3078 interrupted; requiring district school boards to
3079 maintain such explanation for a specified time;
3080 requiring schools to provide written notice of the
3081 placement of a video camera to certain individuals;
3082 providing requirements for retaining and deleting



3083 video recordings; prohibiting specified uses of such
3084 video cameras and recordings; providing that school
3085 principals are the custodians of such video cameras
3086 and recordings; providing requirements for schools or
3087 school districts relating to video recordings;
3088 providing requirements relating to student privacy;
3089 providing requirements for the viewing of such video
3090 recordings by specified individuals or entities;
3091 providing for an appeal process for actions of a
3092 school or school district alleged to be in violation
3093 of certain provisions; providing that incidental
3094 viewings of video recordings by specified individuals
3095 are not a violation of certain provisions; providing
3096 construction; requiring the Department of Education to
3097 collect specified information; authorizing the State
3098 Board of Education to adopt rules; amending s.
3099 1004.04, F.S.; removing admissions requirements;
3100 deleting a provision allowing teacher preparation
3101 programs to waive admission requirements for up to 10
3102 percent of the students admitted; amending s. 1006.33,
3103 F.S.; authorizing the department to establish
3104 timeframes for specified purposes relating to
3105 instructional materials for a certain adoption cycle;
3106 amending s. 1007.25, F.S.; requiring postsecondary
3107 students to complete a civic literacy course and pass
3108 a specified assessment to demonstrate competency in
3109 civic literacy; authorizing students to meet the
3110 assessment requirements while in high school; amending
3111 s. 1007.27, F.S.; deleting provisions relating to



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3112 student credit hours awarded; amending s. 1007.271,
3113 F.S.; clarifying that secondary students eligible for
3114 dual enrollment programs include students who are
3115 enrolled in home education programs; providing for
3116 exceptions to grade point average requirements
3117 relating to student eligibility; requiring that
3118 exceptions to required grade point averages be
3119 specified in the dual enrollment articulation
3120 agreement; prohibiting postsecondary institutions from
3121 establishing additional initial student academic
3122 eligibility requirements; prohibiting district school
3123 boards and Florida College System institutions from
3124 denying students who have met eligibility requirements
3125 from participating in dual enrollment except under
3126 specified circumstances; revising the date by which
3127 career centers are required to annually complete and
3128 submit specified agreements to the Department of
3129 Education; requiring district school boards to provide
3130 specified information to secondary students and their
3131 parents or legal guardians; prohibiting schools from
3132 enrolling students in dual enrollment courses without
3133 having a specified form signed by students and their
3134 parents or legal guardians on file; deleting a
3135 requirement that the State Board of Education adopt
3136 rules for any dual enrollment programs involving
3137 requirements for high school graduation; revising the
3138 date by which eligible postsecondary institutions are
3139 required to annually complete and submit home
3140 education articulation agreements to the department;



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3141 revising requirements for home education students
3142 enrolled in dual enrollment courses; conforming a
3143 provision to changes made by the act; requiring that
3144 instructional materials assigned for use within dual
3145 enrollment courses be made available to dual
3146 enrollment students from public schools, private
3147 schools, and home education programs free of charge;
3148 revising the date by which public postsecondary
3149 institution are required to develop the enrollment
3150 articulation agreement; revising the date by which the
3151 postsecondary institutions are required complete and
3152 submit to the department a dual enrollment
3153 articulation agreement; revising requirements for the
3154 articulation agreement; revising provisions relating
3155 to funding for dual enrollment; providing that certain
3156 independent colleges and universities are eligible for
3157 inclusion in the dual enrollment and early admission
3158 programs; revising the date by which certain district
3159 school boards and Florida College System institutions
3160 are required to annually complete and submit a dual
3161 enrollment articulation agreement to the department;
3162 revising the date by which certain postsecondary
3163 institutions are required to annually complete and
3164 submit a private school articulation agreement to the
3165 department; revising requirements for such agreements;
3166 conforming provisions to changes made by the act;
3167 requiring the Commissioner of Education to annually
3168 report the status of dual enrollment programs to the
3169 Governor and the Legislature by a specified date;



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3170 requiring the State Board of Education to adopt
3171 certain rules; amending s. 1007.273, F.S.; changing
3172 the term "collegiate high school program" to "early
3173 college program"; defining the term "early college
3174 program"; requiring early college programs to
3175 prioritize certain courses; deleting requirements
3176 relating to collegiate high school programs; revising
3177 provisions relating to contracts executed between
3178 district school boards and their local Florida College
3179 System institutions to establish early college
3180 programs; revising provisions relating to student
3181 performance contracts for students participating in
3182 early college programs; authorizing charter schools to
3183 execute contracts to establish an early college
3184 program with specified institutions; requiring the
3185 commissioner to annually report the status of early
3186 college programs to the Governor and the Legislature
3187 by a specified date; amending s. 1008.212, F.S.;
3188 conforming provisions to changes made by the act;
3189 amending s. 1008.22, F.S.; deleting obsolete language;
3190 discontinuing a specified English Language Arts
3191 assessment at a specified time; requiring certain
3192 statewide, standardized assessments to be administered
3193 in a paper-based format; requiring school districts to
3194 provide the SAT or ACT to grade 11 students beginning
3195 in a specified school year; requiring school districts
3196 to choose which assessment to administer; providing
3197 that funding for the assessments shall be as provided
3198 by appropriation; deleting specified reporting



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3199 requirements; deleting specified requirements for the
3200 date of the administration of specified assessments;
3201 authorizing the commissioner to discontinue the
3202 Geometry end-of-course assessment under certain
3203 circumstances; revising a deadline for the publication
3204 of certain assessments; amending s. 1008.25, F.S.;
3205 revising which assessments a high school must use to
3206 advise students of specified deficiencies; amending
3207 ss. 1008.34 and 1008.3415, F.S.; conforming cross-
3208 references; amending s. 1008.44, F.S.; requiring the
3209 CAPE Industry Certification Funding List to
3210 incorporate by reference the industry certifications
3211 on the career pathways list approved for the Florida
3212 Gold Seal CAPE Scholars award; providing requirements
3213 for industry certifications associated with aviation-
3214 related and aerospace-related occupations; providing
3215 that such certifications are eligible for additional
3216 full-time equivalent membership; providing that the
3217 Commissioner of Education may limit CAPE industry
3218 certification and CAPE Digital Tool certificates to
3219 students in certain grades for a specified purpose;
3220 creating s. 1009.31, F.S.; providing legislative
3221 findings; establishing the Dual Enrollment Scholarship
3222 Program; providing for the administration of the
3223 program; providing for the reimbursement of tuition
3224 and costs to eligible postsecondary institutions
3225 beginning on specified dates; requiring students
3226 participating in dual enrollment programs to meet
3227 minimum eligibility requirements in order for



3228 institutions to receive reimbursements; requiring
3229 participating public institutions to annually report
3230 specified information to the department by certain
3231 dates; providing a reimbursement schedule for tuition
3232 and instructional materials costs; requiring the
3233 department to reimburse institutions by specified
3234 dates; providing that reimbursement for dual
3235 enrollment courses is contingent upon appropriations;
3236 providing for the prorating of reimbursements under
3237 certain circumstances; requiring the State Board of
3238 Education to adopt rules; amending s. 1011.62, F.S.;
3239 changing the calculation of full-time equivalent
3240 student membership for dual enrollment purposes;
3241 deleting a provision relating to certain colleges and
3242 universities eligible for inclusion in the dual
3243 enrollment program; revising the calculation of
3244 certain additional full-time equivalent student
3245 membership relating to funding for the operation of
3246 schools; providing for a calculation of full-time
3247 equivalent student membership for CAPE industry
3248 certifications meeting specified requirements;
3249 deleting a provision relating to the full-time
3250 equivalent student membership calculation for
3251 elementary and middle grades students; providing for a
3252 calculation of full-time equivalent student membership
3253 for aviation-related and aerospace-related occupations
3254 meeting specified criteria authorizing the use of a
3255 specified percentage of certain funds for CAPE program
3256 expenses; limiting the amount of funds that may be



3257 used for administrative costs; prohibiting the use of
3258 CAPE funding to supplant funds provided for basic
3259 operation of the CAPE program; revising the
3260 calculation of the virtual education contribution;
3261 establishing and providing a purpose for the Teacher
3262 Salary Increase Allocation; authorizing funds to be
3263 provided subject to annual appropriation for school
3264 districts to increase the minimum base salary for
3265 certain teachers and instructional personnel;
3266 providing that funds for the allocation shall be based
3267 on each district's share of the base Florida Education
3268 Finance Program allocation; specifying what
3269 constitutes a minimum base salary; conforming
3270 provisions to changes made by the act; amending s.
3271 1011.80, F.S.; revising performance funding for
3272 industry certifications for school district workforce
3273 education programs to provide for Federal Aviation
3274 Administration (FAA) industry certifications; amending
3275 s. 1011.81, F.S.; revising performance funding for
3276 industry certifications for Florida College System
3277 Institutions to provide for FAA industry
3278 certifications; amending s. 1012.34, F.S.; requiring
3279 the Commissioner of Education to annually provide by a
3280 certain date measurements of student learning growth
3281 as measured by a certain formula; amending s.
3282 1012.582, F.S.; requiring continuing education and
3283 inservice training for instructional personnel
3284 teaching students with emotional or behavioral
3285 disabilities; conforming provisions to changes made by



450044

3286 the act; repealing s. 1012.731, F.S., relating to the
3287 Florida Best and Brightest Teacher Program; repealing
3288 s. 1012.732, F.S., relating to the Florida Best and
3289 Brightest Principal Program; amending s. 1013.62, F.S;
3290 requiring state funds and revenue from a certain
3291 millage be used to fund charter school capital outlays
3292 if state funds appropriated in a given fiscal year are
3293 below a certain level; amending s. 1013.64, F.S.;
3294 providing an exception for educational facilities and
3295 or funded solely through local impact fees; amending
3296 s. 1003.4282, F.S.; conforming a provision to changes
3297 made by the act; amending ss. 1003.436 and 1011.71,
3298 F.S.; conforming cross-references; providing effective
3299 dates.



350858

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment to Amendment (450044) (with title amendment)

Delete lines 2484 - 2503
and insert:

(22) TEACHER SALARY INCREASE ALLOCATION.—The Teacher Salary Increase Allocation is established for the purpose of affording school districts the opportunity to raise the salaries of instructional personnel as defined in s. 1012.01(2) and educational support employees as defined in s. 1012.40(1)(a) in



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11 an effort to address challenges with retention and recruitment
12 of such personnel and employees in the state's K-20 education
13 system. To this end, subject to the annual appropriation of
14 funds by the Legislature, beginning with the 2020-2021 state
15 fiscal year and continuing through the 2028-2029 state fiscal
16 year, funds may be provided to each school district. The
17 allocation must be funded at a level sufficient to provide a 4.5
18 percent annual salary increase for all such personnel and
19 employees, plus a cost-of-living adjustment. This subsection may
20 not be construed to abridge the membership of any such personnel
21 or employees in any labor organization or to impact their right
22 to bargain collectively through a labor organization. In
23 providing for the voluntary salary increases, the Legislature
24 does not intend to interfere with the right of school boards to
25 set the wages, hours, and terms and conditions of employment for
26 their employees.

27 (a) Beginning with the 2020-2021 fiscal year, funding
28 sufficient to provide at least the 4.5 percent annual salary
29 increase and the cost-of-living adjustment authorized by this
30 section must be calculated using aggregate data on the payments
31 disbursed to such personnel and employees, as reported by the
32 Department of Education. Subject to s. 6, Art. I of the State
33 Constitution, for each year during which a school district
34 provides the salary increase and the cost-of-living adjustment
35 authorized by this subsection, or when a school district and
36 appropriate bargaining units agree to a salary increase, the
37 school district must receive funds as authorized under this
38 subsection to cover the incremental cost of the increase. Funds
39 provided pursuant to this subsection must be incorporated into



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40 the base student allocation for the next fiscal year.

41 (b) Teacher Salary Increase Allocation funds must be
42 distributed through the FEFP.

43 (c) Each district school board, in consultation with each
44 charter school governing board in that district, may provide
45 salary increases for such personnel and employees of charter
46 schools under this subsection if the participating charter
47 school reports salary schedules adopted pursuant to s. 1012.22,
48 documents expenditures related to categorical funds to the
49 department at least 30 days before the start of each legislative
50 session, and agrees to return all funds received under this
51 section if a participating charter school's salary schedules do
52 not reflect that instructional personnel and educational support
53 employees actually received the 4.5 percent raise. A
54 participating charter school that fails to report salary
55 schedules shall return all funds received under this section.

56 (d) The Legislature intends that any financial penalty
57 assessed against a charter school governing board pursuant to
58 paragraph (c) directly impact funding for that charter school
59 and not impact funding for the district school board.

60
61 ===== T I T L E A M E N D M E N T =====

62 And the title is amended as follows:

63 Delete lines 3262 - 3269

64 and insert:

65 Salary Increase Allocation; providing that funds may
66 be provided to allow each school district to increase
67 the minimum base salary of certain instructional
68 personnel and educational support employees; requiring



69 allocations to be funded at a certain level; providing
70 legislative intent; providing for the calculation of
71 necessary funding; requiring that school districts
72 that provide such salary increases and cost-of-living
73 adjustments receive funds to cover the incremental
74 costs of such increases; requiring funds provided
75 under the allocation to be incorporated into the base
76 student allocation for the subsequent fiscal year;
77 requiring that funds for the teacher salary allocation
78 be distributed through the Florida Education Finance
79 Program; authorizing district school boards, in
80 consultation with charter school governing boards, to
81 provide salary increases for charter school
82 instructional personnel and educational support
83 employees under certain conditions; providing
84 requirements for the provision of such funds;
85 requiring the return of allocation funds and payment
86 of a penalty by participating charter schools in
87 certain circumstances; providing legislative intent
88 related to such penalties; conforming



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

1 **Senate Amendment to Amendment (450044) (with title**
2 **amendment)**

3
4 Between lines 2763 and 2764
5 insert:

6 Section 33. Subsection (4) is added to section 1013.44,
7 Florida Statutes, to read:

8 1013.44 Low-energy use design; solar energy systems;
9 swimming pool heaters.—

10 (4) Any costs associated with a solar energy system that is



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11 located on the property of an educational facility may not be
12 included in the total cost per student station limitations on
13 new construction established in s. 1013.64(6)(b).

14
15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete line 3293

18 and insert:

19 below a certain level; amending s. 1013.44, F.S;
20 prohibiting costs associated with a solar energy
21 system located on the property of an educational
22 facility from being included in the total cost per
23 student station limitations; amending s. 1013.64,
24 F.S.;



297970

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

1 **Senate Amendment to Amendment (450044) (with title**
2 **amendment)**

3
4 Between lines 2817 and 2818
5 insert:

6 (c) A charter school additionally is not eligible for a
7 funding allocation unless the chair of the governing board and
8 the chief administrative officer of the charter school annually
9 certify under oath that the funds will be used solely and
10 exclusively for constructing, renovating, leasing, purchasing,



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11 financing, or improving charter school facilities that are:
12 1. Owned by a school district, a political subdivision of
13 the state, a municipality, a Florida College System institution,
14 or a state university; or
15 2. Owned by an organization, qualified as an exempt
16 organization under s. 501(c) (3) of the Internal Revenue Code, or
17 owned by a tax support organization under s. 509 of the Internal
18 Revenue Code, whose articles of incorporation specify that upon
19 the organization's dissolution, the subject property, subject to
20 any indebtedness secured thereby and the satisfaction of the
21 organization's other debts, will be transferred as indicated in
22 the articles of incorporation to:
23 a. Another such exempt organization, including one
24 organized for educational purposes.
25 b. A school district or other political subdivision of the
26 state.
27 c. A municipality.
28 d. A Florida College System institution.
29 e. A state university; or
30 3. Owned by and leased from, at a fair market value, a
31 person or an entity that is not an affiliated party of the
32 charter school. For purposes of this subparagraph, the term
33 "affiliated party of the charter school" means the applicant for
34 the charter school pursuant to s. 1002.33; the governing board
35 of the charter school or a member of the governing board; the
36 charter school principal; an individual employed by the charter
37 school; or a relative, as defined in s. 1002.33(24)(a)2., of a
38 charter school governing board member, a charter school
39 principal, or a charter school employee.



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

And the title is amended as follows:

Delete line 3293

and insert:

below a certain level; requiring the chair of the governing board and the chief administrative officer of a charter school to certify that funds will be used in a specified way; defining the term "affiliated party of the charter school"; amending s. 1013.64, F.S.;



193984

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

1 **Senate Amendment to Amendment (450044) (with directory and**
2 **title amendments)**

3
4 Between lines 2724 and 2725
5 insert:

6 (c) The Legislature intends that the public interest be
7 protected by preventing the financial enrichment of owners,
8 operators, managers, and other affiliated parties of charter
9 schools receiving capital outlay funding. Therefore, a charter
10 school additionally is not eligible for a funding allocation



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11 unless the chair of the governing board and the chief
12 administrative officer of the charter school annually certify
13 under oath that the funds will be used solely and exclusively
14 for constructing, renovating, or improving charter school
15 facilities that are:

16 1. Owned by a school district, a political subdivision of
17 the state, a municipality, a Florida College System institution,
18 or a state university;

19 2. Owned by an organization qualified as an exempt
20 organization under s. 501(c)(3) of the Internal Revenue Code
21 whose articles of incorporation specify that upon the
22 organization's dissolution, the subject property will be
23 transferred to a school district, a political subdivision of the
24 state, a municipality, a Florida College System institution, or
25 a state university; or

26 3. Owned by and leased from, at a fair market value in the
27 school district in which the charter school is located, a person
28 or entity that is not an affiliated party of the charter school.
29 For purposes of this subparagraph, the term "affiliated party of
30 the charter school" means the applicant for the charter school
31 pursuant to s. 1002.33; the governing board of the charter
32 school or a member of the governing board; the charter school
33 owner; the charter school principal; an employee of the charter
34 school; an independent contractor of the charter school or the
35 governing board of the charter school; or a relative, as defined
36 in s. 1002.33(24)(a)2., of a charter school governing board
37 member, a charter school owner, a charter school principal, a
38 charter school employee, or an independent contractor of a
39 charter school or charter school governing board; a subsidiary



40 corporation, a service corporation, an affiliated corporation, a
41 parent corporation, a limited liability company, a limited
42 partnership, a trust, a partnership, or a related party that,
43 individually or through one or more entities, shares common
44 ownership or control and directly or indirectly manages,
45 administers, controls, or oversees the operation of the charter
46 school; or any person or entity, individually or through one or
47 more entities that share common ownership, which directly or
48 indirectly manages, administers, controls, or oversees the
49 operation of any of the foregoing.

50
51 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

52 And the directory clause is amended as follows:

53 Delete lines 2697 - 2698

54 and insert:

55 Section 29. Paragraph (a) is amended and paragraph (c) is
56 added to subsection (7) of section 1012.34, Florida Statutes, to
57 read:

58
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete line 3281

62 and insert:

63 as measured by a certain formula; below a certain
64 level; requiring the chair of the governing board and
65 the chief administrative officer of a charter school
66 to certify that funds will be used in a specified way;
67 defining the term "affiliated party of the charter
68 school"; amending s.



837334

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Thurston) recommended the following:

1 **Senate Amendment to Amendment (450044) (with directory and**
2 **title amendments)**

3
4 Delete lines 262 - 306.

5
6 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

7 And the directory clause is amended as follows:

8 Delete lines 141 - 142

9 and insert:

10 Section 4. Paragraph (b) of subsection (6) of section



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11 1002.33, Florida Statutes, is amended to read:

12

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

14 And the title is amended as follows:

15 Delete lines 3022 - 3024

16 and insert:

17 amending s. 1002.331, F.S.; specifying



456504

LEGISLATIVE ACTION

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| 03/02/2020 | . | |
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 208 and 209

insert:

Section 2. Subsections (7) and (8) of section 1007.27, Florida Statutes, are amended to read:

1007.27 Articulated acceleration mechanisms.—

(7) The International Baccalaureate Program shall be the curriculum in which eligible secondary students are enrolled in a program of studies offered through the International



456504

11 Baccalaureate Program administered by the International
12 Baccalaureate Office. The State Board of Education and the Board
13 of Governors shall specify in the statewide articulation
14 agreement required by s. 1007.23(1) the cutoff scores and
15 International Baccalaureate Examinations which will be used to
16 grant postsecondary credit at Florida College System
17 institutions and universities. Any changes to the articulation
18 agreement, which have the effect of raising the required cutoff
19 score or of changing the International Baccalaureate
20 Examinations which will be used to grant postsecondary credit,
21 shall only apply to students taking International Baccalaureate
22 Examinations after such changes are adopted by the State Board
23 of Education and the Board of Governors. ~~Students shall be~~
24 ~~awarded a maximum of 30 semester credit hours pursuant to this~~
25 ~~subsection.~~ The specific course for which a student may receive
26 such credit shall be specified in the statewide articulation
27 agreement required by s. 1007.23(1). Students enrolled pursuant
28 to this subsection shall be exempt from the payment of any fees
29 for administration of the examinations regardless of whether or
30 not the student achieves a passing score on the examination.

31 (8) The Advanced International Certificate of Education
32 Program and the International General Certificate of Secondary
33 Education (pre-AICE) Program shall be the curricula in which
34 eligible secondary students are enrolled in programs of study
35 offered through the Advanced International Certificate of
36 Education Program or the International General Certificate of
37 Secondary Education (pre-AICE) Program administered by the
38 University of Cambridge Local Examinations Syndicate. The State
39 Board of Education and the Board of Governors shall specify in



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40 the statewide articulation agreement required by s. 1007.23(1)
41 the cutoff scores and Advanced International Certificate of
42 Education examinations which will be used to grant postsecondary
43 credit at Florida College System institutions and universities.
44 Any changes to the cutoff scores, which changes have the effect
45 of raising the required cutoff score or of changing the Advanced
46 International Certification of Education examinations which will
47 be used to grant postsecondary credit, shall apply to students
48 taking Advanced International Certificate of Education
49 examinations after such changes are adopted by the State Board
50 of Education and the Board of Governors. ~~Students shall be
51 awarded a maximum of 30 semester credit hours pursuant to this
52 subsection.~~ The specific course for which a student may receive
53 such credit shall be determined by the Florida College System
54 institution or university that accepts the student for
55 admission. Students enrolled in either program of study pursuant
56 to this subsection shall be exempt from the payment of any fees
57 for administration of the examinations regardless of whether the
58 student achieves a passing score on the examination.

59
60 ===== T I T L E A M E N D M E N T =====

61 And the title is amended as follows:

62 Between lines 9 and 10

63 insert:

64 1007.27, F.S.; removing a limitation on the number of
65 semester credit hours a student may be awarded;
66 amending s.



145152

LEGISLATIVE ACTION

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| Senate | . | House |
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment

Delete lines 862 - 924

and insert:

1009.31 Dual Enrollment Scholarship Program.-

(1) The Legislature finds and declares that dual enrollment is an integral part of the education system in this state and should be available for all eligible secondary students without cost to the student. There is established the Dual Enrollment Scholarship Program to support public postsecondary institutions



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11 in providing dual enrollment.

12 (2) The department shall administer the Dual Enrollment
13 Scholarship Program in accordance with rules of the State Board
14 of Education.

15 (3) (a) Beginning in the 2020 fall term, the program shall
16 reimburse eligible public postsecondary institutions for tuition
17 and related instructional materials costs for dual enrollment
18 courses taken by private school or home education program
19 secondary students during the fall or spring terms.

20 (b) Beginning in the 2021 summer term, the program shall
21 reimburse eligible public postsecondary institutions for tuition
22 and related instructional materials costs for dual enrollment
23 courses taken by public school, private school, or home
24 education program secondary students during the summer term.

25 (4) A student participating in a dual enrollment program
26 must meet the minimum eligibility requirements specified in s.
27 1007.271 in order for the institution to receive a
28 reimbursement.

29 (5) Annually, by March 15, each participating public
30 institution must report to the department its eligible secondary
31 students from private schools or home education programs who
32 were enrolled during the previous fall or spring terms.

33 Annually, by July 15, each participating institution must report
34 to the department its eligible public school, private school, or
35 home education program students who were enrolled during the
36 summer term. For each dual enrollment course in which the
37 student is enrolled, the report must include a unique student
38 identifier, the postsecondary institution name, the
39 postsecondary course number, the postsecondary course name, and



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40 the number of postsecondary course credits earned by the
41 student.

42 (6) (a) Florida College System institutions shall be
43 reimbursed for college credit instruction at the in-state
44 resident tuition rate established in s. 1009.23(3) (a).

45 (b) State universities shall be reimbursed at the standard
46 tuition rate established in s. 1009.24(4) (a).

47 (c) Workforce education instruction leading to a career
48 certificate or an applied technology diploma shall be reimbursed
49 at the standard tuition rate established in s. 1009.22(3) (c).

50 (d) Institutions shall be reimbursed for instructional
51 materials costs based on a rate as specified in the General
52 Appropriations Act.

53 (7) For dual enrollment courses taken during the fall and
54 spring terms, the department must reimburse institutions by
55 April 15 of the same year. For dual enrollment courses taken
56 during the summer term, the department must reimburse
57 institutions by August 15 of the same year, before the beginning
58 of the next academic year.

59 (8) Reimbursement for dual enrollment courses is contingent
60 upon an appropriation in the General Appropriations Act each
61 year. If the statewide reimbursement amount is greater than the
62 appropriation, the institutional reimbursement amounts specified
63 in subsection (6) shall be prorated among the institutions that
64 have reported eligible students to the department by the
65 deadlines specified in subsection (5).

66 (9) The State Board of Education shall adopt rules to
67 implement this section.



277394

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1186 - 1207

and insert:

(22) TEACHER SALARY INCREASE ALLOCATION.—The Teacher Salary Increase Allocation is established for the purpose of affording school districts the opportunity to raise the salaries of instructional personnel as defined in s. 1012.01(2) and educational support employees as defined in s. 1012.40(1)(a) in an effort to address challenges with retention and recruitment



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11 of instructional personnel and educational support employees in
12 the state's K-20 education system. Subject to annual
13 appropriation, beginning with the 2020-2021 state fiscal year
14 and continuing through the 2028-2029 state fiscal year, funds
15 may be provided to each school district to increase the minimum
16 base salary of such instructional personnel as defined in s.
17 1012.01(2) and educational support employees as defined in s.
18 1012.40(1)(a) to address challenges with retention and
19 recruitment of instructional personnel and educational support
20 employees in the state's K-20 education system. The allocation
21 must be funded at a level sufficient to provide a 4.5 percent
22 annual salary increase for all instructional personnel and
23 educational support employees, plus a cost-of-living adjustment,
24 beginning with the 2020-2021 fiscal year and continuing through
25 the 2028-2029 fiscal year. This section may not be construed to
26 abridge the membership of any such instructional personnel or
27 educational support employees in any labor organization or to
28 impact the right of such instructional personnel and educational
29 support employees to bargain collectively through a labor
30 organization, and the voluntary salary increases provided under
31 this section may not be construed to interfere with the right of
32 school boards to set the wages, hours, and terms and conditions
33 of employment for all school board employees.

34 (a) Beginning with the 2020-2021 fiscal year, funding
35 sufficient to provide at least the 4.5 percent annual salary
36 increase and the cost-of-living adjustment authorized by this
37 section must be calculated using aggregate data on the payments
38 disbursed to such instructional personnel and educational
39 support employees, as reported by the Department of Education.



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40 Subject to s. 6, Art. I of the State Constitution, for each year
41 during which a school district provides the salary increase and
42 the cost-of-living adjustment authorized by this subsection, or
43 when a school district and appropriate bargaining units agree to
44 a salary increase, the school district must receive funds as
45 authorized under this section to cover the incremental cost of
46 the raise. Funds provided pursuant to this subsection must be
47 incorporated into the base student allocation for the subsequent
48 fiscal year.

49 (b) Teacher Salary Increase Allocation funds must be
50 distributed through the FEFP.

51 (c) Each district school board, in consultation with each
52 charter school governing board in that district, may provide
53 salary increases for charter school instructional personnel and
54 educational support employees under this section if the
55 participating charter school reports salary schedules adopted
56 pursuant to s. 1012.22, documents expenditures related to
57 categorical funds to the department at least 30 days before the
58 start of each legislative session, and agrees to return all
59 funds received under this section if a participating charter
60 school's salary schedules do not reflect that instructional
61 personnel and educational support employees actually received
62 the 4.5 percent raise. A participating charter school that fails
63 to report salary schedules shall return all funds received under
64 this section.

65 (d) The Legislature intends that any financial penalty
66 assessed against a charter school governing board pursuant to
67 paragraph (c) directly impact funding for that charter school
68 and do not impact funding for the district school board.



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

And the title is amended as follows:

Delete lines 123 - 125

and insert:

Allocation; providing that funds may be provided to allow each school district to increase the minimum base salary of certain instructional personnel and educational support employees; requiring allocations to be funded at a certain level; providing construction; providing for the calculation of necessary funding; requiring that school districts that provide such salary increases and cost-of-living adjustments receive funds to cover the incremental costs of such increases; requiring funds provided under the allocation to be incorporated into the base student allocation for the subsequent fiscal year; requiring the funds for the teacher salary allocation to be distributed through the Florida Education Finance Program; authorizing district school boards in consultation with charter school governing boards to provide salary increases for charter school instructional personnel and educational support employees under certain conditions; providing requirements for the provision of such funds; requiring the return of allocation funds and payment of a penalty by participating charter schools in certain circumstances; providing legislative intent related to such penalties; amending s. 1013.62;



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requiring state



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment (with title amendment)

Between lines 1207 and 1208

insert:

Section 6. Subsection (4) is added to section 1013.44, Florida Statutes, to read:

1013.44 Low-energy use design; solar energy systems; swimming pool heaters.—

(4) Any costs associated with a solar energy system that is located on the property of an educational facility may not be



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11 included in the total cost per student station limitations on
12 new construction established in s. 1013.64(6)(b).

13
14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete line 125

17 and insert:

18 salary"; amending s. 1013.44, F.S; prohibiting costs
19 associated with a solar energy system located on the
20 property of an educational facility from being
21 included in the total cost per student station
22 limitations; amending s. 1013.62, F.S.; requiring
23 state



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to education; amending s. 212.055, F.S.; requiring that a resolution to levy a discretionary sales tax include a statement containing certain information; requiring surtax revenues shared with charter schools to be expended by the charter schools in a certain manner; requiring all revenues and expenditures be accounted for in a monthly or quarterly charter school financial report; amending s. 1007.271, F.S.; clarifying that secondary students eligible for dual enrollment programs include students who are enrolled in home education programs; providing for exceptions to grade point average requirements relating to student eligibility; requiring that exceptions to required grade point averages be specified in the dual enrollment articulation agreement; prohibiting postsecondary institutions from establishing additional initial student academic eligibility requirements; prohibiting district school boards and Florida College System institutions from denying students who have met eligibility requirements from participating in dual enrollment except under specified circumstances; revising the date by which career centers are required to annually complete and submit specified agreements to the Department of Education; requiring district school boards to inform secondary students and their parents or legal



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guardians of specified information; prohibiting schools from enrolling students in dual enrollment courses under certain circumstances; deleting a requirement that the State Board of Education adopt rules for any dual enrollment programs involving requirements for high school graduation; revising the date by which eligible postsecondary institutions are required to annually complete and submit home education articulation agreements to the department; revising requirements for home education students enrolled in dual enrollment courses; conforming a provision to changes made by the act; requiring that instructional materials assigned for use within dual enrollment courses be made available to dual enrollment students from public schools, private schools, and home education programs free of charge; revising the date by which district school superintendents and public postsecondary institution presidents are required to develop the enrollment articulation agreement; revising the date by which the postsecondary institutions are required complete and submit to the department a dual enrollment articulation agreement; revising requirements for the articulation agreement; revising provisions relating to funding for dual enrollment; providing that certain independent colleges and universities are eligible for inclusion in the dual enrollment and early admission programs; revising the date by which certain district school boards and Florida College System institutions



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57 are required to annually complete and submit a dual
58 enrollment articulation agreement to the department;
59 revising the date by which certain postsecondary
60 institutions are required to annually complete and
61 submit a private school articulation agreement to the
62 department; revising requirements for such agreements;
63 conforming provisions to changes made by the act;
64 requiring the Commissioner of Education to annually
65 report the status of dual enrollment programs to the
66 Governor and the Legislature by a specified date;
67 requiring the State Board of Education to adopt
68 certain rules; amending s. 1007.273, F.S.; changing
69 the term "collegiate high school program" to "early
70 college program"; defining the term "early college
71 program"; requiring early college programs to
72 prioritize certain courses; deleting requirements
73 relating to collegiate high school programs; revising
74 provisions relating to contracts executed between
75 district school boards and their local Florida College
76 System institutions to establish early college
77 programs; revising provisions relating to student
78 performance contracts for students participating in
79 early college programs; authorizing charter schools to
80 execute contracts to establish an early college
81 program with specified institutions; requiring the
82 commissioner to annually report the status of early
83 college programs to the Governor and the Legislature
84 by a specified date; creating s. 1009.31, F.S.;

85 providing legislative findings; establishing the Dual



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86 Enrollment Scholarship Program; providing for the
87 administration of the program; providing for the
88 reimbursement of tuition and costs to eligible
89 postsecondary institutions; requiring students
90 participating in dual enrollment programs to meet
91 minimum eligibility requirements in order for
92 institutions to receive reimbursements; requiring
93 participating institutions to annually report
94 specified information to the department by certain
95 dates; providing a reimbursement schedule for tuition
96 and instructional materials costs; requiring the
97 department to reimburse institutions by specified
98 dates; providing that reimbursement for dual
99 enrollment courses is contingent upon appropriations;
100 providing for the prorating of reimbursements under
101 certain circumstances; requiring the State Board of
102 Education to adopt rules; amending s. 1011.62, F.S.;

103 deleting a provision relating to certain colleges and
104 universities eligible for inclusion in the dual
105 enrollment program; changing the calculation of full-
106 time equivalent student membership for dual enrollment
107 purposes; revising the calculation of the virtual
108 education contribution; requiring that before
109 distribution of the mental health assistance
110 allocation occurs, a school district submit a detailed
111 plan that includes the input of school and community
112 stakeholders; requiring school board mental health
113 policies and procedures to include certain items;
114 requiring each school district to submit a report to



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115 the department which reflects certain program outcomes
116 and expenditures for all charter schools in the
117 district; requiring the department to submit a report
118 to the Governor and the Legislature by a specified
119 date; requiring the report to include certain
120 information; abrogating the scheduled expiration of
121 provisions relating to the annual funding compression
122 allocation; establishing the Teacher Salary Increase
123 Allocation to be allocated from the Florida Education
124 Finance Program; defining the term "minimum base
125 salary"; amending s. 1013.62, F.S.; requiring state
126 funds and revenue from a certain millage be used to
127 fund charter school capital outlays if state funds
128 appropriated in a given fiscal year are below a
129 certain level; providing additional requirements for
130 charter school eligibility for a funding allocation;
131 requiring a certification for the use of funds;
132 prohibiting the personal enrichment of owners,
133 operators, managers, and other affiliated parties of
134 charter schools; defining the term "affiliated party
135 of the charter school"; requiring the department to
136 use certain methodology to determine the amount of
137 revenue that a school district must distribute to each
138 eligible charter school if charter school capital
139 outlay funding in any given fiscal year is less than a
140 specified amount; amending s. 1013.64, F.S.; providing
141 an exception for educational facilities and sites
142 subject to a lease-purchase agreement or funded solely
143 through local impact fees; amending s. 1003.4282,



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144 F.S.; conforming a provision to changes made by the
145 act; amending s. 1003.436, F.S.; conforming a cross-
146 reference; providing an effective date.
147

148 Be It Enacted by the Legislature of the State of Florida:
149

150 Section 1. Subsection (6) of section 212.055, Florida
151 Statutes, is amended to read:

152 212.055 Discretionary sales surtaxes; legislative intent;
153 authorization and use of proceeds.—It is the legislative intent
154 that any authorization for imposition of a discretionary sales
155 surtax shall be published in the Florida Statutes as a
156 subsection of this section, irrespective of the duration of the
157 levy. Each enactment shall specify the types of counties
158 authorized to levy; the rate or rates which may be imposed; the
159 maximum length of time the surtax may be imposed, if any; the
160 procedure which must be followed to secure voter approval, if
161 required; the purpose for which the proceeds may be expended;
162 and such other requirements as the Legislature may provide.
163 Taxable transactions and administrative procedures shall be as
164 provided in s. 212.054.

165 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

166 (a) The school board in each county may levy, pursuant to
167 resolution conditioned to take effect only upon approval by a
168 majority vote of the electors of the county voting in a
169 referendum, a discretionary sales surtax at a rate that may not
170 exceed 0.5 percent.

171 (b) The resolution must ~~shall~~ include a statement that
172 provides a brief and general description of the school capital



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229 school before the scheduled completion date of a postsecondary
230 course, the student may not register for that course through
231 dual enrollment. The student may apply to the postsecondary
232 institution and pay the required registration, tuition, and fees
233 if the student meets the postsecondary institution's admissions
234 requirements under s. 1007.263. Instructional time for dual
235 enrollment may vary from 900 hours; however, the full-time
236 equivalent student membership value shall be subject to the
237 provisions in s. 1011.61(4). A student enrolled as a dual
238 enrollment student is exempt from the payment of registration,
239 tuition, and laboratory fees. Applied academics for adult
240 education instruction, developmental education, and other forms
241 of precollegiate instruction, as well as physical education
242 courses that focus on the physical execution of a skill rather
243 than the intellectual attributes of the activity, are ineligible
244 for inclusion in the dual enrollment program. Recreation and
245 leisure studies courses shall be evaluated individually in the
246 same manner as physical education courses for potential
247 inclusion in the program.

248 (3) ~~Student eligibility requirements~~ For initial enrollment
249 in college credit dual enrollment courses, a student must
250 ~~achieve~~ include a 3.0 unweighted high school grade point average
251 and the minimum score on a common placement test adopted by the
252 State Board of Education which indicates that the student is
253 ready for college-level coursework. ~~Student eligibility~~
254 ~~requirements~~ For continued enrollment in college credit dual
255 enrollment courses, a student must maintain a minimum ~~must~~
256 ~~include the maintenance~~ of a 3.0 unweighted high school grade
257 point average and the minimum postsecondary grade point average



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258 established by the postsecondary institution. Regardless of
259 meeting student eligibility requirements for continued
260 enrollment, a student may lose the opportunity to participate in
261 a dual enrollment course if the student is disruptive to the
262 learning process such that the progress of other students or the
263 efficient administration of the course is hindered. Student
264 eligibility requirements for initial and continued enrollment in
265 career certificate dual enrollment courses must include a 2.0
266 unweighted high school grade point average. An exception
267 ~~Exceptions~~ to the required grade point average for career
268 certificate dual enrollment averages may be granted on an
269 individual student basis. An exception to the required grade
270 point average for college credit dual enrollment may be granted
271 for students who achieve higher scores than the established
272 minimum on the common placement test adopted by the State Board
273 of Education. Any exception to the required grade point average
274 must be specified in ~~if the educational entities agree and the~~
275 ~~terms of the agreement are contained within~~ the dual enrollment
276 articulation agreement established pursuant to subsection (21).
277 A postsecondary institution ~~Florida College System institution~~
278 ~~boards of trustees~~ may not establish additional initial student
279 academic eligibility requirements, ~~which shall be included in~~
280 ~~the dual enrollment articulation agreement, to ensure student~~
281 ~~readiness for postsecondary instruction. Additional requirements~~
282 ~~included in the agreement may not arbitrarily prohibit students~~
283 ~~who have demonstrated the ability to master advanced courses~~
284 ~~from participating in dual enrollment courses or limit the~~
285 ~~number of dual enrollment courses in which a student may enroll~~
286 ~~based solely upon enrollment by the student at an independent~~



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287 ~~postsecondary institution.~~

288 (4) District school boards may not refuse to enter into a
289 dual enrollment articulation agreement with a local Florida
290 College System institution if that Florida College System
291 institution has the capacity to offer dual enrollment courses.

292 (5) A district school board or Florida College System
293 institution may not deny a student who has met the state
294 eligibility requirements from participating in dual enrollment
295 unless the institution documents that it does not have the
296 capacity to accommodate all eligible students seeking to
297 participate in the dual enrollment program. If the institution
298 documents that it does not have the capacity to accommodate all
299 eligible students, participation must be based on a first-come,
300 first-served basis.

301 (6)(5)(a) Each faculty member providing instruction in
302 college credit dual enrollment courses must:

303 1. Meet the qualifications required by the entity
304 accrediting the postsecondary institution offering the course.
305 The qualifications apply to all faculty members regardless of
306 the location of instruction. The postsecondary institution
307 offering the course must require compliance with these
308 qualifications.

309 2. Provide the institution offering the dual enrollment
310 course a copy of his or her postsecondary transcript.

311 3. Provide a copy of the current syllabus for each course
312 taught to the discipline chair or department chair of the
313 postsecondary institution before the start of each term. The
314 content of each syllabus must meet the same standards required
315 for all college-level courses offered by that postsecondary



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316 institution.

317 4. Adhere to the professional rules, guidelines, and
318 expectations stated in the postsecondary institution's faculty
319 or adjunct faculty handbook. Any exceptions must be included in
320 the dual enrollment articulation agreement.

321 5. Adhere to the rules, guidelines, and expectations stated
322 in the postsecondary institution's student handbook which apply
323 to faculty members. Any exceptions must be noted in the dual
324 enrollment articulation agreement.

325 (b) Each president, or designee, of a postsecondary
326 institution offering a college credit dual enrollment course
327 must:

328 1. Provide a copy of the institution's current faculty or
329 adjunct faculty handbook to all faculty members teaching a dual
330 enrollment course.

331 2. Provide to all faculty members teaching a dual
332 enrollment course a copy of the institution's current student
333 handbook, which may include, but is not limited to, information
334 on registration policies, the student code of conduct, grading
335 policies, and critical dates.

336 3. Designate an individual or individuals to observe all
337 faculty members teaching a dual enrollment course, regardless of
338 the location of instruction.

339 4. Use the same criteria to evaluate faculty members
340 teaching a dual enrollment course as the criteria used to
341 evaluate all other faculty members.

342 5. Provide course plans and objectives to all faculty
343 members teaching a dual enrollment course.

344 (7)(6) The following curriculum standards apply to college



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345 credit dual enrollment:

346 (a) Dual enrollment courses taught on the high school
347 campus must meet the same competencies required for courses
348 taught on the postsecondary institution campus. To ensure
349 equivalent rigor with courses taught on the postsecondary
350 institution campus, the postsecondary institution offering the
351 course is responsible for providing in a timely manner a
352 comprehensive, cumulative end-of-course assessment or a series
353 of assessments of all expected learning outcomes to the faculty
354 member teaching the course. Completed, scored assessments must
355 be returned to the postsecondary institution and held for 1
356 year.

357 (b) Instructional materials used in dual enrollment courses
358 must be the same as or comparable to those used in courses
359 offered by the postsecondary institution with the same course
360 prefix and number. The postsecondary institution must advise the
361 school district of instructional materials requirements as soon
362 as that information becomes available but no later than one term
363 before a course is offered.

364 (c) Course requirements, such as tests, papers, or other
365 assignments, for dual enrollment students must be at the same
366 level of rigor or depth as those for all nondual enrollment
367 postsecondary students. All faculty members teaching dual
368 enrollment courses must observe the procedures and deadlines of
369 the postsecondary institution for the submission of grades. A
370 postsecondary institution must advise each faculty member
371 teaching a dual enrollment course of the institution's grading
372 guidelines before the faculty member begins teaching the course.

373 (d) Dual enrollment courses taught on a high school campus



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374 may not be combined with any noncollege credit high school
375 course.

376 ~~(8)(7)~~ Career dual enrollment shall be provided as a
377 curricular option for secondary students to pursue in order to
378 earn industry certifications adopted pursuant to s. 1008.44,
379 which count as credits toward the high school diploma. Career
380 dual enrollment shall be available for secondary students
381 seeking a degree and industry certification through a career
382 education program or course. Each career center established
383 under s. 1001.44 shall enter into an agreement with each high
384 school in any school district it serves. Beginning with the
385 2019-2020 school year, the agreement must be completed annually
386 and submitted by the career center to the Department of
387 Education by October ~~August~~ 1. The agreement must:

388 (a) Identify the courses and programs that are available to
389 students through career dual enrollment and the clock hour
390 credits that students will earn upon completion of each course
391 and program.

392 (b) Delineate the high school credit earned for the
393 completion of each career dual enrollment course.

394 (c) Identify any college credit articulation agreements
395 associated with each clock hour program.

396 (d) Describe how students and their parents or legal
397 guardians will be informed of career dual enrollment
398 opportunities and related workforce demand, how students can
399 apply to participate in a career dual enrollment program and
400 register for courses through his or her high school, and the
401 postsecondary career education expectations for participating
402 students.



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403 (e) Establish any additional eligibility requirements for
404 participation and a process for determining eligibility and
405 monitoring the progress of participating students.

406 (f) Delineate costs incurred by each entity and determine
407 how transportation will be provided for students who are unable
408 to provide their own transportation.

409 ~~(9)~~ Each district school board shall inform all
410 secondary students and their parents or legal guardians of dual
411 enrollment as an educational option and mechanism for
412 acceleration. Students and their parents or legal guardians
413 shall be informed of student eligibility requirements, the
414 option for taking dual enrollment courses beyond the regular
415 school year, and the minimum academic credits required for
416 graduation. In addition, students and their parents or legal
417 guardians shall be informed that dual enrollment course grades
418 are included in the student's college grade point average,
419 become a part of the student's permanent academic record, and
420 may affect the student's future financial aid eligibility. A
421 school may not enroll a student in a dual enrollment course
422 without an acknowledgment form on file, which must be signed by
423 both the student and the student's parent or legal guardian,
424 indicating they have been informed of the dual enrollment
425 educational option and its provisions. District school boards
426 shall annually assess the demand for dual enrollment and provide
427 that information to each partnering postsecondary institution.
428 Alternative grade calculation, weighting systems, and
429 information regarding student education options that
430 discriminate against dual enrollment courses are prohibited.

431 ~~(10)~~(9) The Commissioner of Education shall appoint faculty



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432 committees representing public school, Florida College System
433 institution, and university faculties to identify postsecondary
434 courses that meet the high school graduation requirements of s.
435 1003.4282 and to establish the number of postsecondary semester
436 credit hours of instruction and equivalent high school credits
437 earned through dual enrollment pursuant to this section that are
438 necessary to meet high school graduation requirements. Such
439 equivalencies shall be determined solely on comparable course
440 content and not on seat time traditionally allocated to such
441 courses in high school. The Commissioner of Education shall
442 recommend to the State Board of Education those postsecondary
443 courses identified to meet high school graduation requirements,
444 based on mastery of course outcomes, by their course numbers,
445 and all high schools shall accept these postsecondary education
446 courses toward meeting the requirements of s. 1003.4282.

447 ~~(11)~~(10) Early admission is a form of dual enrollment
448 through which eligible secondary students enroll in a
449 postsecondary institution on a full-time basis in courses that
450 are creditable toward the high school diploma and the associate
451 or baccalaureate degree. A student must enroll in a minimum of
452 12 college credit hours per semester or the equivalent to
453 participate in the early admission program; however, a student
454 may not be required to enroll in more than 15 college credit
455 hours per semester or the equivalent. Students enrolled pursuant
456 to this subsection are exempt from the payment of registration,
457 tuition, and laboratory fees.

458 ~~(12)~~(11) Career early admission is a form of career dual
459 enrollment through which eligible secondary students enroll full
460 time in a career center or a Florida College System institution



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461 in postsecondary programs leading to industry certifications, as
462 listed in the CAPE Postsecondary Industry Certification Funding
463 List pursuant to s. 1008.44, which are creditable toward the
464 high school diploma and the certificate or associate degree.
465 Participation in the career early admission program is limited
466 to students who have completed a minimum of 4 semesters of full-
467 time secondary enrollment, including studies undertaken in the
468 ninth grade. Students enrolled pursuant to this section are
469 exempt from the payment of registration, tuition, and laboratory
470 fees.

471 ~~(12) The State Board of Education shall adopt rules for any~~
472 ~~dual enrollment programs involving requirements for high school~~
473 ~~graduation.~~

474 (13) (a) The dual enrollment program for a home education
475 student, including, but not limited to, students with
476 disabilities, consists of the enrollment of an eligible home
477 education secondary student in a postsecondary course creditable
478 toward an associate degree, a career certificate, or a
479 baccalaureate degree. To participate in the dual enrollment
480 program, an eligible home education secondary student must:

- 481 1. Provide proof of enrollment in a home education program
482 pursuant to s. 1002.41.
- 483 2. Be responsible for his or her own transportation unless
484 provided for in the articulation agreement.
- 485 3. Sign a home education articulation agreement pursuant to
486 paragraph (b).

487 (b) Each public postsecondary institution eligible to
488 participate in the dual enrollment program pursuant to s.
489 1011.62(1)(i) must enter into a home education articulation



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490 agreement with each home education student seeking enrollment in
491 a dual enrollment course and the student's parent or legal
492 guardian. By ~~October~~ August 1 of each year, the eligible
493 postsecondary institution shall complete and submit the home
494 education articulation agreement to the Department of Education.
495 The home education articulation agreement must include, at a
496 minimum:

497 1. A delineation of courses and programs available to
498 dually enrolled home education students. Courses and programs
499 may be added, revised, or deleted at any time by the
500 postsecondary institution. Any course or program limitations may
501 not exceed the limitations for other dually enrolled students.

502 2. The initial and continued eligibility requirements for
503 home education student participation, not to exceed those
504 required of other dually enrolled students. A home education
505 student must meet the same minimum score requirement on a common
506 placement test which is required of other dually enrolled
507 students. A high school grade point average may not be required
508 for home education students ~~who meet the minimum score on a~~
509 ~~common placement test adopted by the State Board of Education~~
510 ~~which indicates that the student is ready for college-level~~
511 ~~coursework~~; however, home education student eligibility
512 requirements for continued enrollment in dual enrollment courses
513 must include the maintenance of the minimum postsecondary grade
514 point average established by the postsecondary institution for
515 other dually enrolled students.

516 3. The student's responsibilities for providing his or her
517 own transportation.

518 4. A copy of the statement on transfer guarantees developed



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519 by the Department of Education under subsection (15).

520 (14) The Department of Education shall approve any course
521 for inclusion in the dual enrollment program that is contained
522 within the statewide course numbering system. However,
523 developmental education and physical education and other courses
524 that focus on the physical execution of a skill rather than the
525 intellectual attributes of the activity, may not be so approved
526 but must be evaluated individually for potential inclusion in
527 the dual enrollment program. This subsection may not be
528 construed to mean that an independent postsecondary institution
529 eligible for inclusion in a dual enrollment or early admission
530 program pursuant to subsection (23) s. 1011.62 must participate
531 in the statewide course numbering system developed pursuant to
532 s. 1007.24 to participate in a dual enrollment program.

533 (15) The Department of Education shall develop a statement
534 on transfer guarantees to inform students and their parents or
535 legal guardians, prior to enrollment in a dual enrollment
536 course, of the potential for the dual enrollment course to
537 articulate as an elective or a general education course into a
538 postsecondary education certificate or degree program. The
539 statement shall be provided to each district school
540 superintendent, who shall include the statement in the
541 information provided to all secondary students and their parents
542 or legal guardians as required pursuant to this subsection. The
543 statement may also include additional information, including,
544 but not limited to, dual enrollment options, guarantees,
545 privileges, and responsibilities.

546 (16) Students who meet the eligibility requirements of this
547 section and who choose to participate in dual enrollment



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548 programs are exempt from the payment of registration, tuition,
549 and laboratory fees.

550 (17) Instructional materials assigned for use within dual
551 enrollment courses shall be made available to dual enrollment
552 students from Florida public ~~high schools, private schools, and~~
553 home education programs free of charge. ~~This subsection does not~~
554 ~~prohibit a Florida College System institution from providing~~
555 ~~instructional materials at no cost to a home education student~~
556 ~~or student from a private school.~~ Instructional materials
557 purchased by a district school board or Florida College System
558 institution board of trustees on behalf of dual enrollment
559 students shall be the property of the board against which the
560 purchase is charged.

561 (18) School districts and Florida College System
562 institutions must weigh dual enrollment courses the same as
563 advanced placement, International Baccalaureate, and Advanced
564 International Certificate of Education courses when grade point
565 averages are calculated. Alternative grade calculation systems,
566 alternative grade weighting systems, and information regarding
567 student education options that discriminate against dual
568 enrollment courses are prohibited.

569 (19) The Commissioner of Education may approve dual
570 enrollment agreements for limited course offerings that have
571 statewide appeal. Such programs shall be limited to a single
572 site with multiple county participation.

573 (20) A postsecondary institution shall assign letter grades
574 to each student enrolled in a dual enrollment course. The letter
575 grade assigned by the postsecondary institution shall be posted
576 to the student's high school transcript by the school district.



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577 (21) Each district school superintendent and each public
578 postsecondary institution president shall develop a
579 comprehensive dual enrollment articulation agreement for the
580 respective school district and postsecondary institution. The
581 superintendent and president shall establish an articulation
582 committee for the purpose of developing the agreement. Each
583 state university president may designate a university
584 representative to participate in the development of a dual
585 enrollment articulation agreement. A dual enrollment
586 articulation agreement shall be completed and submitted annually
587 by the postsecondary institution to the Department of Education
588 on or before ~~October~~ ~~August~~ 1. The agreement must include, but
589 is not limited to:

590 (a) A ratification or modification of all existing
591 articulation agreements.

592 (b) A description of the process by which students and
593 their parents are informed about opportunities for student
594 participation in the dual enrollment program.

595 (c) A delineation of courses and programs available to
596 students eligible to participate in dual enrollment.

597 (d) A description of the process by which students and
598 their parents exercise options to participate in the dual
599 enrollment program.

600 (e) The agreed-upon common placement test scores and
601 corresponding grade point average that may be accepted for
602 initial student eligibility if an exception to the minimum grade
603 point average is authorized pursuant to subsection (3) A list of
604 any additional initial student eligibility requirements for
605 participation in the dual enrollment program.



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606 (f) A delineation of the high school credit earned for the
607 passage of each dual enrollment course.

608 (g) A description of the process for informing students and
609 their parents of college-level course expectations.

610 (h) The policies and procedures, if any, for determining
611 exceptions to the required grade point averages on an individual
612 student basis.

613 (i) The registration policies for dual enrollment courses
614 as determined by the postsecondary institution.

615 (j) Exceptions, if any, to the professional rules,
616 guidelines, and expectations stated in the faculty or adjunct
617 faculty handbook for the postsecondary institution.

618 (k) Exceptions, if any, to the rules, guidelines, and
619 expectations stated in the student handbook of the postsecondary
620 institution which apply to faculty members.

621 (l) The responsibilities of the school district regarding
622 the determination of student eligibility before participating in
623 the dual enrollment program and the monitoring of student
624 performance while participating in the dual enrollment program.

625 (m) The responsibilities of the postsecondary institution
626 regarding the transmission of student grades in dual enrollment
627 courses to the school district.

628 (n) A funding provision that delineates costs incurred by
629 each entity.

630 1. School districts shall pay public postsecondary
631 institutions the in-state resident standard tuition rate per
632 credit hour from funds provided in the Florida Education Finance
633 Program when dual enrollment course instruction takes place on
634 the postsecondary institution's campus and the course is taken



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635 during the fall or spring term. When dual enrollment is provided
636 on the high school site by postsecondary institution faculty,
637 the school district shall reimburse the costs associated with
638 the postsecondary institution's proportion of salary and
639 benefits to provide the instruction. When dual enrollment course
640 instruction is provided on the high school site by school
641 district faculty, the school district is not responsible for
642 payment to the postsecondary institution. A postsecondary
643 institution may enter into an agreement with the school district
644 to authorize teachers to teach dual enrollment courses at the
645 high school site or the postsecondary institution. A school
646 district may not deny a student access to dual enrollment unless
647 the student is ineligible to participate in the program subject
648 to provisions specifically outlined in this section.

649 2. Subject to annual appropriation in the General
650 Appropriations Act, a public postsecondary institution shall
651 receive an amount of funding equivalent to the standard tuition
652 rate per credit hour for each dual enrollment course taken by a
653 private school or home education student at the postsecondary
654 institution during the fall and spring terms, pursuant to s.
655 1009.31.

656 ~~3.2-~~ Subject to annual appropriation in the General
657 Appropriations Act, a public postsecondary institution shall
658 receive an amount of funding equivalent to the standard tuition
659 rate per credit hour for each dual enrollment course taken by a
660 student during the summer term, pursuant to s. 1009.31.

661 (o) Any institutional responsibilities for student
662 transportation, if provided.

663 (22) The Department of Education shall develop an



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664 electronic submission system for dual enrollment articulation
665 agreements and shall review, for compliance, each dual
666 enrollment articulation agreement submitted pursuant to
667 subsections (13), (21), and (24). The Commissioner of Education
668 shall notify the district school superintendent and the Florida
669 College System institution president if the dual enrollment
670 articulation agreement does not comply with statutory
671 requirements and shall submit any dual enrollment articulation
672 agreement with unresolved issues of noncompliance to the State
673 Board of Education.

674 (23) District school boards and Florida College System
675 institutions may enter into additional dual enrollment
676 articulation agreements with state universities for the purposes
677 of this section. School districts may also enter into dual
678 enrollment articulation agreements with eligible independent
679 colleges and universities pursuant to s. 1011.62(1)(i). An
680 independent college or university that is not for profit, is
681 accredited by a regional or national accrediting agency
682 recognized by the United States Department of Education, and
683 confers degrees as defined in s. 1005.02 shall be eligible for
684 inclusion in the dual enrollment or early admission program. By
685 ~~October~~ August 1 of each year, the district school board and the
686 Florida College System institution shall complete and submit the
687 dual enrollment articulation agreement with the state university
688 or an eligible independent college or university, as applicable,
689 to the Department of Education.

690 (24) (a) The dual enrollment program for a private school
691 student consists of the enrollment of an eligible private school
692 student in a postsecondary course creditable toward an associate



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693 degree, a career certificate, or a baccalaureate degree. In
694 addition, a private school in which a student, including, but
695 not limited to, students with disabilities, is enrolled must
696 award credit toward high school completion for the postsecondary
697 course under the dual enrollment program. To participate in the
698 dual enrollment program, an eligible private school student
699 must:

700 1. Provide proof of enrollment in a private school pursuant
701 to subsection (2).

702 2. Be responsible for his or her own ~~instructional~~
703 ~~materials and~~ transportation unless provided for in the
704 articulation agreement.

705 3. Sign a private school articulation agreement pursuant to
706 paragraph (b).

707 (b) Each public postsecondary institution eligible to
708 participate in the dual enrollment program pursuant to s.
709 1011.62(1)(i) must enter into a private school articulation
710 agreement with each eligible private school in its geographic
711 service area seeking to offer dual enrollment courses to its
712 students, including, but not limited to, students with
713 disabilities. By ~~October~~ August 1 of each year, the eligible
714 postsecondary institution shall complete and submit the private
715 school articulation agreement to the Department of Education.
716 The private school articulation agreement must include, at a
717 minimum:

718 1. A delineation of courses and programs available to the
719 private school student. The postsecondary institution may add,
720 revise, or delete courses and programs at any time.

721 2. The initial and continued eligibility requirements for



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722 private school student participation, not to exceed those
723 required of other dual enrollment students.

724 3. The student's responsibilities for providing his or her
725 own ~~instructional materials and~~ transportation.

726 4. A provision clarifying that the private school will
727 award appropriate credit toward high school completion for the
728 postsecondary course under the dual enrollment program.

729 5. A provision expressing that the private school of
730 enrollment is exempt from the payment of costs associated with
731 tuition and fees, including registration, and laboratory fees,
732 will not be passed along to the student.

733 (25) For students with disabilities, a postsecondary
734 institution eligible to participate in dual enrollment pursuant
735 to s. 1011.62(1)(i) shall include in its dual enrollment
736 articulation agreement, services and resources that are
737 available to students with disabilities who register in a dual
738 enrollment course at the eligible institution and provide
739 information regarding such services and resources to the Florida
740 Center for Students with Unique Abilities. The Department of
741 Education shall provide to the center the Internet website link
742 to dual enrollment articulation agreements specific to students
743 with disabilities. The center shall include in the information
744 that it is responsible for disseminating to students with
745 disabilities and their parents or legal guardians pursuant to s.
746 1004.6495, dual enrollment articulation agreements and
747 opportunities for meaningful campus experience through dual
748 enrollment.

749 (26) By November 30, 2021, and annually thereafter, the
750 commissioner must report to the Governor, the President of the



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751 Senate, and the Speaker of the House of Representatives the
752 status of dual enrollment programs, including, at a minimum, a
753 summary of student enrollment and completion for public school,
754 private school, and home education program students enrolled at
755 public and private postsecondary institutions.

756 (27) The State Board of Education shall adopt rules for any
757 dual enrollment programs involving requirements for high school
758 graduation.

759 Section 3. Section 1007.273, Florida Statutes, is amended
760 to read:

761 1007.273 Early college program ~~Collegiate high school~~
762 ~~program.~~

763 (1) Each Florida College System institution shall work with
764 each district school board in its designated service area to
765 establish one or more early college ~~collegiate high school~~
766 programs. As used in this section, the term "early college
767 program" means a structured high school acceleration program in
768 which a cohort of students is taking postsecondary courses full
769 time toward an associate degree. The early college program must
770 prioritize courses applicable as general education core courses
771 under s. 1007.25 for an associate degree or a baccalaureate
772 degree.

773 ~~(2) At a minimum, collegiate high school programs must~~
774 ~~include an option for public school students in grade 11 or~~
775 ~~grade 12 participating in the program, for at least 1 full~~
776 ~~school year, to earn CAPE industry certifications pursuant to s.~~
777 ~~1008.44 and to successfully complete 30 credit hours through the~~
778 ~~dual enrollment program under s. 1007.271 toward the first year~~
779 ~~of college for an associate degree or baccalaureate degree while~~



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780 ~~enrolled in the program.~~

781 ~~(2)(3)~~ Each district school board and its local Florida
782 College System institution shall execute a contract to establish
783 one or more early college ~~collegiate high school~~ programs at a
784 mutually agreed-upon ~~agreed-upon~~ location or locations.
785 ~~Beginning with the 2015-2016 school year,~~ If the Florida College
786 System institution does not establish an early college ~~a~~ program
787 with a district school board in its designated service area,
788 another Florida College System institution may execute a
789 contract with that district school board to establish the early
790 college program. The contract must be executed by January 1 of
791 each school year for implementation of the program during the
792 next school year. The contract must:

793 (a) Identify the grade levels to be included in the early
794 college ~~program~~ ~~collegiate high school program~~ which must, at a
795 ~~minimum, include grade 12.~~

796 (b) Describe the early college ~~collegiate high school~~
797 program, including the delineation of courses that must, at a
798 minimum, include general education core courses pursuant to s.
799 1007.25; and industry certifications offered, including online
800 course availability; the high school and college credits earned
801 for each postsecondary course completed and industry
802 certification earned; student eligibility criteria; and the
803 enrollment process and relevant deadlines.

804 (c) Describe the methods, medium, and process by which
805 students and their parents or legal guardians are annually
806 informed about the availability of the early college ~~collegiate~~
807 ~~high school~~ program, the return on investment associated with
808 participation in the early college program, and the information



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809 described in paragraphs (a) and (b).

810 (d) Identify the delivery methods for instruction and the
811 instructors for all courses.

812 (e) Identify student advising services and progress
813 monitoring mechanisms.

814 (f) Establish a program review and reporting mechanism
815 regarding student performance outcomes.

816 (g) Describe the terms of funding arrangements to implement
817 the early college college high school program pursuant to
818 subsection (5).

819 ~~(3)(4)~~ Each student participating in an early college a
820 collegiate high school program must enter into a student
821 performance contract, which must be signed by the student, the
822 parent or legal guardian, and a representative of the school
823 district and the applicable Florida College System institution
824 partner, state university, or other eligible postsecondary
825 institution partner participating pursuant to subsection (4)
826 ~~(5)~~. The performance contract must, at a minimum, specify
827 include the schedule of courses, by semester, and industry
828 certifications to be taken by the student, if any; student
829 attendance requirements; ~~and~~ course grade requirements; and the
830 applicability of such courses to an associate degree or a
831 baccalaureate degree.

832 ~~(4)(5)~~ In addition to executing a contract with the local
833 Florida College System institution under this section, a
834 district school board may execute a contract to establish an
835 early college a collegiate high school program with a state
836 university or an institution that is eligible to participate in
837 the William L. Boyd, IV, Effective Access to Student Education



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838 Grant Program, that is a nonprofit independent college or
839 university located and chartered in this state, and that is
840 accredited by the Commission on Colleges of the Southern
841 Association of Colleges and Schools to grant baccalaureate
842 degrees. Such university or institution must meet the
843 requirements specified under subsections (2) and (3) ~~subsections~~
844 ~~(3) and (4)~~. A charter school may execute a contract directly
845 with the local Florida College System institution or another
846 institution as authorized under this section to establish an
847 early college program at a mutually agreed-upon location.

848 ~~(5)(6)~~ The early college collegiate high school program
849 shall be funded pursuant to ss. 1007.271 and 1011.62. The State
850 Board of Education shall enforce compliance with this section by
851 withholding the transfer of funds for the school districts and
852 the Florida College System institutions in accordance with s.
853 1008.32.

854 (6) By November 30, 2021, and annually thereafter, the
855 commissioner must report the status of early college programs,
856 including, at a minimum, a summary of student enrollment in
857 public and private postsecondary institutions and completion
858 information, to the Governor, the President of the Senate, and
859 the Speaker of the House of Representatives.

860 Section 4. Section 1009.31, Florida Statutes, is created to
861 read:

862 1009.31 Dual Enrollment Scholarship Program.-

863 (1) The Legislature finds and declares that dual enrollment
864 is an integral part of the education system in this state and
865 should be available for all eligible secondary students without
866 cost to the student. There is established the Dual Enrollment



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867 Scholarship Program to support postsecondary institutions in
868 providing dual enrollment.

869 (2) The department shall administer the Dual Enrollment
870 Scholarship Program in accordance with rules of the State Board
871 of Education.

872 (3) (a) Beginning in the 2020 fall term, the program shall
873 reimburse eligible postsecondary institutions for tuition and
874 related instructional materials costs for dual enrollment
875 courses taken by private school or home education program
876 secondary students during the fall or spring terms.

877 (b) Beginning in the 2021 summer term, the program shall
878 reimburse eligible postsecondary institutions for tuition and
879 related instructional materials costs for dual enrollment
880 courses taken by public school, private school, or home
881 education program secondary students during the summer term.

882 (4) A student participating in a dual enrollment program
883 must meet the minimum eligibility requirements specified in s.
884 1007.271 in order for the institution to receive a
885 reimbursement.

886 (5) Annually, by March 15, each participating institution
887 must report to the department its eligible secondary students
888 from private schools or home education programs who were
889 enrolled during the previous fall or spring terms. Annually, by
890 July 15, each participating institution must report to the
891 department its eligible public school, private school, or home
892 education program students who were enrolled during the summer
893 term. For each dual enrollment course in which the student is
894 enrolled, the report must include a unique student identifier,
895 the postsecondary institution name, the postsecondary course



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896 number, the postsecondary course name, and the number of
897 postsecondary course credits earned by the student.

898 (6) (a) Florida College System institutions shall be
899 reimbursed for college credit instruction at the in-state
900 resident tuition rate established in s. 1009.23(3) (a).

901 (b) State universities and independent postsecondary
902 institutions shall be reimbursed at the standard tuition rate
903 established in s. 1009.24(4) (a).

904 (c) Workforce education instruction leading to a career
905 certificate or an applied technology diploma shall be reimbursed
906 at the standard tuition rate established in s. 1009.22(3) (c).

907 (d) Institutions shall be reimbursed for instructional
908 materials costs based on a rate as specified in the General
909 Appropriations Act.

910 (7) For dual enrollment courses taken during the fall and
911 spring terms, the department must reimburse institutions by
912 April 15 of the same year. For dual enrollment courses taken
913 during the summer term, the department must reimburse
914 institutions by August 15 of the same year, before the beginning
915 of the next academic year.

916 (8) Reimbursement for dual enrollment courses is contingent
917 upon an appropriation in the General Appropriations Act each
918 year. If the statewide reimbursement amount is greater than the
919 appropriation, the institutional reimbursement amounts specified
920 in subsection (6) shall be prorated among the institutions that
921 have reported eligible students to the department by the
922 deadlines specified in subsection (5).

923 (9) The State Board of Education shall adopt rules to
924 implement this section.



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925 Section 5. Paragraph (i) of subsection (1) and subsections
926 (11), (16), and (17) of section 1011.62, Florida Statutes, are
927 amended, and subsection (22) is added to that section, to read:

928 1011.62 Funds for operation of schools.—If the annual
929 allocation from the Florida Education Finance Program to each
930 district for operation of schools is not determined in the
931 annual appropriations act or the substantive bill implementing
932 the annual appropriations act, it shall be determined as
933 follows:

934 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
935 OPERATION.—The following procedure shall be followed in
936 determining the annual allocation to each district for
937 operation:

938 (i) *Calculation of full-time equivalent membership with*
939 *respect to dual enrollment instruction.—*

940 1. Full-time equivalent students.—Students enrolled in dual
941 enrollment instruction pursuant to s. 1007.271 may be included
942 in calculations of full-time equivalent student memberships for
943 basic programs for grades 9 through 12 by a district school
944 board. Instructional time for dual enrollment may vary from 900
945 hours; however, the full-time equivalent student membership
946 value shall be subject to the provisions in s. 1011.61(4). Dual
947 enrollment full-time equivalent student membership shall be
948 calculated in an amount equal to the hours of instruction that
949 would be necessary to earn the full-time equivalent student
950 membership for an equivalent course if it were taught in the
951 school district. Students in dual enrollment courses may also be
952 calculated as the proportional shares of full-time equivalent
953 enrollments they generate for a Florida College System



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954 institution or university conducting the dual enrollment
955 instruction. Early admission students shall be considered dual
956 enrollments for funding purposes. Students may be enrolled in
957 dual enrollment instruction provided by an eligible independent
958 college or university and may be included in calculations of
959 full-time equivalent student memberships for basic programs for
960 grades 9 through 12 by a district school board. However, those
961 provisions of law which exempt dual enrolled and early admission
962 students from payment of instructional materials and tuition and
963 fees, including laboratory fees, shall not apply to students who
964 select the option of enrolling in an eligible independent
965 institution. ~~An independent college or university, which is not
966 for profit, is accredited by a regional or national accrediting
967 agency recognized by the United States Department of Education,
968 and confers degrees as defined in s. 1005.02 shall be eligible
969 for inclusion in the dual enrollment or early admission program.
970 Students enrolled in dual enrollment instruction shall be exempt
971 from the payment of tuition and fees, including laboratory fees.~~
972 No student enrolled in college credit mathematics or English
973 dual enrollment instruction shall be funded as a dual enrollment
974 unless the student has successfully completed the relevant
975 section of the entry-level examination required pursuant to s.
976 1008.30.

977 2. Additional full-time equivalent student membership.—For
978 students enrolled in an early college program pursuant to s.
979 1007.273, a value of 0.16 full-time equivalent student
980 membership shall be calculated for each student who completes a
981 general education core course through the dual enrollment
982 program with a grade of "C" or better. For students who are not



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983 enrolled in an early college program, a value of 0.08 full-time
984 equivalent student membership shall be calculated for each
985 student who completes a general education core course through
986 the dual enrollment program with a grade of "C" or better. In
987 addition, a value of 0.3 full-time equivalent student membership
988 shall be calculated for any student who receives an associate
989 degree through the dual enrollment program with a 3.0 grade
990 point average or better. This value shall be added to the total
991 full-time equivalent student membership in basic programs for
992 grades 9 through 12 in the subsequent fiscal year. This section
993 shall be effective for credit earned by dually enrolled students
994 for courses taken in the 2020-2021 school year and each school
995 year thereafter. If the associate degree described in this
996 paragraph is earned in 2020-2021 following completion of courses
997 taken in the 2020-2021 school year, then courses taken toward
998 the degree as part of the dual enrollment program before 2020-
999 2021 may not preclude eligibility for the 0.3 additional full-
1000 time equivalent student membership bonus. Each school district
1001 shall allocate at least 50 percent of the funds received from
1002 the dual enrollment bonus FTE funding, in accordance with this
1003 paragraph, to the schools that generated the funds to support
1004 student academic guidance and postsecondary readiness.

1005 3. Qualifying courses.—For the purposes of this paragraph,
1006 general education core courses are those that are identified in
1007 rule by the State Board of Education and in regulation by the
1008 Board of Governors pursuant to s. 1007.25(3).

1009 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
1010 annually provide in the Florida Education Finance Program a
1011 virtual education contribution. The amount of the virtual



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1012 education contribution shall be the difference between the
1013 amount per FTE established in the General Appropriations Act for
1014 virtual education and the amount per FTE for each district and
1015 the Florida Virtual School, which may be calculated by taking
1016 the sum of the base FEFP allocation, the discretionary local
1017 effort, the state-funded discretionary contribution, the
1018 discretionary millage compression supplement, the research-based
1019 reading instruction allocation, the teacher salary increase
1020 allocation ~~best and brightest teacher and principal allocation,~~
1021 and the instructional materials allocation, and then dividing by
1022 the total unweighted FTE. This difference shall be multiplied by
1023 the virtual education unweighted FTE for programs and options
1024 identified in s. 1002.455 and the Florida Virtual School and its
1025 franchises to equal the virtual education contribution and shall
1026 be included as a separate allocation in the funding formula.

1027 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
1028 assistance allocation is created to provide funding to assist
1029 school districts in establishing or expanding school-based
1030 mental health care; train educators and other school staff in
1031 detecting and responding to mental health issues; and connect
1032 children, youth, and families who may experience behavioral
1033 health issues with appropriate services. These funds shall be
1034 allocated annually in the General Appropriations Act or other
1035 law to each eligible school district. Each school district shall
1036 receive a minimum of \$100,000, with the remaining balance
1037 allocated based on each school district's proportionate share of
1038 the state's total unweighted full-time equivalent student
1039 enrollment. Charter schools that submit a plan separate from the
1040 school district are entitled to a proportionate share of



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1041 district funding. The allocated funds may not supplant funds
1042 that are provided for this purpose from other operating funds
1043 and may not be used to increase salaries or provide bonuses.
1044 School districts are encouraged to maximize third-party health
1045 insurance benefits and Medicaid claiming for services, where
1046 appropriate.

(a) Before the distribution of the allocation:

1047 1. The school district shall ~~must~~ develop and submit a
1048 detailed plan outlining the local program and planned
1049 expenditures to the district school board for approval. ~~The This~~
1050 plan, which must include input from school and community
1051 stakeholders, applies to all district schools, including charter
1052 schools, unless a charter school elects to submit a plan
1053 independently from the school district pursuant to subparagraph
1054 2.

1055 2. A charter school may develop and submit a detailed plan
1056 outlining the local program and planned expenditures to its
1057 governing body for approval. After the plan is approved by the
1058 governing body, it must be provided to the charter school's
1059 sponsor.

1060 (b) The plans required under paragraph (a) must be focused
1061 on a multitiered system of supports to deliver evidence-based
1062 mental health care assessment, diagnosis, intervention,
1063 treatment, and recovery services to students with one or more
1064 mental health or co-occurring substance abuse diagnoses and to
1065 students at high risk of such diagnoses. The provision of these
1066 services must be coordinated with a student's primary mental
1067 health care provider and with other mental health providers
1068 involved in the student's care. At a minimum, the plans must
1069



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1070 include the following elements:

1071 1. Direct employment of school-based mental health services
1072 providers to expand and enhance school-based student services
1073 and to reduce the ratio of students to staff in order to better
1074 align with nationally recommended ratio models. These providers
1075 include, but are not limited to, certified school counselors,
1076 school psychologists, school social workers, and other licensed
1077 mental health professionals. The plan also must establish
1078 ~~identify~~ strategies to increase the amount of time that school-
1079 based student services personnel spend providing direct services
1080 to students, which may include the review and revision of
1081 district staffing resource allocations based on school or
1082 student mental health assistance needs.

1083 2. Contracts or interagency agreements with one or more
1084 local community behavioral health providers or providers of
1085 Community Action Team services to provide a behavioral health
1086 staff presence and services at district schools. Services may
1087 include, but are not limited to, mental health screenings and
1088 assessments, individual counseling, family counseling, group
1089 counseling, psychiatric or psychological services, trauma-
1090 informed care, mobile crisis services, and behavior
1091 modification. These behavioral health services may be provided
1092 on or off the school campus and may be supplemented by
1093 telehealth.

1094 3. Policies and procedures, including contracts with
1095 service providers, which will ensure that students who are
1096 referred to a school-based or community-based mental health
1097 service provider for mental health screening for the
1098 identification of mental health concerns and ensure that the



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1099 assessment of students at risk for mental health disorders
1100 occurs within 15 days of referral. School-based mental health
1101 services must be initiated within 15 days after identification
1102 and assessment, and support by community-based mental health
1103 service providers for students who are referred for community-
1104 based mental health services must be initiated within 30 days
1105 after the school or district makes a referral.

1106 4. Mental health policies and procedures that implement and
1107 support all of the following elements:

1108 a. Universal supports to promote psychological well-being
1109 and safe and supportive environments.

1110 b. Evidence-based strategies or programs to reduce the
1111 likelihood of at-risk students developing social, emotional, or
1112 behavioral health problems, depression, anxiety disorders,
1113 suicidal tendencies, or substance use disorders.

1114 c. ~~5~~ Strategies to improve the early identification of
1115 social, emotional, or behavioral problems or substance use
1116 disorders; provide, to improve the provision of early
1117 intervention services; and to assist students in dealing with
1118 trauma and violence.

1119 d. Methods for responding to a student with suicidal
1120 ideation, including training in suicide risk assessment and the
1121 use of suicide awareness, prevention, and screening instruments
1122 developed under s. 1012.583; adoption of guidelines for
1123 informing parents of suicide risk; and implementation of board
1124 policies for initiating involuntary examination of students at
1125 risk of suicide.

1126 e. A school crisis response plan that includes strategies
1127 for the prevention of, preparation for, response to, and



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1128 recovery from a range of school crises. The plan must establish
1129 or coordinate the implementation of district-level and school-
1130 level crisis response teams whose membership includes, but is
1131 not limited to, representatives of school administration and
1132 school-based mental health service providers.

1133 (c) School districts shall submit approved plans, including
1134 approved plans of each charter school in the district, to the
1135 commissioner by August 1 of each fiscal year.

1136 (d) ~~By September 30 of each year Beginning September 30,~~
1137 ~~2019, and annually by September 30 thereafter,~~ each school
1138 district shall submit its district report to the department. By
1139 November 1 of each year, the department shall submit a state
1140 summary report to the Governor, the President of the Senate, and
1141 the Speaker of the House of Representatives on Department of
1142 Education a report on its program outcomes and expenditures for
1143 the previous fiscal year. The school district report must
1144 include program outcomes and expenditures for all public schools
1145 in the district, including charter schools that submitted a
1146 separate plan pursuant to subparagraph (16)(a)2. At a minimum,
1147 the district and state reports also must that, at a minimum,
1148 ~~must~~ include school district-level and school-level information,
1149 including charter schools, which gives multiple-year trend data,
1150 when available, for each of the number of each of the following
1151 indicators:

1152 1. The number of students who receive screenings or
1153 assessments.

1154 2. The number of students who are referred to either
1155 school-based or community-based providers for services or
1156 assistance.



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1157 3. The number of students who receive either school-based
1158 or community-based interventions, services, or assistance.

1159 4. The number of school-based and community-based mental
1160 health providers, including licensure type, paid for from funds
1161 provided through the allocation.

1162 5. The number and ratio to students of school social
1163 workers, school psychologists, and certified school counselors
1164 employed by the district or charter school and the total number
1165 of licensed mental health professionals directly employed by the
1166 district or charter school.

1167 6. Contract-based collaborative efforts or partnerships
1168 with community mental health programs, agencies, or providers.

1169 (17) FUNDING COMPRESSION ALLOCATION.—The Legislature may
1170 provide an annual funding compression allocation in the General
1171 Appropriations Act. The allocation is created to provide
1172 additional funding to school districts and developmental
1173 research schools whose total funds per FTE in the prior year
1174 were less than the statewide average. Using the most recent
1175 prior year FEFP calculation for each eligible school district,
1176 the total funds per FTE shall be subtracted from the state
1177 average funds per FTE, not including any adjustments made
1178 pursuant to paragraph (19)(b). The resulting funds per FTE
1179 difference, or a portion thereof, as designated in the General
1180 Appropriations Act, shall then be multiplied by the school
1181 district's total unweighted FTE to provide the allocation. If
1182 the calculated funds are greater than the amount included in the
1183 General Appropriations Act, they must be prorated to the
1184 appropriation amount based on each participating school
1185 district's share. ~~This subsection expires July 1, 2020.~~



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1186 (22) TEACHER SALARY INCREASE ALLOCATION.—The Teacher Salary
1187 Increase Allocation is created to increase teacher salaries and
1188 improve this state's relative teacher salary position when
1189 compared with teacher salaries in other states.

1190 (a) Subject to annual appropriation, funds may be provided
1191 for each school district to increase the minimum base salary for
1192 full-time classroom teachers as defined in s. 1012.01(2)(a) or
1193 all instructional personnel as defined in s. 1012.01(2)(a)-(d),
1194 plus certified prekindergarten teachers, but not including
1195 substitute teachers, by no less than the amount designated in
1196 the General Appropriations Act. In addition, funds may also be
1197 provided in an amount designated in the General Appropriations
1198 Act for salary increases for all full-time instructional
1199 personnel as determined by the school board and the local
1200 bargaining unit.

1201 (b) Funds for this purpose shall be allocated on each
1202 district's share of the base FEFP allocation. Funds for the
1203 minimum base salary increase may be provided in multiple years
1204 in order to achieve a particular salary goal. As used in this
1205 subsection, the term "minimum base salary" means the base annual
1206 salary before payroll deductions and excluding additional
1207 supplements.

1208 Section 6. Subsections (1) and (3) of section 1013.62,
1209 Florida Statutes, are amended to read:

1210 1013.62 Charter schools capital outlay funding.—

1211 (1) ~~For the 2018-2019 fiscal year,~~ Charter school capital
1212 outlay funding shall consist of state funds appropriated in the
1213 ~~2018-2019~~ General Appropriations Act; however, if the amount of
1214 state funds appropriated for charter school capital outlay in a



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1215 given fiscal year is less than \$165 million, charter school
1216 capital outlay funding for that fiscal year shall consist of the
1217 appropriated state funds and revenue resulting from the
1218 discretionary millage authorized in s. 1011.71(2). Beginning in
1219 fiscal year 2019-2020, charter school capital outlay funding
1220 shall consist of state funds when such funds are appropriated in
1221 the General Appropriations Act and revenue resulting from the
1222 discretionary millage authorized in s. 1011.71(2) if the amount
1223 of state funds appropriated for charter school capital outlay in
1224 any fiscal year is less than the average charter school capital
1225 outlay funds per unweighted full time equivalent student for the
1226 2018-2019 fiscal year, multiplied by the estimated number of
1227 charter school students for the applicable fiscal year, and
1228 adjusted by changes in the Consumer Price Index issued by the
1229 United States Department of Labor from the previous fiscal year.

1230 Nothing in this subsection prohibits a school district from
1231 distributing to charter schools funds resulting from the
1232 discretionary millage authorized in s. 1011.71(2).

1233 (a) To be eligible to receive capital outlay funds, a
1234 charter school must:

1235 1.a. Have been in operation for 2 or more years;

1236 b. Be governed by a governing board established in the
1237 state for 2 or more years which operates both charter schools
1238 and conversion charter schools within the state;

1239 c. Be an expanded feeder chain of a charter school within
1240 the same school district that is currently receiving charter
1241 school capital outlay funds;

1242 d. Have been accredited by a regional accrediting
1243 association as defined by State Board of Education rule; or



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1244 e. Serve students in facilities that are provided by a
1245 business partner for a charter school-in-the-workplace pursuant
1246 to s. 1002.33(15)(b).

1247 2. Have an annual audit that does not reveal any of the
1248 financial emergency conditions provided in s. 218.503(1) for the
1249 most recent fiscal year for which such audit results are
1250 available.

1251 3. Have satisfactory student achievement based on state
1252 accountability standards applicable to the charter school.

1253 4. Have received final approval from its sponsor pursuant
1254 to s. 1002.33 for operation during that fiscal year.

1255 5. Serve students in facilities that are not provided by
1256 the charter school's sponsor.

1257 (b) A charter school is not eligible to receive capital
1258 outlay funds if it was created by the conversion of a public
1259 school and operates in facilities provided by the charter
1260 school's sponsor for a nominal fee, or at no charge, or if it is
1261 directly or indirectly operated by the school district.

1262 (c) A charter school additionally is not eligible for a
1263 funding allocation unless the chair of the governing board and
1264 the chief administrative officer of the charter school annually
1265 certify under oath that the funds will be used solely and
1266 exclusively for constructing, renovating, leasing, purchasing,
1267 financing or improving charter school facilities that are:

1268 1. Owned by a school district, political subdivision of the
1269 state, municipality, Florida College System institution, or
1270 state university; or

1271 2. Owned by an organization, qualified as an exempt
1272 organization under s.501(c)(3) of the Internal Revenue Code, or



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1273 a tax support organization under section 509 of the Internal
1274 Revenue Code, whose articles of incorporation specify that upon
1275 the organization's dissolution, the subject property, subject
1276 to any indebtedness secured thereby and the satisfaction of the
1277 organization's other debts, will be transferred as indicated in
1278 the articles of incorporation to:

1279 a. Another such exempt organization, including one
1280 organized for educational purposes.

1281 b. A school district or other political subdivision of the
1282 state.

1283 c. A municipality.

1284 d. A Florida College System institution.

1285 e. A state university; or

1286 3. Owned by and leased from, at a fair market value, a
1287 person or entity that is not an affiliated party of the charter
1288 school. For purposes of this subparagraph, the term "affiliated
1289 party of the charter school" means the applicant for the charter
1290 school pursuant to s. 1002.33; the governing board of the
1291 charter school or a member of the governing board; the charter
1292 school principal; an individual employed by the charter school;
1293 or a relative, as defined in s. 1002.33(24)(a)2., of a charter
1294 school governing board member, a charter school principal or a
1295 charter school employee.

1296 (3) If the school board levies the discretionary millage
1297 authorized in s. 1011.71(2), and the state funds appropriated
1298 for charter school capital outlay in any fiscal year are less
1299 than \$165 million ~~the average charter school capital outlay~~
1300 ~~funds per unweighted full-time equivalent student for the 2018-~~
1301 ~~2019 fiscal year, multiplied by the estimated number of charter~~



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1302 ~~school students for the applicable fiscal year, and adjusted by~~
1303 ~~changes in the Consumer Price Index issued by the United States~~
1304 ~~Department of Labor from the previous fiscal year, the~~
1305 department shall use the following calculation methodology to
1306 determine the amount of revenue that a school district must
1307 distribute to each eligible charter school:

1308 (a) Reduce the total discretionary millage revenue by the
1309 school district's annual debt service obligation incurred as of
1310 March 1, 2017, which has not been subsequently retired, and any
1311 amount of participation requirement pursuant to s.
1312 1013.64(2)(a)8. that is being satisfied by revenues raised by
1313 the discretionary millage.

1314 (b) Divide the school district's adjusted discretionary
1315 millage revenue by the district's total capital outlay full-time
1316 equivalent membership and the total number of unweighted full-
1317 time equivalent students of each eligible charter school to
1318 determine a capital outlay allocation per full-time equivalent
1319 student.

1320 (c) Multiply the capital outlay allocation per full-time
1321 equivalent student by the total number of full-time equivalent
1322 students of each eligible charter school to determine the
1323 capital outlay allocation for each charter school.

1324 (d) If applicable, reduce the capital outlay allocation
1325 identified in paragraph (c) by the total amount of state funds
1326 allocated to each eligible charter school in subsection (2) to
1327 determine the maximum calculated capital outlay allocation.

1328 (e) School districts shall distribute capital outlay funds
1329 to charter schools no later than February 1 of each year, as
1330 required by this subsection, based on the amount of funds



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1331 received by the district school board. School districts shall
1332 distribute any remaining capital outlay funds, as required by
1333 this subsection, upon the receipt of such funds until the total
1334 amount calculated pursuant to this subsection is distributed.

1335

1336 By October 1 of each year, each school district shall certify to
1337 the department the amount of debt service and participation
1338 requirement that complies with the requirement of paragraph (a)
1339 and can be reduced from the total discretionary millage revenue.
1340 The Auditor General shall verify compliance with the
1341 requirements of paragraph (a) and s. 1011.71(2)(e) during
1342 scheduled operational audits of school districts.

1343 Section 7. Paragraph (b) of subsection (6) of section
1344 1013.64, Florida Statutes, is amended to read:

1345 1013.64 Funds for comprehensive educational plant needs;
1346 construction cost maximums for school district capital
1347 projects.—Allocations from the Public Education Capital Outlay
1348 and Debt Service Trust Fund to the various boards for capital
1349 outlay projects shall be determined as follows:

1350 (6)

1351 (b)1. A district school board may not use funds from the
1352 following sources: Public Education Capital Outlay and Debt
1353 Service Trust Fund; School District and Community College
1354 District Capital Outlay and Debt Service Trust Fund; Classrooms
1355 First Program funds provided in s. 1013.68; nonvoted 1.5-mill
1356 levy of ad valorem property taxes provided in s. 1011.71(2);
1357 Classrooms for Kids Program funds provided in s. 1013.735;
1358 District Effort Recognition Program funds provided in s.
1359 1013.736; or High Growth District Capital Outlay Assistance



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1360 Grant Program funds provided in s. 1013.738 to pay for any
1361 portion of the cost of any new construction of educational plant
1362 space with a total cost per student station, including change
1363 orders, which exceeds:

1364

a. \$17,952 for an elementary school;

1365

b. \$19,386 for a middle school; or

1366

c. \$25,181 for a high school,

1367

1368 (January 2006) as adjusted annually to reflect increases or
1369 decreases in the Consumer Price Index. The department, in
1370 conjunction with the Office of Economic and Demographic
1371 Research, shall review and adjust the cost per student station
1372 limits to reflect actual construction costs by January 1, 2020,
1373 and annually thereafter. The adjusted cost per student station
1374 shall be used by the department for computation of the statewide
1375 average costs per student station for each instructional level
1376 pursuant to paragraph (d). The department shall also collaborate
1377 with the Office of Economic and Demographic Research to select
1378 an industry-recognized construction index to replace the
1379 Consumer Price Index by January 1, 2020, adjusted annually to
1380 reflect changes in the construction index.

1381

2. School districts shall maintain accurate documentation
1382 related to the costs of all new construction of educational
1383 plant space reported to the Department of Education pursuant to
1384 paragraph (d). The Auditor General shall review the
1385 documentation maintained by the school districts and verify
1386 compliance with the limits under this paragraph during its
1387 scheduled operational audits of the school district.

1388

3. Except for educational facilities and sites subject to a



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1389 lease-purchase agreement entered pursuant to s. 1011.71(2)(e),
1390 or funded solely through local impact fees, in addition to the
1391 funding sources listed in subparagraph 1., a district school
1392 board may not use funds from any sources for new construction of
1393 educational plant space with a total cost per student station,
1394 including change orders, which equals more than the current
1395 adjusted amounts provided in sub-subparagraphs 1.a.-c. However,
1396 if a contract has been executed for architectural and design
1397 services or for construction management services before July 1,
1398 2017, a district school board may use funds from any source for
1399 the new construction of educational plant space and such funds
1400 are exempt from the total cost per student station requirements.

1401 4. A district school board must not use funds from the
1402 Public Education Capital Outlay and Debt Service Trust Fund or
1403 the School District and Community College District Capital
1404 Outlay and Debt Service Trust Fund for any new construction of
1405 an ancillary plant that exceeds 70 percent of the average cost
1406 per square foot of new construction for all schools.

1407 Section 8. Paragraph (c) of subsection (10) of section
1408 1003.4282, Florida Statutes, is amended to read:

1409 1003.4282 Requirements for a standard high school diploma.—

1410 (10) STUDENTS WITH DISABILITIES.—Beginning with students
1411 entering grade 9 in the 2014-2015 school year, this subsection
1412 applies to a student with a disability.

1413 (c) A student with a disability who meets the standard high
1414 school diploma requirements in this section may defer the
1415 receipt of a standard high school diploma if the student:

1416 1. Has an individual education plan that prescribes special
1417 education, transition planning, transition services, or related



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1418 services through age 21; and

1419 2. Is enrolled in accelerated college credit instruction
1420 pursuant to s. 1007.27, industry certification courses that lead
1421 to college credit, ~~an early college a collegiate high school~~
1422 program, courses necessary to satisfy the Scholar designation
1423 requirements, or a structured work-study, internship, or
1424 preapprenticeship program.

1425
1426 The State Board of Education shall adopt rules under ss.
1427 120.536(1) and 120.54 to implement this subsection, including
1428 rules that establish the minimum requirements for students
1429 described in this subsection to earn a standard high school
1430 diploma. The State Board of Education shall adopt emergency
1431 rules pursuant to ss. 120.536(1) and 120.54.

1432 Section 9. Paragraph (a) of subsection (1) of section
1433 1003.436, Florida Statutes, is amended to read:

1434 1003.436 Definition of "credit."—

1435 (1) (a) For the purposes of requirements for high school
1436 graduation, one full credit means a minimum of 135 hours of bona
1437 fide instruction in a designated course of study that contains
1438 student performance standards, except as otherwise provided
1439 through the Credit Acceleration Program (CAP) under s.
1440 1003.4295(3). One full credit means a minimum of 120 hours of
1441 bona fide instruction in a designated course of study that
1442 contains student performance standards for purposes of meeting
1443 high school graduation requirements in a district school that
1444 has been authorized to implement block scheduling by the
1445 district school board. The State Board of Education shall
1446 determine the number of postsecondary credit hours earned



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1447 through dual enrollment pursuant to s. 1007.271 that satisfy the
1448 requirements of a dual enrollment articulation agreement
1449 according to s. 1007.271(21) and that equal one full credit of
1450 the equivalent high school course identified pursuant to s.
1451 1007.271(10) ~~s. 1007.271(9)~~.

1452 Section 10. This act shall take effect July 1, 2020.

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 Appropriations

BILL: SB 62
 INTRODUCER: Senator Stargel
 SUBJECT: K-12 Education
 DATE: February 4, 2020 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------------------|----------------|-----------|--------------------------|
| 1. | Sagues, Bouck, Brick | Sikes | ED | Favorable |
| 2. | Underhill | Elwell | AED | Recommend: Fav/CS |
| 3. | Underhill | Kynoch | AP | Pre-meeting |

I. Summary:

SB 62 renames the “collegiate high school” program to the “early college” program and modifies a number of provisions related to education funding. Specifically, the bill:

- Specifies that the resolution required for voters to approve the levy of a discretionary sales surtax for school capital outlay must include a statement that the revenues collected will be shared with charter schools based on their proportionate share of the total school district enrollment.
- Expands the Florida Education Finance Program (FEFP) funding to incentivize school districts to offer secondary students access to advanced coursework through dual enrollment and early college programs. The bill:
 - Provides bonus full-time equivalent (FTE) funding to public school districts for each dual enrollment general education core course with an earned grade of “C” or better:
 - Students enrolled in an early college program generate a 0.16 FTE student membership bonus.
 - Students not enrolled in an early college program generate a 0.08 FTE student membership bonus.
 - Provides bonus funding of 0.3 FTE student membership for each student who completes an associate degree through the dual enrollment program with at least a 3.0 grade point average.
 - Requires school districts to allocate at least 50 percent of the bonus funds for dual enrollment and early college programs to the schools that generated the funds to support academic guidance and postsecondary related activities.
- Provides bonus funding in the FEFP of 0.3 FTE for each student who receives an Advanced Placement (AP) Capstone Diploma in addition to a standard high school diploma.
- Adds new requirements to the mental health plans that school districts and charter schools must submit in order to receive the mental health assistance allocation in the FEFP.

- Removes the July 1, 2020, expiration date for the funding compression allocation within the FEFP.

The bill does not require appropriation of additional state funds, but it may provide additional FEFP funds to those school districts with more students successfully completing dual enrollment coursework and school districts that offer the AP Capstone Diploma. See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

School Capital Outlay Surtax

Present Situation

The law authorizes school districts to levy discretionary sales surtaxes for school capital outlay. Each county school board may levy, pursuant to approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate not to exceed 0.5 percent.¹

The resolution must include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax.² The resolution must include a plan for the use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and related engineering costs.³ The plan must also include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district.⁴ Surtax revenues may be used for the purpose of servicing bond indebtedness to finance authorized projects, and any interest accrued may be held in trust to finance the projects.⁵

The Department of Revenue collects the surtax revenues and is required by law to distribute them to the district school board imposing the tax.⁶ There is currently no provision in law requiring school districts to share the capital outlay surtax funds with charter schools.

Effect of Proposed Changes

The bill establishes an additional requirement for the resolution that is required for voters to approve the levy of a discretionary sales surtax at a rate that may not exceed 0.5 percent.

¹ Section 212.055, F.S.

² Section 212.055(6)(b), F.S

³ Section 212.055(6)(c), F.S

⁴ *Id.*

⁵ *Id.*

⁶ Section 212.055(6)(d), F.S

Specifically, such resolution must include a statement that the revenues collected shall be shared with charter schools based on their proportionate share of the total school district enrollment.

The bill also requires that charter schools expend the surtax funds in a manner consistent with the plan specified in law that requires the school board set forth a surtax fund plan for fixed capital expenditures or fixed capital costs.

Collegiate High School Program

Present Situation

In 2014, the Legislature codified the collegiate high school program and specified related requirements.⁷ Florida law requires each Florida College System (FCS) institution to work with each district school board in its designated service area⁸ to establish one or more collegiate high school programs.⁹ In fall 2018, there were 11,146 students enrolled in a collegiate high school or collegiate high school program.¹⁰

Purpose

At a minimum, collegiate high school programs must include an option for public school students in grade 11 or grade 12 participating in the program, for at least one full school year, to earn Career and Professional Education (CAPE) industry certifications and to successfully complete 30 credit hours through dual enrollment toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program.¹¹

Program Contract

Each district school board and its local FCS institution must execute a contract to establish one or more collegiate high school programs at a mutually agreed upon location or locations. If the FCS institution does not establish a program with a district school board in its designated service area, another FCS institution may execute a contract with that district school board to establish the program.¹²

In addition to executing a contract with the local FCS institution, Florida law authorizes a district school board to execute a contract to establish a collegiate high school program with a state university or an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is nonprofit and located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees.¹³

⁷ Section 10, ch. 2014-184, L.O.F.

⁸ Section 1000.21(3), F.S.

⁹ Section 1007.273(1), F.S.

¹⁰ Email, Florida Department of Education (Jan. 8, 2020).

¹¹ Section 1007.273(2), F.S.

¹² Section 1007.273(3), F.S.

¹³ Section 1007.273(5), F.S.

Florida law specifies the information that must be addressed in the contract that must be executed by January 1 of each school year for implementation of the program during the next school year.¹⁴

Student Performance Contract

Each student participating in a collegiate high school program must enter into a student performance contract that must be signed by the student, the parent, and a representative of the school district and the applicable FCS institution, state university, or independent college or university.¹⁵ The performance contract must include the schedule of courses, by semester, and industry certifications to be taken by the student, student attendance requirements, and course grade requirements.

Effect of Proposed Changes

The bill modifies s. 1007.273, F.S., and changes the name of the collegiate high school program to the early college program. In addition, the bill:

- Changes the purpose of the program to remove specified grade levels and credit thresholds to specify that an early college program means a structured high school acceleration program in which a cohort of students is enrolled full-time in postsecondary courses toward an associate degree. The bill requires that the early college program prioritize courses applicable as general education core courses¹⁶ for an associate degree or a baccalaureate degree.
- Specifies that the early college program contract between a district school board and the local FCS institution, which includes a delineation of dual enrollment courses available, must include general education core courses.¹⁷
- Requires the student performance contract for the early college program include a provision describing the applicability of dual enrollment courses in the program to an associate degree or a baccalaureate degree.
- Specifies that a charter school may execute a contract directly with the local FCS institution or another institution to establish an early college program at a mutually agreed upon location.

The bill establishes a reporting requirement relating to early college programs. Specifically, by November 30, 2021, and annually thereafter, the commissioner of education must report to the Governor, President of the Senate, and the Speaker of the House of Representatives the status of

¹⁴ Section 1007.273(3), F.S.

¹⁵ Section 1007.273(4), F.S. To participate in a collegiate high school program, an independent college or university must be an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. Section 1007.273(5), F.S.

¹⁶ Section 1007.25, F.S. and Rule 6A-14.0303, F.A.C.

¹⁷ General education core course options consist of a maximum of five courses within each of the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. Beginning with students initially entering an FCS institution or state university in 2015-2016 and thereafter, each student must complete at least one identified core course in each subject area as part of the general education course requirements. The general education core course options must be adopted in rule by the State Board of Education (SBE) and in regulation by the Board of Governors. Section 1007.25(3), F.S. See also Rule 6A-10.0303 and BOG Regulation 8.005.

early college programs, including, at a minimum, a summary of student enrollment and completion at public and private postsecondary institutions.

In addition, the bill includes a conforming provision to change the name of the collegiate high school program to the early college program related to the requirements for a standard high school diploma for students with disabilities.¹⁸

Florida Education Finance Program (FEFP)

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida school districts. Under the FEFP, financial support for education is based on the full-time equivalent (FTE) student membership in public schools.¹⁹ The number of FTE students in each of the funded education programs is multiplied by cost factors²⁰ relative to each program to obtain weighted FTE student values.²¹ The base student allocation from state and local funds is determined annually by the Legislature in the General Appropriations Act (GAA) and is a component in the calculation of each school district's base funding.²² In addition to the base funding, the Legislature may appropriate categorical funding for specified programs, activities or purposes, such as for mental health assistance, and funding compression.²³ School districts may also earn supplemental FTE funding through the FEFP for programs based on performance, such as College Board Advanced Placement bonus funding.²⁴

Incentive Funding for Acceleration Programs

Present Situation

Dual enrollment funding for public schools is included in the calculation of FTE students within the FEFP.²⁵ There is no provision in law to allow for additional performance funding for students earning dual enrollment credit.

Florida schools offer high school acceleration programs such as Advanced Placement (AP), International Baccalaureate (IB), and Advanced International Certificate of Education (AICE) to shorten the time necessary for a student to earn a high school diploma and a postsecondary degree, broaden the scope of curricular options available, and increase the depth of study available for a particular subject.²⁶ The law provides the following benefits to schools and students engaged in these programs:

¹⁸ Section 1003.4282(10)(c)2., F.S.

¹⁹ Section 1011.62, F.S.

²⁰ Program cost factors are based on desired relative cost differences between the following programs as established in the annual General Appropriations Act: grades K-3; 4-8; 9-12; two program cost factors for exceptional students; secondary career education programs; and English for Speakers of Other Languages. Section 1011.62(1)(c), F.S.

²¹ Section 1011.62, F.S.; Department of Education, *2019-20 Funding for Florida School Districts* available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 1.

²² Department of Education, *2019-20 Funding for Florida School Districts* available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 17.

²³ Section 1011.62(6) F.S.

²⁴ Section 1011.62(1) F.S.

²⁵ Department of Education, *2019-20 Funding for Florida School Districts*, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 11.

²⁶ Section 1007.27(1), F.S.

- Successful completion of a course examination in any of these programs qualifies for college credit.²⁷
- The percentage of a school's students eligible to earn college credit through any of these programs has a positive effect on the school's grade.²⁸
- A grade earned in any of these programs is assigned additional weight for determining student eligibility for a Bright Futures Scholarship.²⁹

The FEFP also provides a funding incentive for school districts with students in AP, IB, AICE courses who successfully complete AP, IB, and AICE examinations or earn an IB or AICE diploma.³⁰ The additional FTE is calculated as follows:

- A value of 0.16 FTE student membership is calculated for each student in each AP course who receives a score of 3 or higher on the College Board AP examination.³¹
- A value of 0.16 FTE student membership is calculated for each student enrolled in an IB course who receives a score of 4 or higher on a subject examination. A value of 0.3 FTE student membership is calculated for each student who receives an IB diploma.³²
- A value of 0.16 FTE student membership is calculated for each student enrolled in a full-credit AICE course, and 0.08 FTE student membership for each student enrolled in a half-credit AICE course, for each student who receives a score of E or higher on a subject examination. A value of 0.3 FTE student membership is calculated for each student who receives an AICE diploma.³³

In addition, classroom teachers may receive bonus funds for the performance of their students on AP, IB, and AICE examinations. School districts must use the additional FTE funds for purposes specified in law.³⁴

The AP Program enables students to pursue college-level studies while still in high school.³⁵ The program consists of college-level courses developed by the AP Program that high schools can choose to offer, and corresponding exams that are administered once a year.³⁶ A student must score a '3' or higher, on a 5-point scale, to earn postsecondary credit through the AP Program.³⁷

AP Capstone is a diploma granted to students who earn a score of '3' or higher in AP Seminar and AP Research and on four additional AP exams chosen by the student. The program is based on the AP Seminar and AP Research courses, which are yearlong AP courses.³⁸ These courses

²⁷ Section 1003.4295, F.S.

²⁸ Section 1008.34(3)(b)2.b., F.S.

²⁹ Section 1009.531(3)(a), F.S.

³⁰ Section 1011.62, F.S. Accelerated mechanisms include, but are not limited to, dual enrollment and early admission, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program. Section 1007.27(1), F.S.

³¹ Section 1011.62(1)(n), F.S.

³² Section 1011.62(1)(l), F.S.

³³ Section 1011.62(1)(m), F.S.

³⁴ Section 1011.62(1)(l)-(n), F.S.

³⁵ College Board, AP Central, *AP at a Glance*, <https://apcentral.collegeboard.org/about-ap/ap-a-glance> (last visited Mar. 20, 2019).

³⁶ *Id.*

³⁷ See ss. 1007.27(5) and 1007.23(1), F.S.

³⁸ College Board, AP Capstone Diploma Program, *How it Works*,

are designed to complement the other AP courses that the AP Capstone student must take.³⁹ AP Seminar and AP Research use an interdisciplinary approach to develop skills students need for college-level work.⁴⁰ In the 2018-2019 academic year, 1,402 students in 228 high schools in Florida earned an AP Capstone Diploma.⁴¹

The IB Diploma is only awarded to students who complete the following elements over the course of a two-year program of study:⁴²

- Six subjects chosen from six subject groups, which include:
 - Studies in language and literature
 - Language acquisition
 - Individuals and societies
 - Sciences
 - Mathematics
 - The arts
- An extended essay with a prescribed limit of 4,000 words.
- A theory of knowledge course exploring the nature of knowledge across all disciplines.
- At least three hours each week in creativity, action, and service, which includes participation in the arts, individual and team sports or expeditions or projects, and community and social service activities.

To earn the AICE Diploma, students must achieve seven credits within a 25-month period, including at least one credit in:⁴³

- A Cambridge International Global Perspectives & Research course;
- Mathematics and science;
- Languages; and
- Arts and humanities.

Successful completion of an IB or AICE curriculum satisfies the credit requirement for receipt of a standard high school diploma,⁴⁴ but no similar recognition exists for completion of an AP Capstone Diploma.

Effect of Proposed Changes

The bill adds new provisions for FEFP funding for students enrolled in dual enrollment courses and early college programs that are similar to FTE student membership incentives districts earn for students who complete of AP, IB, and AICE examinations. Specifically, for the 2020-2021 school year and thereafter, the bill:

<https://apcentral.collegeboard.org/courses/ap-capstone/how-ap-capstone-works#awards> (last visited Mar. 20, 2019).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Email, College Board (Jan. 6, 2020).

⁴² International Baccalaureate, *The IB Diploma Programme*,

<https://web.archive.org/web/20100703000358/http://www.ibo.org/diploma/> (last visited Jan. 8, 2020).

⁴³ Cambridge Assessment International Education, *Cambridge AICE Diploma*,

<https://www.cambridgeinternational.org/programmes-and-qualifications/cambridge-advanced/cambridge-aice-diploma/> (last visited Jan. 8, 2020). Students may also complete up to two credits in Interdisciplinary subjects.

⁴⁴ Section 1003.4282(1)(a), F.S.

- Provides bonus FTE funding to public school districts for any student who completes a general education core course through dual enrollment with an earned grade of “C” or better. Specifically:
 - Students enrolled in an early college program generate a 0.16 FTE student membership bonus.
 - Students not enrolled in an early college program generate a 0.08 FTE student membership bonus.
- Provides bonus FTE funding for each associate degree earned through the dual enrollment program with 3.0 GPA or better. Students earning an associate degree with the required GPA generate a 0.3 FTE student membership bonus. Courses taken prior to 2020-2021 may be included in the associate degree.
- Specifies that bonus funding will be added to the total FTE student membership in basic programs for grades 9-12 in the subsequent fiscal year and requires school districts to allocate at least 50 percent of the bonus funds to the schools that generated the funds to support academic guidance and postsecondary readiness.

Adding performance funding incentives for students taking dual enrollment core courses may incentivize school districts to increase the number of students enrolled in dual enrollment core courses in both dual enrollment and early college programs.

The bill also provides for school districts to receive additional funding through the FEFP for each student who receives an AP Capstone Diploma and meets the requirements for a standard high school diploma. The additional value is assigned to the full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year.

In effect, the bill provides the same additional FTE funding of 0.3 FTE for each student who receives an AP Capstone Diploma as a student who receives an IB or AICE diploma. This change may result in more districts offering, and more students earning, AP Capstone Diplomas.

Mental Health Assistance Allocation

Present Situation

The mental health assistance allocation is a categorical fund established to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services.⁴⁵ Each school district must receive at least \$100,000 through the appropriation, and any remaining balance is distributed based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment.⁴⁶ A total of \$75 million was appropriated to school districts through the mental health assistance allocation for the 2019-2020 school year.⁴⁷ In order to receive the allocation, a school district must develop and submit a plan outlining the local program and planned expenditures to the district school board for approval. A

⁴⁵ Section 1011.62(16), F.S.

⁴⁶ Section 1011.62(16), F.S.

⁴⁷ Specific Appropriation 93, s. 2, ch. 2019-115, L.O.F.

charter school may develop and submit a plan outlining the local program and planned expenditures to its governing board for approval.⁴⁸

The plans must be focused on a multi-tiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services to students with mental health or substance abuse diagnoses and to students at high risk of such diagnoses. The plans must include:⁴⁹

- Direct employment of school based mental health service providers, including certified school counselors, school psychologists, school social workers and other licensed mental health professionals.
- Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools.
- Policies and procedures to ensure that students who are referred to school-based or community-based mental health services are assessed within 15 days of the referral.
- Strategies or programs to reduce the likelihood of at-risk students developing social, emotional, or behavioral health programs, depression, anxiety disorders, suicidal tendencies, or substance use disorders.
- Strategies to improve the early identification of social, emotional, or behavioral problems or substance use disorders, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

Effect of Proposed Changes

The bill adds new requirements to the mental health plans that must be submitted by school districts and charter schools in order to receive the mental health assistance allocation. In addition to existing requirements, the bill requires plans to include input from school and community stakeholders, which is informed by a needs assessment, and to include mental health policies and procedures that consist of:

- Universal supports to promote psychological well-being, and safe and supportive school environments.
- Policies and procedures for responding to a student with suicidal ideation, including suicide risk assessment, guidelines for informing parents of suicide risk, and school board policies for initiating involuntary examination of students with suicide risk.
- A school crisis response plan that includes strategies to prevent, prepare for, respond to, and recover from a range of school crises and the establishment of district-level and school-level response teams, including, but not limited to, administration and school-based mental health service providers.

The bill also modifies district reporting requirements to the Department of Education (DOE). Specifically, the bill adds to the current requirement that each school district report program outcomes and expenditures for the previous fiscal year, and requires each school district report to include:

⁴⁸ Section 1011.62(16), F.S.

⁴⁹ Section 1011.62(16)2.(b), F.S.

- Program outcomes and expenditures for all public schools in the district, including charter schools that submitted a separate plan.
- The number of students who receive screenings or assessments.
- The number of students who are referred to either school-based or community-based providers for services or assistance.
- The number of students who receive either school-based and community-based interventions, services, or assistance.
- The number of school-based and community-based mental health providers, including licensure type, paid for from the funds provided through the allocation.
- The number and ratio of school social workers, school psychologists, and certified school counselors employed by the district or charter school and the total number of licensed mental health professionals employed directly by the district or charter school.

The bill also requires that the amount of mental health assistance allocation funds appropriated subsequent to the 2019-2020 fiscal year that are in excess of the amount appropriated in the 2019-2020 fiscal year must be used exclusively to fund additional providers of school-based mental health services.

Funding Compression Allocation

Present Situation

The funding compression allocation is a categorical fund established to provide additional funding to school districts and developmental research schools whose total funds per FTE in the prior year were less than the statewide average.⁵⁰ Florida law specifies that the Legislature may provide an annual funding compression allocation in the GAA.⁵¹ In 2019, the Legislature appropriated \$54,190,616⁵² for a funding compression allocation to school districts and developmental research schools whose total funds per FTE in the prior school year were less than the statewide average.⁵³ A district's allocation must not be greater than \$100 per FTE.⁵⁴ The funding compression allocation is scheduled to expire July 1, 2020.⁵⁵

Effect of Proposed Changes

The bill removes the July 1, 2020 expiration date for the funding compression allocation within the FEFP.

The bill takes effect on July 1, 2020.

⁵⁰ Section 1011.62(17), F.S.

⁵¹ Section 1011.62(17), F.S.

⁵² Florida Department of Education, *2019-20 FEFP Second Calculation, Prekindergarten through Grade 12 Funding Summary-Page 3* (July 19, 2019), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>, at 6.

⁵³ Specific appropriation 93, ch. 2019-115, L.O.F.

⁵⁴ *Id.*

⁵⁵ Section 1011.62(17), F.S.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The financial supports for the dual enrollment, early college, and Advanced Placement (AP) Capstone programs may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

The bill does not require the appropriation of additional state funds. However, the bill may reallocate funds within the Florida Education Finance Program (FEFP) to those school districts with relatively more students successfully completing dual enrollment coursework and earning the AP Capstone Diploma. Based on 2018-2019 data, dual enrollment bonus funding within the FEFP is estimated to be \$61.3 million, and based on the number of 2019 AP Capstone Diploma recipients, AP Capstone Diploma bonus funding is estimated to be \$1.8 million.⁵⁶

⁵⁶ \$1,290 multiplied by 1402 AP Capstone Diploma recipients in 2019. College Board, *Building on Advanced Placement (AP) Capstone Success in Florida*, 2019.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.055, 1007.273, 1011.62, and 1003.4282.

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.

By Senator Stargel

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1 A bill to be entitled
 2 An act relating to K-12 education; amending s.
 3 212.055, F.S.; requiring that a resolution to levy
 4 discretionary sales tax include a statement containing
 5 certain information; requiring surtax revenues shared
 6 with charter schools to be expended by the charter
 7 schools in a certain manner; amending s. 1007.273,
 8 F.S.; defining the term "early college program";
 9 deleting a provision related to collegiate high school
 10 programs; changing the term "collegiate high school
 11 program" to "early college program"; requiring early
 12 college programs to prioritize certain courses for
 13 degree purposes; authorizing a charter school to
 14 execute a contract with a local Florida College System
 15 institution or another institution as authorized by
 16 law to establish an early college program; requiring
 17 that the Commissioner of Education report to the
 18 Governor and the Legislature on the status of early
 19 college programs by a specified date and annually
 20 thereafter; requiring the report contain certain
 21 information; amending s. 1011.62, F.S.; changing the
 22 calculation of full-time equivalent student membership
 23 for dual enrollment purposes; providing that full-time
 24 equivalent membership can be calculated based on a
 25 student earning a College Board Advanced Placement
 26 Capstone Diploma; providing for calculation of full-
 27 time equivalent membership for students earning the
 28 Capstone Diploma; requiring that before distribution
 29 of the mental health assistance allocation occurs, a

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30 school district submit a detailed plan that includes
 31 the input of school and community stakeholders and is
 32 informed by a needs assessment; requiring school board
 33 mental health policies and procedures to include
 34 certain items; requiring each school district to
 35 submit a report to the Department of Education which
 36 reflects certain program outcomes and expenditures for
 37 all charter schools in the district; requiring the
 38 report to include certain information; requiring that
 39 certain excess funds be used for specified mental
 40 health expenses; abrogating the scheduled repeal of
 41 provisions relating to the annual funding compression
 42 allocation; amending s. 1003.4282, F.S.; conforming a
 43 provision to changes made by the act; providing an
 44 effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Subsection (6) of section 212.055, Florida
 49 Statutes, is amended to read:

50 212.055 Discretionary sales surtaxes; legislative intent;
 51 authorization and use of proceeds.—It is the legislative intent
 52 that any authorization for imposition of a discretionary sales
 53 surtax shall be published in the Florida Statutes as a
 54 subsection of this section, irrespective of the duration of the
 55 levy. Each enactment shall specify the types of counties
 56 authorized to levy; the rate or rates which may be imposed; the
 57 maximum length of time the surtax may be imposed, if any; the
 58 procedure which must be followed to secure voter approval, if

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59 required; the purpose for which the proceeds may be expended;
60 and such other requirements as the Legislature may provide.
61 Taxable transactions and administrative procedures shall be as
62 provided in s. 212.054.

63 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

64 (a) The school board in each county may levy, pursuant to
65 resolution conditioned to take effect only upon approval by a
66 majority vote of the electors of the county voting in a
67 referendum, a discretionary sales surtax at a rate that may not
68 exceed 0.5 percent.

69 (b) The resolution must ~~shall~~ include a statement that
70 provides a brief and general description of the school capital
71 outlay projects to be funded by the surtax. The resolution must
72 also include a statement that the revenues collected must be
73 shared with charter schools based on their proportionate share
74 of total school district enrollment. The statement must ~~shall~~
75 conform to the requirements of s. 101.161 and shall be placed on
76 the ballot by the governing body of the county. The following
77 question shall be placed on the ballot:

78 ...FOR THE ...CENTS TAX

79 ...AGAINST THE ...CENTS TAX

80
81 (c) The resolution providing for the imposition of the
82 surtax must ~~shall~~ set forth a plan for use of the surtax
83 proceeds for fixed capital expenditures or fixed capital costs
84 associated with the construction, reconstruction, or improvement
85 of school facilities and campuses which have a useful life

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86 expectancy of 5 or more years, and any land acquisition, land
87 improvement, design, and engineering costs related thereto.
88 Additionally, the plan shall include the costs of retrofitting
89 and providing for technology implementation, including hardware
90 and software, for the various sites within the school district.
91 Surtax revenues may be used for the purpose of servicing bond
92 indebtedness to finance projects authorized by this subsection,
93 and any interest accrued thereto may be held in trust to finance
94 such projects. Neither the proceeds of the surtax nor any
95 interest accrued thereto shall be used for operational expenses.
96 Surtax revenues shared with charter schools shall be expended by
97 the charter schools in a manner consistent with the plan, as
98 appropriate.

99 (d) Surtax revenues collected by the Department of Revenue
100 pursuant to this subsection shall be distributed to the school
101 board imposing the surtax in accordance with law.

102 Section 2. Section 1007.273, Florida Statutes, is amended
103 to read:

104 1007.273 Early college programs ~~Collegiate high school~~
105 ~~program.~~—

106 (1) Each Florida College System institution shall work with
107 each district school board in its designated service area to
108 establish one or more early college ~~collegiate high school~~
109 programs. As used in this section, the term "early college
110 program" means a structured high school acceleration program in
111 which a cohort of students is taking postsecondary courses full
112 time toward an associate degree. The early college program must
113 prioritize courses applicable as general education core courses
114 under s. 1007.25 for an associate degree or a baccalaureate

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115 degree.

116 ~~(2) At a minimum, collegiate high school programs must~~
 117 ~~include an option for public school students in grade 11 or~~
 118 ~~grade 12 participating in the program, for at least 1 full~~
 119 ~~school year, to earn CAPE industry certifications pursuant to s.~~
 120 ~~1008.44 and to successfully complete 30 credit hours through the~~
 121 ~~dual enrollment program under s. 1007.271 toward the first year~~
 122 ~~of college for an associate degree or baccalaureate degree while~~
 123 ~~enrolled in the program.~~

124 (2)(3) Each district school board and its local Florida
 125 College System institution shall execute a contract to establish
 126 one or more early college ~~collegiate high school~~ programs at a
 127 mutually agreed upon location or locations. ~~Beginning with the~~
 128 ~~2015-2016 school year, if the Florida College System institution~~
 129 ~~does not establish an early college~~ a program with a district
 130 school board in its designated service area, another Florida
 131 College System institution may execute a contract with that
 132 district school board to establish the early college program.
 133 The contract must be executed by January 1 of each school year
 134 for implementation of the program during the next school year.
 135 The contract must:

136 (a) Identify the grade levels to be included in the early
 137 college ~~collegiate high school~~ program ~~which must, at a minimum,~~
 138 ~~include grade 12.~~

139 (b) Describe the early college ~~collegiate high school~~
 140 program, including the delineation of courses ~~that must, at a~~
 141 minimum, include general education core courses pursuant to s.
 142 1007.25; and industry certifications offered, including online
 143 course availability; the high school and college credits earned

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144 for each postsecondary course completed and industry
 145 certification earned; student eligibility criteria; and the
 146 enrollment process and relevant deadlines.

147 (c) Describe the methods, medium, and process by which
 148 students and their parents are annually informed about the
 149 availability of the early college ~~collegiate high school~~
 150 program, the return on investment associated with participation
 151 in the early college program, and the information described in
 152 paragraphs (a) and (b).

153 (d) Identify the delivery methods for instruction and the
 154 instructors for all courses.

155 (e) Identify student advising services and progress
 156 monitoring mechanisms.

157 (f) Establish a program review and reporting mechanism
 158 regarding student performance outcomes.

159 (g) Describe the terms of funding arrangements to
 160 implement the early college ~~collegiate high school~~ program
 161 pursuant to subsection (5).

162 (3)(4) Each student participating in an early college a
 163 ~~collegiate high school~~ program must enter into a student
 164 performance contract ~~that which~~ must be signed by the student,
 165 the parent, and a representative of the school district and the
 166 applicable Florida College System institution ~~partner, state~~
 167 ~~university, or any other eligible postsecondary~~ institution
 168 partner participating pursuant to subsection (4) ~~(5)~~. The
 169 performance contract must, at a minimum, specify include the
 170 schedule of courses, by semester, and industry certifications to
 171 be taken by the student, if any; student attendance
 172 requirements; ~~and~~ course grade requirements; and the

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173 applicability of such courses to an associate degree or a
 174 baccalaureate degree.

175 ~~(4)(5)~~ In addition to executing a contract with the local
 176 Florida College System institution under this section, a
 177 district school board may execute a contract to establish an
 178 early college ~~a collegiate high school~~ program with a state
 179 university or an institution that is eligible to participate in
 180 the William L. Boyd, IV, Effective Access to Student Education
 181 Grant Program, that is a nonprofit independent college or
 182 university located and chartered in this state, and that is
 183 accredited by the Commission on Colleges of the Southern
 184 Association of Colleges and Schools to grant baccalaureate
 185 degrees. Such university or institution must meet the
 186 requirements specified under subsections (2) and (3) ~~subsections~~
 187 ~~(3) and (4)~~. A charter school may execute a contract directly
 188 with the local Florida College System institution or another
 189 institution as authorized under this section to establish an
 190 early college program at a mutually agreed upon location.

191 ~~(5)(6)~~ The early college ~~collegiate high school~~ program
 192 shall be funded pursuant to ss. 1007.271 and 1011.62. The State
 193 Board of Education shall enforce compliance with this section by
 194 withholding the transfer of funds for the school districts and
 195 the Florida College System institutions in accordance with s.
 196 1008.32.

197 (6) By November 30, 2021, and annually thereafter, the
 198 commissioner must report to the Governor, the President of the
 199 Senate, and the Speaker of the House of Representatives the
 200 status of early college programs, including, at a minimum, a
 201 summary of student enrollment in public and private

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202 postsecondary institutions and program completion information.

203 Section 3. Paragraphs (i) and (n) of subsection (1) and
 204 subsections (16) and (17) of section 1011.62, Florida Statutes,
 205 are amended to read:

206 1011.62 Funds for operation of schools.—If the annual
 207 allocation from the Florida Education Finance Program to each
 208 district for operation of schools is not determined in the
 209 annual appropriations act or the substantive bill implementing
 210 the annual appropriations act, it shall be determined as
 211 follows:

212 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
 213 OPERATION.—The following procedure shall be followed in
 214 determining the annual allocation to each district for
 215 operation:

216 (i) *Calculation of full-time equivalent membership with*
 217 *respect to dual enrollment instruction.—*

218 1. Full-time equivalent students.—Students enrolled in dual
 219 enrollment instruction pursuant to s. 1007.271 may be included
 220 in calculations of full-time equivalent student memberships for
 221 basic programs for grades 9 through 12 by a district school
 222 board. Instructional time for dual enrollment may vary from 900
 223 hours; however, the full-time equivalent student membership
 224 value shall be subject to the provisions in s. 1011.61(4). Dual
 225 enrollment full-time equivalent student membership shall be
 226 calculated in an amount equal to the hours of instruction that
 227 would be necessary to earn the full-time equivalent student
 228 membership for an equivalent course if it were taught in the
 229 school district. Students in dual enrollment courses may also be
 230 calculated as the proportional shares of full-time equivalent

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231 enrollments they generate for a Florida College System
 232 institution or university conducting the dual enrollment
 233 instruction. Early admission students shall be considered dual
 234 enrollments for funding purposes. Students may be enrolled in
 235 dual enrollment instruction provided by an eligible independent
 236 college or university and may be included in calculations of
 237 full-time equivalent student memberships for basic programs for
 238 grades 9 through 12 by a district school board. However, those
 239 provisions of law which exempt dual enrolled and early admission
 240 students from payment of instructional materials and tuition and
 241 fees, including laboratory fees, shall not apply to students who
 242 select the option of enrolling in an eligible independent
 243 institution. An independent college or university, which is not
 244 for profit, is accredited by a regional or national accrediting
 245 agency recognized by the United States Department of Education,
 246 and confers degrees as defined in s. 1005.02 shall be eligible
 247 for inclusion in the dual enrollment or early admission program.
 248 Students enrolled in dual enrollment instruction shall be exempt
 249 from the payment of tuition and fees, including laboratory fees.
 250 No student enrolled in college credit mathematics or English
 251 dual enrollment instruction shall be funded as a dual enrollment
 252 unless the student has successfully completed the relevant
 253 section of the entry-level examination required pursuant to s.
 254 1008.30.

255 2. Additional full-time equivalent student membership.—For
 256 students enrolled in an early college program, pursuant to s.
 257 1007.273, a value of 0.16 full-time equivalent student
 258 membership shall be calculated for each student who completes a
 259 general education core course through the dual enrollment

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260 program with a grade of "C" or better. For students who are not
 261 enrolled in an early college program, a value of 0.08 full-time
 262 equivalent student membership shall be calculated for each
 263 student who completes a general education core course through
 264 the dual enrollment program with a grade of "C" or better. In
 265 addition, a value of 0.3 full-time equivalent student membership
 266 shall be calculated for any student who receives an associate
 267 degree through the dual enrollment program with a 3.0 grade
 268 point average or better. This value shall be added to the total
 269 full-time equivalent student membership in basic programs for
 270 grades 9 through 12 in the subsequent fiscal year. This section
 271 shall be effective for credit earned by dually enrolled students
 272 for courses taken in the 2020-2021 school year and each school
 273 year thereafter. If the associate degree pursuant to this
 274 paragraph is earned in 2020-2021 following completion of courses
 275 taken in the 2020-2021 school year, then courses taken towards
 276 the degree as part of the dual enrollment program prior to 2020-
 277 2021 may not preclude eligibility for the 0.3 additional full-
 278 time equivalent student membership bonus. Each school district
 279 shall allocate at least 50 percent of the funds received from
 280 the dual enrollment bonus FTE funding, in accordance with this
 281 paragraph, to the schools that generated the funds to support
 282 student academic guidance and postsecondary readiness.

283 3. Qualifying courses.—For the purposes of this paragraph,
 284 general education core courses are those that are identified in
 285 rule by the State Board of Education and in regulation by the
 286 Board of Governors pursuant to s. 1007.25(3).

287 (n) Calculation of additional full-time equivalent
 288 membership based on college board advanced placement scores of

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289 students and earning College Board Advanced Placement Capstone
 290 Diplomas.—A value of 0.16 full-time equivalent student
 291 membership shall be calculated for each student in each advanced
 292 placement course who receives a score of 3 or higher on the
 293 College Board Advanced Placement Examination for the prior year
 294 and added to the total full-time equivalent student membership
 295 in basic programs for grades 9 through 12 in the subsequent
 296 fiscal year. A value of 0.3 full-time equivalent student
 297 membership shall be calculated for each student who receives a
 298 College Board Advanced Placement Capstone Diploma and meets the
 299 requirements for a standard high school diploma under s.
 300 1003.4282. This value shall be added to the total full-time
 301 equivalent student membership in basic programs for grades 9
 302 through 12 in the subsequent fiscal year. Each district must
 303 allocate at least 80 percent of the funds provided to the
 304 district for advanced placement instruction, in accordance with
 305 this paragraph, to the high school that generates the funds. The
 306 school district shall distribute to each classroom teacher who
 307 provided advanced placement instruction:

308 1. A bonus in the amount of \$50 for each student taught by
 309 the Advanced Placement teacher in each advanced placement course
 310 who receives a score of 3 or higher on the College Board
 311 Advanced Placement Examination.

312 2. An additional bonus of \$500 to each Advanced Placement
 313 teacher in a school designated with a grade of "D" or "F" who
 314 has at least one student scoring 3 or higher on the College
 315 Board Advanced Placement Examination, regardless of the number
 316 of classes taught or of the number of students scoring a 3 or
 317 higher on the College Board Advanced Placement Examination.

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318
 319 Bonuses awarded under this paragraph shall be in addition to any
 320 regular wage or other bonus the teacher received or is scheduled
 321 to receive. For such courses, the teacher shall earn an
 322 additional bonus of \$50 for each student who has a qualifying
 323 score.

324 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
 325 assistance allocation is created to provide funding to assist
 326 school districts in establishing or expanding school-based
 327 mental health care; train educators and other school staff in
 328 detecting and responding to mental health issues; and connect
 329 children, youth, and families who may experience behavioral
 330 health issues with appropriate services. These funds shall be
 331 allocated annually in the General Appropriations Act or other
 332 law to each eligible school district. Each school district shall
 333 receive a minimum of \$100,000, with the remaining balance
 334 allocated based on each school district's proportionate share of
 335 the state's total unweighted full-time equivalent student
 336 enrollment. Charter schools that submit a plan separate from the
 337 school district are entitled to a proportionate share of
 338 district funding. The allocated funds may not supplant funds
 339 that are provided for this purpose from other operating funds
 340 and may not be used to increase salaries or provide bonuses.
 341 School districts are encouraged to maximize third-party health
 342 insurance benefits and Medicaid claiming for services, where
 343 appropriate.

344 (a) Before the distribution of the allocation:

345 1. The school district must develop and submit a detailed
 346 plan, which includes the input of school and community

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347 stakeholders and is informed by a needs assessment, outlining
 348 the local program and planned expenditures to the district
 349 school board for approval. This plan must include all district
 350 schools, including charter schools, unless a charter school
 351 elects to submit a plan independently from the school district
 352 pursuant to subparagraph 2.

353 2. A charter school may develop and submit a detailed plan
 354 outlining the local program and planned expenditures to its
 355 governing body for approval. After the plan is approved by the
 356 governing body, it must be provided to the charter school's
 357 sponsor.

358 (b) The plans required under paragraph (a) must be focused
 359 on a multitiered system of supports to deliver evidence-based
 360 mental health care assessment, diagnosis, intervention,
 361 treatment, and recovery services to students with one or more
 362 mental health or co-occurring substance abuse diagnoses and to
 363 students at high risk of such diagnoses. The provision of these
 364 services must be coordinated with a student's primary mental
 365 health care provider and with other mental health providers
 366 involved in the student's care. At a minimum, the plans must
 367 include the following elements:

368 1. Direct employment of school-based mental health services
 369 providers to expand and enhance school-based student services
 370 and to reduce the ratio of students to staff in order to better
 371 align with nationally recommended ratio models. These providers
 372 include, but are not limited to, certified school counselors,
 373 school psychologists, school social workers, and other licensed
 374 mental health professionals. The plan also must identify
 375 strategies to increase the amount of time that school-based

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376 student services personnel spend providing direct services to
 377 students, which may include the review and revision of district
 378 staffing resource allocations based on school or student mental
 379 health assistance needs.

380 2. Contracts or interagency agreements with one or more
 381 local community behavioral health providers or providers of
 382 Community Action Team services to provide a behavioral health
 383 staff presence and services at district schools. Services may
 384 include, but are not limited to, mental health screenings and
 385 assessments, individual counseling, family counseling, group
 386 counseling, psychiatric or psychological services, trauma-
 387 informed care, mobile crisis services, and behavior
 388 modification. These behavioral health services may be provided
 389 on or off the school campus and may be supplemented by
 390 telehealth.

391 3. Policies and procedures, including contracts with
 392 service providers, which will ensure that students who are
 393 referred to a school-based or community-based mental health
 394 service provider for mental health screening for the
 395 identification of mental health concerns and ensure that the
 396 assessment of students at risk for mental health disorders
 397 occurs within 15 days of referral. School-based mental health
 398 services must be initiated within 15 days after identification
 399 and assessment, and support by community-based mental health
 400 service providers for students who are referred for community-
 401 based mental health services must be initiated within 30 days
 402 after the school or district makes a referral.

403 4. School board mental health policies and procedures,
 404 including the following:

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- 405 a. Universal supports to promote students' psychological
 406 well-being and ensure safe and supportive school environments;
 407 b. Evidence-based strategies or programs to reduce the
 408 likelihood of at-risk students developing social, emotional, or
 409 behavioral health problems, depression, anxiety disorders,
 410 suicidal tendencies, or substance use disorders.
 411 c. ~~5~~ Strategies to improve the early identification of
 412 social, emotional, or behavioral problems or substance use
 413 disorders, to provide ~~improve the provision of~~ early
 414 intervention services, and to assist students in dealing with
 415 trauma and violence.
 416 d. Policies and procedures for responding to a student with
 417 suicidal ideation, including risk assessment, guidelines for
 418 informing parents of suicide risk, and school board policies for
 419 initiating involuntary examination of students with suicide
 420 ideation.
 421 e. A school crisis response plan that includes prevention,
 422 preparation for, response to, and recovery from a range of
 423 crises. The plan should include establishment of district-level
 424 and school-level crisis response teams, including, but not
 425 limited to, administration and school-based mental health
 426 service providers.
 427 (c) School districts shall submit approved plans, including
 428 approved plans of each charter school in the district, to the
 429 commissioner by August 1 of each fiscal year.
 430 (d) Beginning September 30, 2019, and annually by September
 431 30 thereafter, each school district shall submit to the
 432 Department of Education a report on its program outcomes and
 433 expenditures for the previous fiscal year. The report must

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

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- 434 reflect program outcomes and expenditures for all charter
 435 schools in the district, including charter schools that
 436 submitted a separate plan. The report must ~~that~~, at a minimum,
 437 must include the number of each of the following:
 438 1. The number of students who receive screenings or
 439 assessments.
 440 2. The number of students who are referred to either
 441 school-based or community-based providers for services or
 442 assistance.
 443 3. The number of students who receive either school-based
 444 or community-based interventions, services, or assistance.
 445 4. The number of school-based and community-based mental
 446 health providers, including licensure type, paid for from funds
 447 provided through the allocation.
 448 5. The number and ratio of school social workers, school
 449 psychologists, and certified school counselors employed by the
 450 district and the total number of licensed mental health
 451 professionals employed directly by the district.
 452 6. ~~5~~ Contract-based collaborative efforts or partnerships
 453 with community mental health programs, agencies, or providers.
 454 (e) The amount of mental health assistance allocation funds
 455 appropriated subsequent to the 2019-2020 fiscal year that are in
 456 excess of the amount appropriated in the 2019-2020 fiscal year
 457 shall be used exclusively to fund additional providers of
 458 school-based mental health services.
 459 (17) FUNDING COMPRESSION ALLOCATION.—The Legislature may
 460 provide an annual funding compression allocation in the General
 461 Appropriations Act. The allocation is created to provide
 462 additional funding to school districts and developmental

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463 research schools whose total funds per FTE in the prior year
 464 were less than the statewide average. Using the most recent
 465 prior year FEEP calculation for each eligible school district,
 466 the total funds per FTE shall be subtracted from the state
 467 average funds per FTE, not including any adjustments made
 468 pursuant to paragraph (19)(b). The resulting funds per FTE
 469 difference, or a portion thereof, as designated in the General
 470 Appropriations Act, shall then be multiplied by the school
 471 district's total unweighted FTE to provide the allocation. If
 472 the calculated funds are greater than the amount included in the
 473 General Appropriations Act, they must be prorated to the
 474 appropriation amount based on each participating school
 475 district's share. ~~This subsection expires July 1, 2020.~~

476 Section 4. Paragraph (c) of subsection (10) of section
 477 1003.4282, Florida Statutes, is amended to read:

478 1003.4282 Requirements for a standard high school diploma.—

479 (10) STUDENTS WITH DISABILITIES.—Beginning with students
 480 entering grade 9 in the 2014-2015 school year, this subsection
 481 applies to a student with a disability.

482 (c) A student with a disability who meets the standard high
 483 school diploma requirements in this section may defer the
 484 receipt of a standard high school diploma if the student:

485 1. Has an individual education plan that prescribes special
 486 education, transition planning, transition services, or related
 487 services through age 21; and

488 2. Is enrolled in accelerated college credit instruction
 489 pursuant to s. 1007.27, industry certification courses that lead
 490 to college credit, an early college ~~a collegiate high school~~
 491 program, courses necessary to satisfy the Scholar designation

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492 requirements, or a structured work-study, internship, or
 493 preapprenticeship program.

494
 495 The State Board of Education shall adopt rules under ss.
 496 120.536(1) and 120.54 to implement this subsection, including
 497 rules that establish the minimum requirements for students
 498 described in this subsection to earn a standard high school
 499 diploma. The State Board of Education shall adopt emergency
 500 rules pursuant to ss. 120.536(1) and 120.54.

501 Section 5. This act shall take effect July 1, 2020.

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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)

March 3, 2020

Meeting Date

62

Bill Number (if applicable)

450044

Amendment Barcode (if applicable)

Topic Education

Name John Cerra

Job Title Lobbyist - Florida League of IB Schools (FLIBS)

Address 206 South Monroe Street # 104

Phone 786-525-6233

Street

Tallahassee

FL

32301

Email cerraj@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing The Florida League of International Baccalaureate Schools (FLIBS)

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)

2/03/2020

Meeting Date

62

Bill Number (if applicable)

Topic Seclusion/Restraint/Students w/ Developmental Disabilities

450044

Amendment Barcode (if applicable)

Name Dixie Sansom

Job Title Lobbyist

Address PO Box 98

Street

Phone 321-543-7195

Cocoa

City

FL

State

32923

Zip

Email dixie.sansom@aol.com

Speaking: For Against Information

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

Representing The Assoc 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 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)

Mar 3, 2020
Meeting Date

PCS 545546/
SB 62
Bill Number (if applicable)

873598
Amendment Barcode (if applicable)

Topic Solar system exemption from cost per student station

Name Katie Chiles Ottenweller

Job Title Southeast Director

Address 151 Estonia St SE
Street

Phone 706.224.8017

Atlanta GA 30316
City State Zip

Email katie@votesolar.org

Speaking: For Against Information

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

Representing VOTE SOLAR

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)

3/3/20

Meeting Date

62

Bill Number (if applicable)

873598

Amendment Barcode (if applicable)

Topic Solar on Schools

Name Richard Pinsky

Job Title

Address 106 E. College Ave - #1200

Street

Phone

Tallahassee FL

32301

Email

City

State

Zip

Speaking: For Against Information

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

Representing Florida Solar Energy Industry 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)

3-20
Meeting Date

SB 62
Bill Number (if applicable)

NOT an existing barcode (with a question mark icon)

424324
Amendment Barcode (if applicable)

Topic Education

Name BRENDA DICKINSON

Job Title Lobbyist

Address PO Box 12563

Phone 850-264-2184

Street

TALLAHASSEE
City

FL
State

32317
Zip

Email CONSULTINGbrenda@gmail.com

Speaking: For Against Information

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

Representing Florida Council of Independent Schools

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)

3/3/2020

Meeting Date

62

Bill Number (if applicable)

Topic SB 62 - K-12 Education

Amendment Barcode (if applicable)

Name Jared Ochs

Job Title Director of Legislative Affairs

Address 325 W. Gaines Street

Phone _____

Street

Tallahassee

Florida

32399

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Education

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)

3/3/20

Meeting Date

5B62

Bill Number (if applicable)

Topic K-12 Education

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Consultant

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Phone 850 322 3317

Street Tally 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 League Women Voters

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)

3/3/2020

Meeting Date

62

Bill Number (if applicable)

Topic K-12 Education

Amendment Barcode (if applicable)

Name James Herzog

Job Title Associate Director for Education

Address 201 West Park Ave

Phone (850) 205-6823

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Tallahassee FL 32301

City

State

Zip

Email jherzog@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

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 Appropriations

BILL: PCS/SB 68 (415562)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Book

SUBJECT: Homelessness

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|------------|--------------------------|
| 1. | <u>Delia</u> | <u>Hendon</u> | <u>CF</u> | <u>Favorable</u> |
| 2. | <u>Sneed</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Sneed</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 68 makes a number of changes to chapter 420, Florida Statutes, relating to homelessness, to bring state laws in line with corresponding federal statutes in order to eliminate outdated provisions and allow sources of federal funding matches to be accessed on an expedited basis. The bill adds two members to the Council on Homelessness. Additionally, the bill makes several changes to challenge grants provided by the State Office on Homelessness within the Department of Children and Families (DCF or department) to the local homeless continuums of care (CoC), which are dedicated to preventing and ending homelessness throughout the state. The bill increases the amount of challenge grant funds each CoC lead agency may receive annually from \$500,000 to \$750,000, and requires each CoC lead agency to document the commitment of local government or private organizations to provide matching funds or in-kind support in an amount equal to 25 percent of the grant requested.

The bill will have an insignificant fiscal impact on state government expenditures.

The bill takes effect July 1, 2020.

II. Present Situation:

Housing for Individuals with Lower Incomes

In 1986,¹ the Legislature found that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.²

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,³ low⁴ and moderate⁵ incomes. In 1986, part VI of ch. 420, F.S., was titled as the “Florida Affordable Care Act of 1986”⁶ and programs and funding mechanisms were created over the years to help remedy low-income housing issues.

State Office on Homelessness

In 2001, the Legislature created the State Office on Homelessness within the Department of Children and Families (DCF) to serve as a central point of contact within state government on homelessness. The State Office on Homelessness is responsible for coordinating resources and programs across all levels of government, and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.⁷

¹ Chapter 86-192, Laws of Fla.

² Section 420.6015, F.S.

³ “Very-low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

⁴ “Low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

⁵ “Moderate-income persons” means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the household is located, whichever is greater.

⁶ Chapter 86-192, Laws of Fla., Part VI, was subsequently renamed the “Affordable Housing Planning and Community Assistance Act” in Chapter 92-317, Laws of Fla.

⁷ Section 420.622(1), F.S.

Council on Homelessness

The inter-agency Council on Homelessness was also created in 2001. The 17-member council is charged with developing recommendations on how to reduce homelessness statewide and advising the State Office on Homelessness.⁸ The council includes:

- The Secretary of the DCF, or his or her designee;
- The Executive Director of the Department of Economic Opportunity, or his or her designee, who shall advise the Council on issues related to rural development;
- The State Surgeon General, or his or her designee;
- The Executive Director of the Department of Veterans' Affairs, or his or her designee;
- The Secretary of the Department of Corrections, or his or her designee;
- The Secretary of the Agency for Health Care Administration, or his or her designee;
- The Commissioner of Education, or his or her designee;
- The Director of CareerSource Florida, Inc., or his or her designee;
- The Executive Director of the Florida Housing Finance Corporation, or his or her designee;
- A representative of the Florida Association of Counties;
- A representative of the Florida League of Cities;
- A representative of the Florida Supportive Housing Coalition;
- A representative of the Florida Coalition for the Homeless; and
- Four members appointed by the Governor.⁹

The council members serve as nonpaid volunteers and are reimbursed only for travel expenses. The council members are appointed to staggered 2-year terms. The council is required to meet at least four times per year.¹⁰

Local Coalitions for the Homeless

The DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.¹¹ Groups and organizations provided the opportunity to participate in such coalitions include:

- Organizations and agencies providing mental health and substance abuse services;
- County health departments and community health centers;
- Organizations and agencies providing food, shelter, or other services targeted to the homeless;
- Local law enforcement agencies;
- Local workforce development boards;
- County and municipal governments;
- Local public housing authorities;
- Local school districts;
- Local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, and runaway youth; and

⁸ *Id.*

⁹ Section 420.622, F.S.

¹⁰ *Id.*

¹¹ Section 420.623, F.S.

- Local community-based care alliances.¹²

Continuum of Care

A local coalition serves as the lead agency for the local homeless assistance continuum of care (CoC).¹³ A local CoC is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.¹⁴ The purpose of a CoC is to help communities or regions envision, plan, and implement comprehensive and long-term solutions.¹⁵

The DCF interacts with the state's 27 CoCs through the State Office on Homelessness, which serves as the state's central point of contact on homelessness. The State Office on Homelessness has designated local entities to serve as lead agencies for local planning efforts to create homeless assistance CoC systems. The State Office on Homelessness has made these designations in consultation with the local homeless coalitions and the Florida offices of the federal Department of Housing and Urban Development (HUD).

The CoC planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local CoC plan is a prerequisite to applying for federal housing grants through HUD. The plan also makes the community eligible to compete for the state's Challenge Grants and Homeless Housing Assistance Grants.¹⁶

Challenge Grants

The State Office on Homelessness is authorized to accept and provide moneys appropriated for Challenge Grants annually to designated lead agencies of homeless assistance CoCs.¹⁷ The State Office on Homelessness may award grants in an amount of up to \$500,000 per lead agency.¹⁸ A lead agency may spend a maximum of 5 percent of its funding on administrative costs. To qualify for the grant, a lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.¹⁹ There is no dedicated revenue for these grants, which in the past have been funded by the Sadowski State and Local Housing Trust Funds, the General Revenue Fund, and state trust funds.

Pursuant to s. 420.624, F.S., the DCF provides funding for the local homeless assistance CoCs, which serve as the framework for providing an array of emergency, transitional, and permanent housing, and services to address the various needs of homeless persons and persons at risk of becoming homeless.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 420.624, F.S.

¹⁵ *Id.*

¹⁶ Florida Department of Children and Families, *Lead Agencies*, available at: <http://www.myflfamilies.com/service-programs/homelessness/lead-agencies> (last visited October 18, 2019).

¹⁷ "Section 420.621(1), F.S., defines "Continuum of Care" to mean the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

¹⁸ Section 420.622, F.S.

¹⁹ *Id.*

In 2017, the Collier homeless coalition used challenge grant funding to help the Shelter for Abused Women & Children with staffing of two case managers who work in outreach and transitional housing, and the remainder of the funds provided emergency rental or utility assistance to nearly 89 adults and 129 children.²⁰ The Volusia/Flagler coalition used challenge grant funding to help lower-income residents pay rent following job losses, car accidents, and other costly expenses.²¹ The Tampa-Hillsborough Homeless Initiative used challenge grant money to establish a financial incentive program for developers, landlords, and property owners, which has successfully reduced homelessness in Hillsborough County.²²

Rapid ReHousing

Rapid ReHousing is a model for providing housing for individuals and families who are homeless. The model places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, hopefully within 30 days of a client becoming homeless and entering a program. While originally focused primarily on people experiencing homelessness due to short-term financial crises, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve. This includes people with limited or no income, survivors of domestic violence, and those with substance abuse issues. Although the duration of financial assistance may vary, many programs find that, on average, four to six months of financial assistance is sufficient to stably re-house a household.²³

Since federal funding for rapid re-housing programs first became available in 2008, a number of communities, including Palm Beach County that prioritized rapid re-housing as a response to homelessness, have seen decreases in the amount of time that households spend homeless, less recidivism, and improved permanent housing outcomes relative to other available interventions.²⁴

There are three core components of Rapid ReHousing programs:

- Housing identification services: Households are matched to appropriate and affordable housing in the community.
- Financial assistance for housing related expenses: Time-limited financial assistance is provided to get individuals and families back on their feet.
- Case management services: Case management services are provided to help households address barriers that prevent access to or stable housing.²⁵

While all three components are found in effective rapid rehousing programs, there are instances where the components are provided by different entities or agencies, or where a household does

²⁰ <https://www.news-press.com/story/news/2018/07/04/gov-rick-scott-acts-resolve-homeless-grant-funding-southwest-florida-agencies/757846002/> (last visited October 18, 2019).

²¹ <https://www.gainesville.com/news/20180703/state-moves-to-fund-homeless-programs> (last visited October 18, 2019).

²² The University of Tampa, *Cypress Landing Cost-Benefit Analysis Report*, (2015). On file with the Senate Children, Families, and Elder Affairs Committee.

²³ National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: <http://www.endhomelessness.org/library/entry/rapid-re-housing-a-history-and-core-components> (last visited October 9, 2019).

²⁴ *Id.*

²⁵ *Id.*

not utilize all three.²⁶ A key element of rapid rehousing is the “Housing First” philosophy, which offers housing without preconditions such as employment, income, lack of a criminal background, or sobriety. If issues such as these need to be addressed, the household can address them most effectively once they are in housing.²⁷

III. Effect of Proposed Changes:

Section 1 amends s. 420.621, F.S., modifying the definition of ‘continuum of care’ to mean a group organized to carry out responsibilities imposed under ch. 420, F.S., to coordinate, plan, and pursue ending homelessness in a designated catchment area. The bill provides that a CoC should be comprised of local community organizations to the extent that they are represented within the catchment area and available to participate.

The bill defines ‘continuum of care lead agency’ or ‘continuum of care collaborative applicant’ as the organization designated by a CoC pursuant to s. 420.6225, F.S.

The bill also redefines ‘homeless’ to mean either:

- An individual or family who lacks a fixed, regular, and adequate nighttime residence as defined under ‘homeless’ in federal statute; or
- An individual or family who will immediately lose their primary nighttime residence as defined under ‘homeless’ in federal statute.

Section 2 amends s. 420.622, F.S., adding to the Council on Homelessness the Secretary of the Department of Elder Affairs, or his or her designee; and a representative of the Florida Housing Coalition. The bill clarifies that only the members appointed by the Governor are to serve staggered 2-year terms and encourages the Governor to appoint individuals that have experience in administering or providing resources, services, or housing that address the needs of persons experiencing homelessness.

The bill replaces the term ‘regionally developed plans’ with the term ‘local continuum of care plans’ to bring state law in line with federal law. The bill also requires the State Office on Homelessness to collect, maintain, and make available information concerning persons who are homeless, including summary demographics information drawn from the local continuum of care Homeless Management Information System or the annual Point-In-Time Count and the local continuum of care Housing Inventory Chart required by HUD. The bill specifies that all entities receiving state funding that provide the council with data on homelessness must provide summary aggregated data, and no individual identifying information. The bill replaces in statute all instances of the term ‘local homeless continuum of care’ and ‘local homeless assistance coalition’ with ‘continuum of care.’

The bill revises the goals of the State Office on Homelessness to promote a federal policy agenda that is responsive to the needs of those who are homeless or at risk of homelessness, rather than only the current homeless population. The bill modifies policy objectives to reflect an emphasis on ending homelessness in the state, as opposed to meeting the needs of the homeless.

²⁶ *Id.*

²⁷ The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. See s. 420.6275, F.S.

The bill increases the maximum amount of challenge grant awards available to each CoC lead agency from \$500,000 to \$750,000, and requires each lead agency to document in writing the commitment of local government or private organizations to provide matching funds or in-kind support in an amount equal to 25 percent of the grant requested. Grant applicants will be ranked competitively based on criteria determined by the State Office on Homelessness. Challenge grant funding for Fiscal Year 2019-2020 was \$3.2 million in recurring funds from the General Revenue Fund.²⁸

The bill changes the requirement that projects reserve for a minimum of 20 years rather than 10 years, the number of housing units acquired, constructed, or rehabilitated through homeless housing assistance grant funds.

The bill also increases the cap on administrative costs for the State Office on Homelessness, and CoC lead agencies who administer the grant to 10 percent.

Section 3 creates s. 420.6225, F.S., to provide that the purpose of a CoC is to coordinate community efforts to prevent and end homelessness in its catchment area. The bill requires each CoC to designate a collaborative applicant that is responsible for submitting a CoC funding application for the designated catchment area to HUD. The bill provides that the collaborative applicant shall serve as the point of contact to the State Office on Homelessness. The bill also requires the State Office on Homelessness to designate and revise as necessary CoC catchment areas, which must be consistent with the catchment areas recognized by HUD. The bill requires the State Office on Homelessness to recognize only one CoC lead agency for each catchment area.

The bill requires each CoC to create a ‘continuum of care plan,’ that includes outreach to unsheltered individuals and families, a coordinated entry system for services, identification of emergency shelters, identification of permanent supportive housing, Rapid ReHousing as specified in ch. 420, F.S., and an ongoing planning mechanism to end homelessness for all populations of persons experiencing homelessness.

The bill also requires CoCs to promote participation by all interested individuals and organizations and may not exclude anyone on the basis of race, color, national origin, sex, handicap, familial status, or religion. The bill also provides for coordination of these individuals and organizations, to the extent possible, with other mainstream health and social services.

Section 4 creates s. 420.6227, F.S., to align the state grant-in-aid program language and requirements²⁹ with federal laws pertaining to homelessness³⁰, which will allow the state to apply for federal matching dollars more efficiently. The bill replaces references to ‘local agencies’ with references to ‘continuums of care’.

Section 5 repeals s. 420.623, F.S., relating to local coalitions for the homeless.

²⁸ Specific Appropriation 346 s. 3, Chapter 2019-115, Laws of Fla.

²⁹ Section 420.625, F.S.

³⁰ See 24 C.F.R. § 576, 24 C.F.R. § 578, 42 U.S.C. § 11383, and 42 U.S.C. § 11360.

Section 6 repeals s. 420.624, F.S., relating to local homeless assistance continuums of care.

Section 7 repeals s. 420.625, F.S., relating to the grant-in-aid program.

Section 8 amends s. 420.626, F.S., making technical revisions to discharge guidelines for homelessness facilities and institutions.

Section 9 amends s. 420.6265, F.S., to revise legislative intent with respect to the Rapid ReHousing strategy. The bill expands legislative intent to provide that Rapid ReHousing is a cost effective approach to ending homelessness and is proven to be more cost effective than alternative approaches. The approach uses temporary financial assistance to quickly move families and individuals into permanent housing and help them remain housed using housing stabilization support services.

Section 10 amends s. 420.6275, F.S., to revise legislative intent with respect to the Housing First methodology. The bill provides findings that the Housing First strategy is a cost effective approach to ending homelessness and reducing the length of time individuals or families are homeless. The bill also provides legislative intent to emphasize maintaining stable housing under the housing first approach.

Section 11 amends s. 420.507, F.S., to correct two cross references.

Section 12 provides an effective date of July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/SB 68 will have an insignificant fiscal impact on state government expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 420.621, 420.622, 420.626, 420.6265, 420.6275, and 420.507.

This bill creates the following sections of the Florida Statutes: 420.6225 and 420.6227.

This bill repeals the following sections of the Florida Statutes: 420.623, 420.624, and 420.625.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 13, 2020:

The committee substitute removes the requirement that \$10 million of all documentary stamp tax money, collected annually by the state, be dedicated to funding the Grants and Donations Trust Fund, within the Department of Children and Families, for the challenge grant program.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to homelessness; amending s. 420.621, F.S.; revising, adding, and deleting defined terms; amending s. 420.622, F.S.; expanding the membership of the Council on Homelessness to include a representative of the Florida Housing Coalition and the Secretary of the Department of Elderly Affairs or his or her designee; providing that the Governor is encouraged to appoint council members who have certain experience; revising the duties of the State Office on Homelessness; revising requirements for the state's homeless programs; requiring entities that receive state funding to provide summary aggregated data to assist the council in providing certain information; removing the requirement that the office have the concurrence of the council to accept and administer moneys appropriated to it to provide certain annual challenge grants to continuums of care lead agencies; increasing the maximum amount of grant awards per continuum of care lead agency; conforming provisions to changes made by the act; revising requirements for the use of grant funds by continuum of care lead agencies; revising preference criteria for certain grants; increasing the maximum percentage of its funding which a continuum of care lead agency may spend on administrative costs; requiring such agencies to submit a final report to the Department of Children



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and Families documenting certain outcomes achieved by grant-funded programs; removing the requirement that the office have the concurrence of the council to administer moneys given to it to provide homeless housing assistance grants annually to certain continuum of care lead agencies to acquire, construct, or rehabilitate permanent housing units for homeless persons; conforming a provision to changes made by the act; requiring grant applicants to be ranked competitively based on criteria determined by the office; deleting preference requirements; increasing the minimum number of years for which projects must reserve certain units acquired, constructed, or rehabilitated; increasing the maximum percentage of funds the office and each applicant may spend on administrative costs; revising certain performance measure requirements; authorizing, instead of requiring, the Department of Children and Families, with input from the council, to adopt rules relating to certain grants and related issues; revising requirements for an annual report the council must submit to the Governor, Legislature, and Secretary of Children and Families; authorizing the office to administer moneys appropriated to it for distribution among certain designated continuum of care lead agencies and entities; creating s. 420.6225, F.S.; specifying the purposes of a continuum of care; requiring each continuum of care, pursuant to federal law, to designate a collaborative applicant that is



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57 responsible for submitting the continuum of care
58 funding application for the designated catchment area
59 to the United States Department of Housing and Urban
60 Development; providing requirements for such
61 designated collaborative applicants; authorizing the
62 applicant to be referred to as the continuum of care
63 lead agency; providing requirements for the office for
64 the purpose of awarding certain federal funding for
65 continuum of care programs; requiring that each
66 continuum of care create a continuum of care plan for
67 specified purposes; specifying requirements for such
68 plans; requiring continuums of care to promote
69 participation by all interested individuals and
70 organizations, subject to certain requirements;
71 creating s. 420.6227, F.S.; providing legislative
72 findings and program purpose; establishing a grant-in-
73 aid program to help continuums of care prevent and end
74 homelessness, which may include any aspect of the
75 local continuum of care plan; requiring continuums of
76 care to submit an application for grant-in-aid funds
77 to the office for review; requiring the office to
78 develop guidelines for the development, evaluation,
79 and approval of spending plans; requiring grant-in-aid
80 funds for continuums of care to be administered by the
81 office and awarded on a competitive basis; requiring
82 the office to distribute such funds to local agencies
83 to fund programs that are required by the local
84 continuum of care plan, based on certain
85 recommendations; limiting the percentage of the total



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86 state funds awarded under a spending plan which may be
87 used by the continuum of care lead agency for staffing
88 and administrative expenditures; requiring entities
89 that contract with local agencies to provide services
90 and that receive certain financial assistance to
91 provide a specified minimum percentage of the funding
92 necessary for the support of project operations;
93 authorizing in-kind contributions to be evaluated and
94 counted as part or all of the required local funding,
95 at the discretion of the office; repealing s. 420.623,
96 F.S., relating to local coalitions for the homeless;
97 repealing s. 420.624, F.S., relating to local homeless
98 assistance continuums of care; repealing s. 420.625,
99 F.S., relating to a grant-in-aid program; amending s.
100 420.626, F.S.; revising procedures that certain
101 facilities and institutions are encouraged to develop
102 and implement to reduce the discharge of persons into
103 homelessness when such persons are admitted to or
104 housed for a specified period at such facilities or
105 institutions; amending s. 420.6265, F.S.; revising
106 legislative findings and intent for Rapid ReHousing;
107 revising the Rapid ReHousing methodology; amending s.
108 420.6275, F.S.; revising legislative findings relating
109 to Housing First; revising the Housing First
110 methodology to reflect current practice; amending s.
111 420.507, F.S.; conforming cross-references; providing
112 an effective date.

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



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Section 1. Section 420.621, Florida Statutes, is amended to read:

420.621 Definitions.—As used in ss. 420.621-420.628, the term:

(1) "Continuum of care" means the group organized to carry out the responsibilities imposed under ss. 420.621-420.628 to coordinate, plan, and pursue ending homelessness in a designated catchment area. The group is composed of representatives from certain organizations, including, but not limited to, nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and organizations that serve other homeless and formerly homeless persons, to the extent that these organizations are represented within the designated catchment area and are available to participate the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness.

(2) "Continuum of care lead agency" or "continuum of care collaborative applicant" means the organization designated by a continuum of care pursuant to s. 420.6225.

~~(3)~~(2) "Council on Homelessness" means the council created in s. 420.622.



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~~(4)~~(3) "Department" means the Department of Children and Families.

~~(4) "District" means a service district of the department, as set forth in s. 20.19.~~

(5) "Homeless," means an individual who or a family that:
(a) Lacks a fixed, regular, and adequate nighttime residence, as defined under "homeless" in 24 C.F.R. 578.3; or

(b) Will imminently lose his, her, or its primary nighttime residence, as defined under "homeless" in 24 C.F.R. 578.3

applied to an individual, or "individual experiencing homelessness" means an individual who lacks a fixed, regular, and adequate nighttime residence and includes an individual who:

(a) Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

(b) Is living in a motel, hotel, travel trailer park, or camping ground due to a lack of alternative adequate accommodations;

(c) Is living in an emergency or transitional shelter;

(d) Has a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(e) Is living in a car, park, public space, abandoned building, bus or train station, or similar setting; or

(f) Is a migratory individual who qualifies as homeless because he or she is living in circumstances described in paragraphs (a) - (e).

The terms do not refer to an individual imprisoned pursuant to state or federal law or to individuals or families who are



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173 ~~sharing housing due to cultural preferences, voluntary~~
174 ~~arrangements, or traditional networks of support. The terms~~
175 ~~include an individual who has been released from jail, prison,~~
176 ~~the juvenile justice system, the child welfare system, a mental~~
177 ~~health and developmental disability facility, a residential~~
178 ~~addiction treatment program, or a hospital, for whom no~~
179 ~~subsequent residence has been identified, and who lacks the~~
180 ~~resources and support network to obtain housing.~~

181 (6) "Local coalition for the homeless" means a coalition
182 established pursuant to s. 420.623.

183 (7) "New and temporary homeless" means individuals or
184 families who are homeless due to societal factors.

185 (6)(8) "State Office on Homelessness" means the state
186 office created in s. 420.622.

187 Section 2. Section 420.622, Florida Statutes, is amended to
188 read:

189 420.622 State Office on Homelessness; Council on
190 Homelessness.—

191 (1) The State Office on Homelessness is created within the
192 Department of Children and Families to provide interagency,
193 council, and other related coordination on issues relating to
194 homelessness.

195 (2) The Council on Homelessness is created to consist of 19
196 ~~members 17 representatives of public and private agencies~~ who
197 shall develop policy and advise the State Office on
198 Homelessness. The council is composed of the following members
199 ~~shall be:~~ the Secretary of Children and Families, or his or her
200 designee; the executive director of the Department of Economic
201 Opportunity, or his or her designee, who shall advise the



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202 council on issues related to rural development; the State
203 Surgeon General, or his or her designee; the Executive Director
204 of Veterans' Affairs, or his or her designee; the Secretary of
205 Corrections, or his or her designee; the Secretary of Health
206 Care Administration, or his or her designee; the Commissioner of
207 Education, or his or her designee; the Director of CareerSource
208 Florida, Inc., or his or her designee; the Executive Director of
209 the Florida Housing Finance Corporation, or his or her designee;
210 the Secretary of the Department of Elderly Affairs, or his or
211 her designee; one representative of the Florida Association of
212 Counties; one representative of the Florida League of Cities;
213 one representative of the Florida Supportive Housing Coalition;
214 one representative of the Florida Coalition for the Homeless;
215 one representative of the Florida Housing Coalition ~~the~~
216 ~~Executive Director of the Florida Housing Finance Corporation,~~
217 ~~or his or her designee; one representative of the Florida~~
218 ~~Coalition for the Homeless;~~ and four members appointed by the
219 Governor, who is encouraged to appoint members who have
220 experience in the administration or the provision of resources
221 or services that address, or of housing that addresses, the
222 needs of persons experiencing homelessness. The council members
223 shall be nonpaid volunteers and shall be reimbursed only for
224 travel expenses. The ~~appointed~~ members of the council appointed
225 by the Governor shall be appointed to staggered 2-year terms,
226 ~~and~~ The council shall meet at least four times per year. The
227 importance of minority, gender, and geographic representation
228 must shall be considered in appointing members to the council.

229 (3) The State Office on Homelessness, pursuant to the
230 policies set by the council and subject to the availability of



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231 funding, shall:

232 (a) Coordinate among state, local, and private agencies and
233 providers to produce a statewide consolidated inventory ~~of for~~
234 the state's ~~entire system of~~ homeless programs, including local
235 continuum of care plans which incorporates regionally developed
236 plans. Such programs include, but are not limited to:

237 1. Programs authorized under the McKinney-Vento Homeless
238 Assistance Stewart B. McKinney Homeless Assistance Act of 1987,
239 as amended by the Homeless Emergency Assistance and Rapid
240 Transition to Housing (HEARTH) Act of 2009, 42 U.S.C. ss. 11302
241 ss. 11371 et seq., and carried out under funds awarded to this
242 state; and

243 2. Programs, components thereof, or activities that assist
244 persons who are homeless or at risk for homelessness.

245 (b) Collect, maintain, and make available information
246 concerning persons who are homeless ~~or at risk for homelessness,~~
247 including summary demographic demographics information drawn
248 from the local continuum of care Homeless Management Information
249 System or the annual Point-in-Time Count and the local continuum
250 of care Housing Inventory Chart required by the Department of
251 Housing and Urban Development, current services and resources
252 available, the cost and availability of services and programs,
253 and the met and unmet needs of this population. To assist the
254 council in providing this information, all entities that receive
255 state funding must provide the council with summary aggregated
256 access to all data they maintain in summary form, which may not
257 include with no individual identifying information, to assist
258 the council in providing this information. The State Office on
259 Homelessness, in consultation with the designated lead agencies



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260 for a ~~local homeless~~ continuum of care and with the Council on
261 Homelessness, shall develop a process by which summary data is
262 collected the system and process of data collection from all
263 lead agencies for the purpose of analyzing trends and assessing
264 impacts in the ~~statewide homeless delivery system~~ for delivering
265 services to the homeless. Any statewide homelessness survey and
266 database system must comply with all state and federal statutory
267 and regulatory confidentiality requirements.

268 (c) Annually evaluate state and continuum of care programs
269 ~~local services and resources~~ and develop a consolidated plan for
270 addressing the needs of the homeless or those at risk for
271 homelessness.

272 (d) Explore, compile, and disseminate information regarding
273 public and private funding sources for state and local programs
274 serving the homeless and provide technical assistance in
275 applying for such funding.

276 (e) Monitor and provide recommendations for coordinating
277 the activities and programs of continuums of care local
278 ~~coalitions for the homeless~~ and promote the effectiveness of
279 programs to prevent and end homelessness in the state addressing
280 ~~the needs of the homeless.~~

281 (f) Provide technical assistance to facilitate efforts to
282 support and strengthen establish, maintain, and expand local
283 ~~homeless assistance~~ continuums of care.

284 (g) Develop and assist in the coordination of policies and
285 procedures relating to the discharge or transfer from the care
286 or custody of state-supported or state-regulated entities
287 persons who are homeless or at risk for homelessness.

288 (h) Spearhead outreach efforts for maximizing access by



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289 people who are homeless or at risk for homelessness to state and
290 federal programs and resources.

291 (i) Promote a federal policy agenda that is responsive to
292 the needs of those who are homeless or at risk of homelessness
293 ~~the homeless population~~ in this state.

294 (j) Review reports on continuum of care performance
295 measures and Develop outcome and accountability measures and
296 ~~promote and~~ use such measures to evaluate program effectiveness
297 and make recommendations for improving current practices to work
298 toward ending homelessness in this state in order to best meet
299 the needs of the homeless.

300 (k) Formulate policies and legislative proposals aimed at
301 preventing and ending homelessness in this state to address more
302 ~~effectively the needs of the homeless~~ and coordinate the
303 implementation of state and federal legislative policies.

304 (l) Convene meetings and workshops of state and local
305 agencies, continuum of care local coalitions and programs, and
306 other stakeholders for the purpose of developing and reviewing
307 policies, services, activities, coordination, and funding of
308 efforts to end homelessness meet the needs of the homeless.

309 (m) With the input of the continuum of care, conduct or
310 promote research on the effectiveness of current programs and
311 propose pilot projects aimed at ending homelessness improving
312 services.

313 (n) Serve as an advocate for issues relating to
314 homelessness.

315 (o) Investigate ways to improve access to participation in
316 state funding and other programs for prevention and alleviation
317 of homelessness to faith-based organizations and Collaborate and



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318 coordinate with faith-based organizations, investigate ways to
319 improve such organizations' access to state funding, and
320 investigate ways to improve such organizations' participation in
321 other programs that are intended to prevent and reduce
322 homelessness.

323 (4) The State Office on Homelessness, ~~with the concurrence~~
324 ~~of the Council on Homelessness~~, shall accept and administer
325 moneys appropriated to it to provide annual "challenge grants"
326 to lead agencies of ~~homeless assistance~~ continuums of care
327 designated by the State Office on Homelessness pursuant to s.
328 420.6225 s. 420.624. The department shall establish varying
329 levels of grant awards up to \$750,000 \$500,000 per continuum of
330 care lead agency. The department, in consultation with the
331 Council on Homelessness, shall specify a grant award level in
332 the notice of the solicitation of grant applications.

333 (a) To qualify for a the grant, a continuum of care lead
334 agency must develop and implement a local homeless assistance
335 continuum of care plan for its designated catchment area. The
336 services and housing funded through the grant must be
337 implemented through the continuum of care's continuum of care
338 plan must implement a coordinated assessment or central intake
339 entry system as provided in s. 420.6225(4)(b) and must be
340 designed to screen, assess, and refer persons seeking assistance
341 to the appropriate housing intervention and service provider.
342 The continuum of care lead agency shall also document the
343 commitment of local government or private organizations to
344 provide matching funds or in-kind support in an amount equal to
345 25 percent of the grant requested. Expenditures of leveraged
346 funds or resources, including third-party cash or in-kind



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347 contributions, ~~may be made are authorized~~ only for eligible
348 activities ~~carried out in connection with a committed on one~~
349 project. ~~Such funds or resources may which have~~ not ~~have~~ been
350 used as leverage or match for any other project or program. ~~The~~
351 ~~expenditures and~~ must be certified through a written commitment.

352 (b) Preference must be given to continuum of care ~~those~~
353 lead agencies that have demonstrated the ability of their
354 continuum of care to help households move out of homelessness
355 ~~provide quality services to homeless persons and the ability to~~
356 ~~leverage federal homeless-assistance funding under the Stewart~~
357 ~~B. McKinney Act with local government funding or private funding~~
358 ~~for the provision of services to homeless persons.~~

359 (c) Preference must be given to lead agencies in catchment
360 areas with the greatest need for the provision of housing and
361 services to the homeless, relative to the population of the
362 catchment area.

363 (c)(d) The grant may be used to fund any of the housing,
364 program, or service needs included in the local ~~homeless~~
365 ~~assistance~~ continuum of care plan. The continuum of care lead
366 agency may allocate the grant to programs, services, or housing
367 providers that implement the local ~~homeless assistance~~ continuum
368 ~~of~~ care plan. The lead agency may provide subgrants to a local
369 agency to implement programs or services or provide housing
370 identified for funding in the lead agency's application to the
371 department. A lead agency may spend a maximum of 10 ~~8~~ percent of
372 its funding on administrative costs.

373 (d)(e) The continuum of care lead agency shall submit a
374 final report to the department documenting the outcomes achieved
375 by the grant-funded programs ~~grant~~ in enabling persons who are



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376 homeless to return to permanent housing, thereby ending such
377 person's episode of homelessness.

378 (5) The State Office on Homelessness, ~~with the concurrence~~
379 ~~of the Council on Homelessness,~~ may administer moneys given
380 ~~appropriated~~ to it to provide homeless housing assistance grants
381 annually to continuum of care lead agencies ~~for local homeless~~
382 ~~assistance continuum of care,~~ as recognized by the State Office
383 on Homelessness, to acquire, construct, or rehabilitate
384 ~~transitional or~~ permanent housing units for homeless persons.
385 These moneys shall consist of any sums that the state may
386 appropriate, as well as money received from donations, gifts,
387 bequests, or otherwise from any public or private source, which
388 are intended to acquire, construct, or rehabilitate ~~transitional~~
389 ~~or~~ permanent housing units for homeless persons.

390 (a) Grant applicants shall be ranked competitively based on
391 criteria determined by the State Office on Homelessness.
392 ~~Preference must be given to applicants who leverage additional~~
393 ~~private funds and public funds, particularly federal funds~~
394 ~~designated for the acquisition, construction, or rehabilitation~~
395 ~~of transitional or permanent housing for homeless persons; who~~
396 ~~acquire, build, or rehabilitate the greatest number of units; or~~
397 ~~who acquire, build, or rehabilitate in catchment areas having~~
398 ~~the greatest need for housing for the homeless relative to the~~
399 ~~population of the catchment area.~~

400 (b) Funding for any particular project may not exceed
401 \$750,000.

402 (c) Projects must reserve, for a minimum of 20 ~~10~~ years,
403 the number of units acquired, constructed, or rehabilitated
404 through homeless housing assistance grant funding to serve



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405 persons who are homeless at the time they assume tenancy.
406 (d) No more than two grants may be awarded annually in any
407 given ~~local homeless assistance~~ continuum of care catchment
408 area.
409 (e) A project may not be funded which is not included in
410 the local ~~homeless assistance~~ continuum of care plan, as
411 recognized by the State Office on Homelessness, for the
412 catchment area in which the project is located.
413 (f) The maximum percentage of funds that the State Office
414 on Homelessness and each applicant may spend on administrative
415 costs is 10 ~~5~~ percent.
416 (6) The State Office on Homelessness, in conjunction with
417 the Council on Homelessness, shall establish performance
418 measures related to state funding provided through the State
419 Office on Homelessness and shall utilize those grant-related
420 measures to and specific objectives by which it may evaluate the
421 performance and outcomes of continuum of care lead agencies that
422 receive state grant funds. Challenge Grants made through the
423 State Office on Homelessness shall be distributed to lead
424 agencies based on their overall performance and their
425 achievement of specified objectives. Each lead agency for which
426 grants are made under this section shall provide the State
427 Office on Homelessness a thorough evaluation of the
428 effectiveness of the program in achieving its stated purpose. In
429 evaluating the performance of the lead agencies, the State
430 Office on Homelessness shall base its criteria upon the program
431 objectives, goals, and priorities that were set forth by the
432 lead agencies in their proposals for funding. Such criteria may
433 include, but are not limited to, the number of persons or



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434 ~~households that are no longer homeless, the rate of recidivism~~
435 ~~to homelessness, and the number of persons who obtain gainful~~
436 ~~employment.~~
437 (7) The State Office on Homelessness shall ~~must~~ monitor the
438 challenge grants and homeless housing assistance grants to
439 ensure proper expenditure of funds and compliance with the
440 conditions of the applicant's contract.
441 (8) The Department of Children and Families, with input
442 from the Council on Homelessness, may ~~must~~ adopt rules relating
443 to the challenge grants and the homeless housing assistance
444 grants and related issues consistent with the purposes of this
445 section.
446 (9) ~~The council shall,~~ By June 30 of each year, the council
447 shall provide to the Governor, the Legislature, and the
448 Secretary of Children and Families a report summarizing the
449 extent of homelessness in the state and the council's
450 recommendations for ending ~~reducing~~ homelessness in this state.
451 (10) The State Office on Homelessness may administer moneys
452 appropriated to it for distribution among the continuum of care
453 lead agencies and entities funded in the 2020-2021 state fiscal
454 year which are designated by the office as local coalitions for
455 the homeless ~~28 local homeless continuums of care designated by~~
456 ~~the Department of Children and Families.~~
457 Section 3. Section 420.6225, Florida Statutes, is created
458 to read:
459 420.6225 Continuum of care.—
460 (1) The purposes of a continuum of care, as defined in s.
461 420.621, are to coordinate community efforts to prevent and end
462 homelessness in its catchment area designated as provided in



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463 subsection (3) and to fulfill the responsibilities set forth in
464 this chapter.

465 (2) Pursuant to the Homeless Emergency Assistance and Rapid
466 Transition to Housing (HEARTH) Act of 2009, each continuum of
467 care is required to designate a collaborative applicant that is
468 responsible for submitting the continuum of care funding
469 application for the designated catchment area to the United
470 States Department of Housing and Urban Development. The
471 continuum of care collaborative applicant shall serve as the
472 continuum of care's point of contact to the State Office on
473 Homelessness, is accountable for representations made in the
474 application, and, in carrying out its responsibilities under
475 this chapter, may be referred to as the continuum of care lead
476 agency.

477 (3) For the purpose of awarding federal homeless assistance
478 funding for continuum of care programs, the State Office on
479 Homelessness shall do both of the following:

480 (a) Designate and, as necessary, revise continuum of care
481 catchment areas, which must be consistent with the continuum of
482 care catchment areas recognized by the United States Department
483 of Housing and Urban Development.

484 (b) Recognize a single continuum of care lead agency for
485 each such catchment area, which must be consistent with the
486 continuum of care collaborative applicant designation recognized
487 by the United States Department of Housing and Urban
488 Development.

489 (4) Each continuum of care shall create a continuum of care
490 plan, the purpose of which is to implement an effective and
491 efficient housing crisis response system to prevent and end



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492 homelessness in the continuum of care catchment area. A
493 continuum of care plan must include all of the following
494 components:

495 (a) Outreach to unsheltered individuals and families to
496 link them with appropriate housing interventions.

497 (b) A coordinated entry system, compliant with the
498 requirements of the Homeless Emergency Assistance and Rapid
499 Transition to Housing (HEARTH) Act of 2009, which is designed to
500 coordinate intake, utilize common assessment tools, prioritize
501 households for housing interventions, and refer households to
502 the appropriate housing intervention.

503 (c) Emergency shelter, designed to provide safe temporary
504 shelter while the household is in the process of obtaining
505 permanent housing.

506 (d) Supportive services, designed to maximize housing
507 stability once the household is in permanent housing.

508 (e) Permanent supportive housing, designed to provide long-
509 term affordable housing and support services to persons with
510 disabilities who are moving out of homelessness.

511 (f) Rapid ReHousing, as specified in s. 420.6265.

512 (g) Permanent housing, including linkages to affordable
513 housing, subsidized housing, long-term rent assistance, housing
514 vouchers, and mainstream private sector housing.

515 (h) An ongoing planning mechanism to end homelessness for
516 all subpopulations of persons experiencing homelessness.

517 (5) Continuums of care must promote participation by all
518 interested individuals and organizations and may not exclude
519 individuals and organizations on the basis of race, color,
520 national origin, sex, handicap, familial status, or religion.



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521 Faith-based organizations, local governments, and persons who
522 have experienced homelessness are encouraged to participate. To
523 the extent possible, these individuals and organizations must be
524 coordinated and integrated with other mainstream health, social
525 services, and employment programs for which homeless populations
526 may be eligible, including, but not limited to, Medicaid, the
527 State Children's Health Insurance Program, the Temporary
528 Assistance for Needy Families Program, the Food Assistance
529 Program, and services funded through the Mental Health and
530 Substance Abuse Block Grant, the Workforce Innovation and
531 Opportunity Act, and the welfare-to-work grant program.

532 Section 4. Section 420.6227, Florida Statutes, is created
533 to read:

534 420.6227 Grant-in-aid program.—

535 (1) LEGISLATIVE FINDINGS.—The Legislature hereby finds and
536 declares that many services for households experiencing
537 homelessness have been provided by local communities through
538 voluntary private agencies and religious organizations and that
539 these resources have not been sufficient to prevent and end
540 homelessness in this state. The Legislature recognizes that the
541 level of need and types of problems associated with homelessness
542 may vary from community to community, due to the diversity and
543 geographic distribution of the homeless population and the
544 resulting differing needs of particular communities.

545 (2) PURPOSE.—The principal purpose of the grant-in-aid
546 program is to provide needed assistance to continuums of care to
547 enable them to do all of the following:

548 (a) Assist persons in their communities who have become, or
549 may likely become, homeless.



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550 (b) Help homeless households move to permanent housing as
551 quickly as possible.

552 (3) ESTABLISHMENT.—There is hereby established a state
553 grant-in-aid program to help continuums of care prevent and end
554 homelessness, which may include any aspect of the local
555 continuum of care plan, as described in s. 420.6225.

556 (4) APPLICATION PROCEDURE.—Continuums of care that intend
557 to apply for the grant-in-aid program must submit an application
558 for grant-in-aid funds to the State Office on Homelessness for
559 review.

560 (5) SPENDING PLANS.—The State Office on Homelessness shall
561 develop guidelines for the development, evaluation, and approval
562 of spending plans that are created by local continuum of care
563 lead agencies.

564 (6) ALLOCATION OF GRANT FUNDS.—The State Office on
565 Homelessness shall administer state grant-in-aid funds for
566 continuums of care, which must be awarded on a competitive
567 basis.

568 (7) DISTRIBUTION TO LOCAL AGENCIES.—The State Office on
569 Homelessness shall distribute funds awarded under subsection (6)
570 to local agencies to fund programs that are required by the
571 local continuum of care plan, as described in s. 420.6225 and
572 that are authorized under subsection (3), based upon the
573 recommendations of the local continuum of care lead agencies, in
574 accordance with spending plans that are developed by the lead
575 agencies and approved by the office. Not more than 10 percent of
576 the total state funds awarded under a spending plan may be used
577 by the continuum of care lead agency for staffing and
578 administrative expenditures.



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579 (8) LOCAL MATCHING FUNDS.—If an entity contracts with local
580 agencies to provide services and receives financial assistance
581 under this section, the entity must provide a minimum of 25
582 percent of the funding necessary for the support of project
583 operations. In-kind contributions, including, but not limited
584 to, materials, commodities, transportation, office space, other
585 types of facilities, or personal services, may be evaluated and
586 counted as part or all of the required local funding, at the
587 discretion of the State Office on Homelessness.

588 Section 5. Section 420.623, Florida Statutes, is repealed.

589 Section 6. Section 420.624, Florida Statutes, is repealed.

590 Section 7. Section 420.625, Florida Statutes, is repealed.

591 Section 8. Subsection (3) of section 420.626, Florida
592 Statutes, is amended, and subsection (2) of that section is
593 republished, to read:

594 420.626 Homelessness; discharge guidelines.—

595 (2) The following facilities and institutions are
596 encouraged to develop and implement procedures designed to
597 reduce the discharge of persons into homelessness when such
598 persons are admitted or housed for more than 24 hours at such
599 facilities or institutions: hospitals and inpatient medical
600 facilities; crisis stabilization units; residential treatment
601 facilities; assisted living facilities; and detoxification
602 centers.

603 (3) The procedures should include all of the following:

604 (a) Development and implementation of a screening process
605 or other mechanism for identifying persons to be discharged from
606 the facility or institution who are at considerable risk for
607 homelessness or face some imminent threat to health and safety



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608 upon discharge.†

609 (b) Development and implementation of a discharge plan
610 addressing how identified persons will secure housing and other
611 needed care and support upon discharge.†

612 (c) ~~Communication with Assessment of the capabilities of~~
613 ~~the entities to whom identified persons may potentially be~~
614 ~~discharged to determine their capability to serve such persons~~
615 ~~and their acceptance of such discharge into their programs, and~~
616 ~~selection of the entity determined to be best equipped to~~
617 ~~provide or facilitate the provision of suitable care and~~
618 ~~support.†~~

619 (d) Coordination of effort and sharing of information with
620 entities that are expected to bear the responsibility for
621 providing care or support to identified persons upon discharge.†
622 ~~and~~

623 (e) Provision of sufficient medication, medical equipment
624 and supplies, clothing, transportation, and other basic
625 resources necessary to assure that the health and well-being of
626 identified persons are not jeopardized upon their discharge.

627 Section 9. Section 420.6265, Florida Statutes, is amended
628 to read:

629 420.6265 Rapid ReHousing.—

630 (1) LEGISLATIVE FINDINGS AND INTENT.—

631 (a) The Legislature finds that Rapid ReHousing is a
632 strategy of using temporary financial assistance ~~and case~~
633 ~~management~~ to quickly move an individual or family out of
634 homelessness and into permanent housing, and using housing
635 stabilization support services to help them remain stably
636 housed.



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637 (b) The Legislature also finds that public and private
638 solutions to homelessness in the past have focused on providing
639 individuals and families who are experiencing homelessness with
640 emergency shelter, transitional housing, or a combination of
641 both. While emergency shelter and transitional housing programs
642 may provide critical access to services for individuals and
643 families in crisis, the programs often fail to address permanent
644 housing their long-term needs and may unnecessarily extend their
645 episodes of homelessness.

646 (c) The Legislature further finds that most households
647 become homeless as a result of a financial crisis that prevents
648 individuals and families from paying rent or a domestic conflict
649 that results in one member being ejected or leaving without
650 resources or a plan for housing.

651 (d) The Legislature further finds that Rapid ReHousing is a
652 cost-effective is an alternative approach to ending homelessness
653 which reduces to the current system of emergency shelter or
654 transitional housing which tends to reduce the length of time
655 that a person is homeless and which is demonstrably more has
656 proven to be cost effective than alternative approaches.

657 (e) It is therefore the intent of the Legislature to
658 encourage ~~homeless~~ continuums of care to adopt the Rapid
659 ReHousing approach to ending preventing homelessness for
660 individuals who and families that ~~who~~ do not require the
661 intensive intense level of supports provided in the permanent
662 supportive housing model.

663 (2) RAPID REHOUSING METHODOLOGY.—

664 (a) The Rapid ReHousing response to homelessness differs
665 from traditional approaches to addressing homelessness by



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666 focusing on each individual's or family's barriers to housing.
667 By using this approach, communities can significantly reduce the
668 amount of time that individuals and families are homeless and
669 prevent further episodes of homelessness.

670 (b) In Rapid ReHousing, when an individual or a family is
671 identified as being homeless, the individual or family is
672 assessed and prioritized for housing through the continuum of
673 care's coordinated entry system, temporary assistance is
674 provided to allow the individual or family to obtain permanent
675 housing as quickly as possible, and necessary, if needed,
676 assistance is provided to allow the individual or family to
677 retain housing.

678 (c) The objective of Rapid ReHousing is to provide
679 assistance for as short a term as possible so that the
680 individual or family receiving assistance attains stability and
681 integration into the community as quickly as possible ~~does not~~
682 ~~develop a dependency on the assistance.~~

683 Section 10. Section 420.6275, Florida Statutes, is amended
684 to read:

685 420.6275 Housing First.—

686 (1) LEGISLATIVE FINDINGS AND INTENT.—

687 (a) The Legislature finds that many communities plan to
688 manage homelessness rather than ~~plan to~~ end it.

689 (b) The Legislature also finds that for nearly most of the
690 ~~past~~ two decades, public and private solutions to homelessness
691 ~~have~~ focused on providing individuals and families who ~~were are~~
692 experiencing homelessness with emergency shelter, transitional
693 housing, or a combination of both. This strategy failed to
694 recognize that, while emergency shelter programs may provide



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695 critical access to services for individuals and families in
696 crisis, they often fail to address their long-term needs.

697 (c) The Legislature further finds that Housing First is a
698 cost-effective an alternative approach to the current system of
699 emergency shelter or transitional housing which tends to ending
700 homelessness and reducing ~~reduce~~ the length of time of
701 homelessness for many individuals and families and has proven to
702 be cost-effective.

703 (d) It is therefore the intent of the Legislature to
704 encourage ~~homeless~~ continuums of care to adopt the Housing First
705 approach to ending homelessness for individuals and families.

706 (2) HOUSING FIRST METHODOLOGY.—

707 (a) The Housing First approach to homelessness provides
708 permanent ~~differs from traditional approaches by providing~~
709 housing assistance, followed by case management, and support
710 services responsive to individual or family needs once after
711 housing is obtained. By using this approach when appropriate,
712 communities can significantly reduce the amount of time that
713 individuals and families are homeless and prevent further
714 episodes of homelessness. Housing First emphasizes that social
715 services provided to enhance individual and family well-being
716 can be more effective when people are in their own home, and:

- 717 1. The housing is not time-limited.
718 2. The housing is not contingent on compliance with
719 services. Instead, participants must comply with a standard
720 lease agreement.

721 3. Individuals and families ~~and~~ are provided with
722 individualized ~~the~~ services and support ~~that are~~ necessary to
723 help them maintain stable housing ~~do so successfully~~.



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724 3. ~~A background check and any rehabilitation necessary to~~
725 ~~combat an addiction related to alcoholism or substance abuse has~~
726 ~~been completed by the individual for whom assistance or support~~
727 ~~services are provided.~~

728 (b) The Housing First approach addresses the societal
729 causes of homelessness and advocates for the immediate return of
730 individuals and families into housing and communities. Housing
731 First links affordable housing with community-based social
732 service and health care organizations ~~Housing First provides a~~
733 ~~critical link between the emergency and transitional housing~~
734 ~~system and community based social service, educational, and~~
735 ~~health care organizations~~ and consists of four components:

- 736 1. Crisis intervention and short-term stabilization.
737 2. Screening, intake, and needs assessment.
738 3. Provision of housing resources.
739 4. Provision of case management.

740 Section 11. Paragraph (d) of subsection (22) of section
741 420.507, Florida Statutes, is amended to read:

742 420.507 Powers of the corporation.—The corporation shall
743 have all the powers necessary or convenient to carry out and
744 effectuate the purposes and provisions of this part, including
745 the following powers which are in addition to all other powers
746 granted by other provisions of this part:

747 (22) To develop and administer the State Apartment
748 Incentive Loan Program. In developing and administering that
749 program, the corporation may:

750 (d) In counties or rural areas of counties that do not have
751 existing units set aside for homeless persons, forgive
752 indebtedness for loans provided to create permanent rental



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753 housing units for persons who are homeless, as defined in s.
754 420.621 ~~s. 420.621(5)~~, or for persons residing in time-limited
755 transitional housing or institutions as a result of a lack of
756 permanent, affordable housing. Such developments must be
757 supported by a ~~local homeless assistance~~ continuum of care
758 developed under s. 420.6225 ~~s. 420.624~~, be developed by
759 nonprofit applicants, be small properties as defined by
760 corporation rule, and be a project in the local housing
761 assistance continuum of care plan recognized by the State Office
762 on Homelessness.

763 Section 12. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/SB 68

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Book

SUBJECT: Homelessness

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|------------|--------------------------|
| 1. | <u>Delia</u> | <u>Hendon</u> | <u>CF</u> | <u>Favorable</u> |
| 2. | <u>Sneed</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Sneed</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 68 makes a number of changes to chapter 420, Florida Statutes, relating to homelessness, to bring state laws in line with corresponding federal statutes in order to eliminate outdated provisions and allow sources of federal funding matches to be accessed on an expedited basis. The bill adds two members to the Council on Homelessness. Additionally, the bill makes several changes to challenge grants provided by the State Office on Homelessness within the Department of Children and Families (DCF or department) to the local homeless continuums of care (CoC), which are dedicated to preventing and ending homelessness throughout the state. The bill increases the amount of challenge grant funds each CoC lead agency may receive annually from \$500,000 to \$750,000, and requires each CoC lead agency to document the commitment of local government or private organizations to provide matching funds or in-kind support in an amount equal to 25 percent of the grant requested.

The bill will have an insignificant fiscal impact on state government expenditures.

The bill takes effect July 1, 2020.

II. Present Situation:

Housing for Individuals with Lower Incomes

In 1986,¹ the Legislature found that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.²

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,³ low⁴ and moderate⁵ incomes. In 1986, part VI of ch. 420, F.S., was titled as the “Florida Affordable Care Act of 1986”⁶ and programs and funding mechanisms were created over the years to help remedy low-income housing issues.

State Office on Homelessness

In 2001, the Legislature created the State Office on Homelessness within the Department of Children and Families (DCF) to serve as a central point of contact within state government on homelessness. The State Office on Homelessness is responsible for coordinating resources and programs across all levels of government, and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.⁷

¹ Chapter 86-192, Laws of Fla.

² Section 420.6015, F.S.

³ “Very-low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

⁴ “Low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

⁵ “Moderate-income persons” means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the household is located, whichever is greater.

⁶ Chapter 86-192, Laws of Fla., Part VI, was subsequently renamed the “Affordable Housing Planning and Community Assistance Act” in Chapter 92-317, Laws of Fla.

⁷ Section 420.622(1), F.S.

Council on Homelessness

The inter-agency Council on Homelessness was also created in 2001. The 17-member council is charged with developing recommendations on how to reduce homelessness statewide and advising the State Office on Homelessness.⁸ The council includes:

- The Secretary of the DCF, or his or her designee;
- The Executive Director of the Department of Economic Opportunity, or his or her designee, who shall advise the Council on issues related to rural development;
- The State Surgeon General, or his or her designee;
- The Executive Director of the Department of Veterans' Affairs, or his or her designee;
- The Secretary of the Department of Corrections, or his or her designee;
- The Secretary of the Agency for Health Care Administration, or his or her designee;
- The Commissioner of Education, or his or her designee;
- The Director of CareerSource Florida, Inc., or his or her designee;
- The Executive Director of the Florida Housing Finance Corporation, or his or her designee;
- A representative of the Florida Association of Counties;
- A representative of the Florida League of Cities;
- A representative of the Florida Supportive Housing Coalition;
- A representative of the Florida Coalition for the Homeless; and
- Four members appointed by the Governor.⁹

The council members serve as nonpaid volunteers and are reimbursed only for travel expenses. The council members are appointed to staggered 2-year terms. The council is required to meet at least four times per year.¹⁰

Local Coalitions for the Homeless

The DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.¹¹ Groups and organizations provided the opportunity to participate in such coalitions include:

- Organizations and agencies providing mental health and substance abuse services;
- County health departments and community health centers;
- Organizations and agencies providing food, shelter, or other services targeted to the homeless;
- Local law enforcement agencies;
- Local workforce development boards;
- County and municipal governments;
- Local public housing authorities;
- Local school districts;
- Local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, and runaway youth; and

⁸ *Id.*

⁹ Section 420.622, F.S.

¹⁰ *Id.*

¹¹ Section 420.623, F.S.

- Local community-based care alliances.¹²

Continuum of Care

A local coalition serves as the lead agency for the local homeless assistance continuum of care (CoC).¹³ A local CoC is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.¹⁴ The purpose of a CoC is to help communities or regions envision, plan, and implement comprehensive and long-term solutions.¹⁵

The DCF interacts with the state's 27 CoCs through the State Office on Homelessness, which serves as the state's central point of contact on homelessness. The State Office on Homelessness has designated local entities to serve as lead agencies for local planning efforts to create homeless assistance CoC systems. The State Office on Homelessness has made these designations in consultation with the local homeless coalitions and the Florida offices of the federal Department of Housing and Urban Development (HUD).

The CoC planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local CoC plan is a prerequisite to applying for federal housing grants through HUD. The plan also makes the community eligible to compete for the state's Challenge Grants and Homeless Housing Assistance Grants.¹⁶

Challenge Grants

The State Office on Homelessness is authorized to accept and provide moneys appropriated for Challenge Grants annually to designated lead agencies of homeless assistance CoCs.¹⁷ The State Office on Homelessness may award grants in an amount of up to \$500,000 per lead agency.¹⁸ A lead agency may spend a maximum of 5 percent of its funding on administrative costs. To qualify for the grant, a lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.¹⁹ There is no dedicated revenue for these grants, which in the past have been funded by the Sadowski State and Local Housing Trust Funds, the General Revenue Fund, and state trust funds.

Pursuant to s. 420.624, F.S., the DCF provides funding for the local homeless assistance CoCs, which serve as the framework for providing an array of emergency, transitional, and permanent housing, and services to address the various needs of homeless persons and persons at risk of becoming homeless.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 420.624, F.S.

¹⁵ *Id.*

¹⁶ Florida Department of Children and Families, *Lead Agencies*, available at: <http://www.myflfamilies.com/service-programs/homelessness/lead-agencies> (last visited October 18, 2019).

¹⁷ "Section 420.621(1), F.S., defines "Continuum of Care" to mean the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

¹⁸ Section 420.622, F.S.

¹⁹ *Id.*

In 2017, the Collier homeless coalition used challenge grant funding to help the Shelter for Abused Women & Children with staffing of two case managers who work in outreach and transitional housing, and the remainder of the funds provided emergency rental or utility assistance to nearly 89 adults and 129 children.²⁰ The Volusia/Flagler coalition used challenge grant funding to help lower-income residents pay rent following job losses, car accidents, and other costly expenses.²¹ The Tampa-Hillsborough Homeless Initiative used challenge grant money to establish a financial incentive program for developers, landlords, and property owners, which has successfully reduced homelessness in Hillsborough County.²²

Rapid ReHousing

Rapid ReHousing is a model for providing housing for individuals and families who are homeless. The model places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, hopefully within 30 days of a client becoming homeless and entering a program. While originally focused primarily on people experiencing homelessness due to short-term financial crises, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve. This includes people with limited or no income, survivors of domestic violence, and those with substance abuse issues. Although the duration of financial assistance may vary, many programs find that, on average, four to six months of financial assistance is sufficient to stably re-house a household.²³

Since federal funding for rapid re-housing programs first became available in 2008, a number of communities, including Palm Beach County that prioritized rapid re-housing as a response to homelessness, have seen decreases in the amount of time that households spend homeless, less recidivism, and improved permanent housing outcomes relative to other available interventions.²⁴

There are three core components of Rapid ReHousing programs:

- Housing identification services: Households are matched to appropriate and affordable housing in the community.
- Financial assistance for housing related expenses: Time-limited financial assistance is provided to get individuals and families back on their feet.
- Case management services: Case management services are provided to help households address barriers that prevent access to or stable housing.²⁵

While all three components are found in effective rapid rehousing programs, there are instances where the components are provided by different entities or agencies, or where a household does

²⁰ <https://www.news-press.com/story/news/2018/07/04/gov-rick-scott-acts-resolve-homeless-grant-funding-southwest-florida-agencies/757846002/> (last visited October 18, 2019).

²¹ <https://www.gainesville.com/news/20180703/state-moves-to-fund-homeless-programs> (last visited October 18, 2019).

²² The University of Tampa, *Cypress Landing Cost-Benefit Analysis Report*, (2015). On file with the Senate Children, Families, and Elder Affairs Committee.

²³ National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: <http://www.endhomelessness.org/library/entry/rapid-re-housing-a-history-and-core-components> (last visited October 9, 2019).

²⁴ *Id.*

²⁵ *Id.*

not utilize all three.²⁶ A key element of rapid rehousing is the “Housing First” philosophy, which offers housing without preconditions such as employment, income, lack of a criminal background, or sobriety. If issues such as these need to be addressed, the household can address them most effectively once they are in housing.²⁷

III. Effect of Proposed Changes:

Section 1 amends s. 420.621, F.S., modifying the definition of ‘continuum of care’ to mean a group organized to carry out responsibilities imposed under ch. 420, F.S., to coordinate, plan, and pursue ending homelessness in a designated catchment area. The bill provides that a CoC should be comprised of local community organizations to the extent that they are represented within the catchment area and available to participate.

The bill defines ‘continuum of care lead agency’ or ‘continuum of care collaborative applicant’ as the organization designated by a CoC pursuant to s. 420.6225, F.S.

The bill also redefines ‘homeless’ to mean either:

- An individual or family who lacks a fixed, regular, and adequate nighttime residence as defined under ‘homeless’ in federal statute; or
- An individual or family who will immediately lose their primary nighttime residence as defined under ‘homeless’ in federal statute.

Section 2 amends s. 420.622, F.S., adding to the Council on Homelessness the Secretary of the Department of Elder Affairs, or his or her designee; and a representative of the Florida Housing Coalition. The bill clarifies that only the members appointed by the Governor are to serve staggered 2-year terms and encourages the Governor to appoint individuals that have experience in administering or providing resources, services, or housing that address the needs of persons experiencing homelessness.

The bill replaces the term ‘regionally developed plans’ with the term ‘local continuum of care plans’ to bring state law in line with federal law. The bill also requires the State Office on Homelessness to collect, maintain, and make available information concerning persons who are homeless, including summary demographics information drawn from the local continuum of care Homeless Management Information System or the annual Point-In-Time Count and the local continuum of care Housing Inventory Chart required by HUD. The bill specifies that all entities receiving state funding that provide the council with data on homelessness must provide summary aggregated data, and no individual identifying information. The bill replaces in statute all instances of the term ‘local homeless continuum of care’ and ‘local homeless assistance coalition’ with ‘continuum of care.’

The bill revises the goals of the State Office on Homelessness to promote a federal policy agenda that is responsive to the needs of those who are homeless or at risk of homelessness, rather than only the current homeless population. The bill modifies policy objectives to reflect an emphasis on ending homelessness in the state, as opposed to meeting the needs of the homeless.

²⁶ *Id.*

²⁷ The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. See s. 420.6275, F.S.

The bill increases the maximum amount of challenge grant awards available to each CoC lead agency from \$500,000 to \$750,000, and requires each lead agency to document in writing the commitment of local government or private organizations to provide matching funds or in-kind support in an amount equal to 25 percent of the grant requested. Grant applicants will be ranked competitively based on criteria determined by the State Office on Homelessness. Challenge grant funding for Fiscal Year 2019-2020 was \$3.2 million in recurring funds from the General Revenue Fund.²⁸

The bill changes the requirement that projects reserve for a minimum of 20 years rather than 10 years, the number of housing units acquired, constructed, or rehabilitated through homeless housing assistance grant funds.

The bill also increases the cap on administrative costs for the State Office on Homelessness, and CoC lead agencies who administer the grant to 10 percent.

Section 3 creates s. 420.6225, F.S., to provide that the purpose of a CoC is to coordinate community efforts to prevent and end homelessness in its catchment area. The bill requires each CoC to designate a collaborative applicant that is responsible for submitting a CoC funding application for the designated catchment area to HUD. The bill provides that the collaborative applicant shall serve as the point of contact to the State Office on Homelessness. The bill also requires the State Office on Homelessness to designate and revise as necessary CoC catchment areas, which must be consistent with the catchment areas recognized by HUD. The bill requires the State Office on Homelessness to recognize only one CoC lead agency for each catchment area.

The bill requires each CoC to create a ‘continuum of care plan,’ that includes outreach to unsheltered individuals and families, a coordinated entry system for services, identification of emergency shelters, identification of permanent supportive housing, Rapid ReHousing as specified in ch. 420, F.S., and an ongoing planning mechanism to end homelessness for all populations of persons experiencing homelessness.

The bill also requires CoCs to promote participation by all interested individuals and organizations and may not exclude anyone on the basis of race, color, national origin, sex, handicap, familial status, or religion. The bill also provides for coordination of these individuals and organizations, to the extent possible, with other mainstream health and social services.

Section 4 creates s. 420.6227, F.S., to align the state grant-in-aid program language and requirements²⁹ with federal laws pertaining to homelessness³⁰, which will allow the state to apply for federal matching dollars more efficiently. The bill replaces references to ‘local agencies’ with references to ‘continuums of care’.

Section 5 repeals s. 420.623, F.S., relating to local coalitions for the homeless.

²⁸ Specific Appropriation 346 s. 3, Chapter 2019-115, Laws of Fla.

²⁹ Section 420.625, F.S.

³⁰ See 24 C.F.R. § 576, 24 C.F.R. § 578, 42 U.S.C. § 11383, and 42 U.S.C. § 11360.

Section 6 repeals s. 420.624, F.S., relating to local homeless assistance continuums of care.

Section 7 repeals s. 420.625, F.S., relating to the grant-in-aid program.

Section 8 amends s. 420.626, F.S., making technical revisions to discharge guidelines for homelessness facilities and institutions.

Section 9 amends s. 420.6265, F.S., to revise legislative intent with respect to the Rapid ReHousing strategy. The bill expands legislative intent to provide that Rapid ReHousing is a cost effective approach to ending homelessness and is proven to be more cost effective than alternative approaches. The approach uses temporary financial assistance to quickly move families and individuals into permanent housing and help them remain housed using housing stabilization support services.

Section 10 amends s. 420.6275, F.S., to revise legislative intent with respect to the Housing First methodology. The bill provides findings that the Housing First strategy is a cost effective approach to ending homelessness and reducing the length of time individuals or families are homeless. The bill also provides legislative intent to emphasize maintaining stable housing under the housing first approach.

Section 11 amends s. 420.507, F.S., to correct two cross references.

Section 12 provides an effective date of July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 68 will have an insignificant fiscal impact on state government expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 420.621, 420.622, 420.626, 420.6265, 420.6275, and 420.507.

This bill creates the following sections of the Florida Statutes: 420.6225 and 420.6227.

This bill repeals the following sections of the Florida Statutes: 420.623, 420.624, and 420.625.

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 Appropriations on March 3, 2020:

The committee substitute removes the requirement that \$10 million of all documentary stamp tax money, collected annually by the state, be dedicated to funding the Grants and Donations Trust Fund, within the Department of Children and Families, for the challenge grant program.

B. Amendments:

None.

By Senator Book

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1 A bill to be entitled
 2 An act relating to homelessness; amending s. 201.15,
 3 F.S.; requiring that certain taxes of a specified
 4 amount be transferred annually to the Grants and
 5 Donations Trust Fund within the Department of Children
 6 and Families for the purpose of funding challenge
 7 grants; amending s. 420.621, F.S.; revising, adding,
 8 and deleting defined terms; amending s. 420.622, F.S.;
 9 expanding the membership of the Council on
 10 Homelessness to include a representative of the
 11 Florida Housing Coalition and the Secretary of the
 12 Department of Elderly Affairs or his or her designee;
 13 providing that the Governor is encouraged to appoint
 14 council members who have certain experience; revising
 15 the duties of the State Office on Homelessness;
 16 revising requirements for the state's homeless
 17 programs; requiring entities that receive state
 18 funding to provide summary aggregated data to assist
 19 the council in providing certain information; removing
 20 the requirement that the office have the concurrence
 21 of the council to accept and administer moneys
 22 appropriated to it to provide certain annual challenge
 23 grants to continuums of care lead agencies; clarifying
 24 the source of such appropriation; increasing the
 25 maximum amount of grant awards per continuum of care
 26 lead agency; conforming provisions to changes made by
 27 the act; revising requirements for the use of grant
 28 funds by continuum of care lead agencies; revising
 29 preference criteria for certain grants; increasing the

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30 maximum percentage of its funding which a continuum of
 31 care lead agency may spend on administrative costs;
 32 requiring such agencies to submit a final report to
 33 the Department of Children and Families documenting
 34 certain outcomes achieved by grant-funded programs;
 35 removing the requirement that the office have the
 36 concurrence of the council to administer moneys given
 37 to it to provide homeless housing assistance grants
 38 annually to certain continuum of care lead agencies to
 39 acquire, construct, or rehabilitate permanent housing
 40 units for homeless persons; conforming a provision to
 41 changes made by the act; requiring grant applicants to
 42 be ranked competitively based on criteria determined
 43 by the office; deleting preference requirements;
 44 increasing the minimum number of years for which
 45 projects must reserve certain units acquired,
 46 constructed, or rehabilitated; increasing the maximum
 47 percentage of funds the office and each applicant may
 48 spend on administrative costs; revising certain
 49 performance measure requirements; authorizing, instead
 50 of requiring, the Department of Children and Families,
 51 with input from the council, to adopt rules relating
 52 to certain grants and related issues; revising
 53 requirements for an annual report the council must
 54 submit to the Governor, Legislature, and Secretary of
 55 Children and Families; authorizing the office to
 56 administer moneys appropriated to it for distribution
 57 among certain designated continuum of care lead
 58 agencies and entities; creating s. 420.6225, F.S.;

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59 specifying the purposes of a continuum of care;
 60 requiring each continuum of care, pursuant to federal
 61 law, to designate a collaborative applicant that is
 62 responsible for submitting the continuum of care
 63 funding application for the designated catchment area
 64 to the United States Department of Housing and Urban
 65 Development; providing requirements for such
 66 designated collaborative applicants; authorizing the
 67 applicant to be referred to as the continuum of care
 68 lead agency; providing requirements for the office for
 69 the purpose of awarding certain federal funding for
 70 continuum of care programs; requiring that each
 71 continuum of care create a continuum of care plan for
 72 specified purposes; specifying requirements for such
 73 plans; requiring continuums of care to promote
 74 participation by all interested individuals and
 75 organizations, subject to certain requirements;
 76 creating s. 420.6227, F.S.; providing legislative
 77 findings and program purpose; establishing a grant-in-
 78 aid program to help continuums of care prevent and end
 79 homelessness, which may include any aspect of the
 80 local continuum of care plan; requiring continuums of
 81 care to submit an application for grant-in-aid funds
 82 to the office for review; requiring the office to
 83 develop guidelines for the development, evaluation,
 84 and approval of spending plans; requiring grant-in-aid
 85 funds for continuums of care to be administered by the
 86 office and awarded on a competitive basis; requiring
 87 the office to distribute such funds to local agencies

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88 to fund programs that are required by the local
 89 continuum of care plan, based on certain
 90 recommendations; limiting the percentage of the total
 91 state funds awarded under a spending plan which may be
 92 used by the continuum of care lead agency for staffing
 93 and administrative expenditures; requiring entities
 94 that contract with local agencies to provide services
 95 and that receive certain financial assistance to
 96 provide a specified minimum percentage of the funding
 97 necessary for the support of project operations;
 98 authorizing in-kind contributions to be evaluated and
 99 counted as part or all of the required local funding,
 100 at the discretion of the office; repealing s. 420.623,
 101 F.S., relating to local coalitions for the homeless;
 102 repealing s. 420.624, F.S., relating to local homeless
 103 assistance continuums of care; repealing s. 420.625,
 104 F.S., relating to a grant-in-aid program; amending s.
 105 420.626, F.S.; revising procedures that certain
 106 facilities and institutions are encouraged to develop
 107 and implement to reduce the discharge of persons into
 108 homelessness when such persons are admitted to or
 109 housed for a specified period at such facilities or
 110 institutions; amending s. 420.6265, F.S.; revising
 111 legislative findings and intent for Rapid ReHousing;
 112 revising the Rapid ReHousing methodology; amending s.
 113 420.6275, F.S.; revising legislative findings relating
 114 to Housing First; revising the Housing First
 115 methodology to reflect current practice; amending s.
 116 420.507, F.S.; conforming cross-references; providing

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117 an effective date.

118

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

120

121 Section 1. Paragraph (c) of subsection (4) of section
122 201.15, Florida Statutes, is amended, and subsection (5) of that
123 section is republished, to read:

124 201.15 Distribution of taxes collected.—All taxes collected
125 under this chapter are hereby pledged and shall be first made
126 available to make payments when due on bonds issued pursuant to
127 s. 215.618 or s. 215.619, or any other bonds authorized to be
128 issued on a parity basis with such bonds. Such pledge and
129 availability for the payment of these bonds shall have priority
130 over any requirement for the payment of service charges or costs
131 of collection and enforcement under this section. All taxes
132 collected under this chapter, except taxes distributed to the
133 Land Acquisition Trust Fund pursuant to subsections (1) and (2),
134 are subject to the service charge imposed in s. 215.20(1).
135 Before distribution pursuant to this section, the Department of
136 Revenue shall deduct amounts necessary to pay the costs of the
137 collection and enforcement of the tax levied by this chapter.
138 The costs and service charge may not be levied against any
139 portion of taxes pledged to debt service on bonds to the extent
140 that the costs and service charge are required to pay any
141 amounts relating to the bonds. All of the costs of the
142 collection and enforcement of the tax levied by this chapter and
143 the service charge shall be available and transferred to the
144 extent necessary to pay debt service and any other amounts
145 payable with respect to bonds authorized before January 1, 2017,

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146 secured by revenues distributed pursuant to this section. All
147 taxes remaining after deduction of costs shall be distributed as
148 follows:

149 (4) After the required distributions to the Land
150 Acquisition Trust Fund pursuant to subsections (1) and (2) and
151 deduction of the service charge imposed pursuant to s.
152 215.20(1), the remainder shall be distributed as follows:

153 (c) Eleven and twenty-four hundredths percent of the
154 remainder in each fiscal year shall be paid into the State
155 Treasury to the credit of the State Housing Trust Fund. Of such
156 funds, the first \$35 million shall be transferred annually,
157 subject to any distribution required under subsection (5), to
158 the State Economic Enhancement and Development Trust Fund within
159 the Department of Economic Opportunity. The next \$10 million
160 shall be transferred annually, subject to any distribution
161 required under subsection (5), to the Grants and Donations Trust
162 Fund within the Department of Children and Families for the
163 purpose of funding the challenge grants established in s.
164 420.622(4). The remainder shall be used as follows:

165 1. Half of that amount shall be used for the purposes for
166 which the State Housing Trust Fund was created and exists by
167 law.

168 2. Half of that amount shall be paid into the State
169 Treasury to the credit of the Local Government Housing Trust
170 Fund and used for the purposes for which the Local Government
171 Housing Trust Fund was created and exists by law.

172 (5) Distributions to the State Housing Trust Fund pursuant
173 to paragraphs (4)(c) and (d) must be sufficient to cover amounts
174 required to be transferred to the Florida Affordable Housing

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175 Guarantee Program's annual debt service reserve and guarantee
 176 fund pursuant to s. 420.5092(6) (a) and (b) up to the amount
 177 required to be transferred to such reserve and fund based on the
 178 percentage distribution of documentary stamp tax revenues to the
 179 State Housing Trust Fund which is in effect in the 2004-2005
 180 fiscal year.

181 Section 2. Section 420.621, Florida Statutes, is amended to
 182 read:

183 420.621 Definitions.—As used in ss. 420.621-420.628, the
 184 term:

185 (1) "Continuum of care" means the group organized to carry
 186 out the responsibilities imposed under ss. 420.621-420.628 to
 187 coordinate, plan, and pursue ending homelessness in a designated
 188 catchment area. The group is composed of representatives from
 189 certain organizations, including, but not limited to, nonprofit
 190 homeless providers, victim service providers, faith-based
 191 organizations, governments, businesses, advocates, public
 192 housing agencies, school districts, social service providers,
 193 mental health agencies, hospitals, universities, affordable
 194 housing developers, law enforcement, organizations that serve
 195 homeless and formerly homeless veterans, and organizations that
 196 serve other homeless and formerly homeless persons, to the
 197 extent that these organizations are represented within the
 198 designated catchment area and are available to participate the
 199 community components needed to organize and deliver housing and
 200 services to meet the specific needs of people who are homeless
 201 as they move to stable housing and maximum self-sufficiency. It
 202 includes action steps to end homelessness and prevent a return
 203 to homelessness.

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204 (2) "Continuum of care lead agency" or "continuum of care
 205 collaborative applicant" means the organization designated by a
 206 continuum of care pursuant to s. 420.6225.

207 ~~(3)(2)~~ "Council on Homelessness" means the council created
 208 in s. 420.622.

209 ~~(4)(3)~~ "Department" means the Department of Children and
 210 Families.

211 ~~(4) "District" means a service district of the department,~~
 212 ~~as set forth in s. 20.19.~~

213 (5) "Homeless," means an individual who or a family that:

214 (a) Lacks a fixed, regular, and adequate nighttime
 215 residence, as defined under "homeless" in 24 C.F.R. 578.3; or

216 (b) Will imminently lose his, her, or its primary nighttime
 217 residence, as defined under "homeless" in 24 C.F.R. 578.3

218 applied to an individual, or "individual experiencing
 219 homelessness" means an individual who lacks a fixed, regular,
 220 and adequate nighttime residence and includes an individual who:

221 ~~(a) Is sharing the housing of other persons due to loss of~~
 222 ~~housing, economic hardship, or a similar reason;~~

223 ~~(b) Is living in a motel, hotel, travel trailer park, or~~
 224 ~~camping ground due to a lack of alternative adequate~~
 225 ~~accommodations;~~

226 ~~(c) Is living in an emergency or transitional shelter;~~

227 ~~(d) Has a primary nighttime residence that is a public or~~
 228 ~~private place not designed for, or ordinarily used as, a regular~~
 229 ~~sleeping accommodation for human beings;~~

230 ~~(e) Is living in a car, park, public space, abandoned~~
 231 ~~building, bus or train station, or similar setting; or~~

232 ~~(f) Is a migratory individual who qualifies as homeless~~

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233 because he or she is living in circumstances described in
234 paragraphs (a) - (e).

235
236 ~~The terms do not refer to an individual imprisoned pursuant to~~
237 ~~state or federal law or to individuals or families who are~~
238 ~~sharing housing due to cultural preferences, voluntary~~
239 ~~arrangements, or traditional networks of support. The terms~~
240 ~~include an individual who has been released from jail, prison,~~
241 ~~the juvenile justice system, the child welfare system, a mental~~
242 ~~health and developmental disability facility, a residential~~
243 ~~addiction treatment program, or a hospital, for whom no~~
244 ~~subsequent residence has been identified, and who lacks the~~
245 ~~resources and support network to obtain housing.~~

246 (6) "Local coalition for the homeless" means a coalition
247 established pursuant to s. 420.623.

248 (7) "New and temporary homeless" means individuals or
249 families who are homeless due to societal factors.

250 (6)(8) "State Office on Homelessness" means the state
251 office created in s. 420.622.

252 Section 3. Section 420.622, Florida Statutes, is amended to
253 read:

254 420.622 State Office on Homelessness; Council on
255 Homelessness.—

256 (1) The State Office on Homelessness is created within the
257 Department of Children and Families to provide interagency,
258 council, and other related coordination on issues relating to
259 homelessness.

260 (2) The Council on Homelessness is created to consist of 19
261 members ~~17 representatives of public and private agencies who~~

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262 shall develop policy and advise the State Office on
263 Homelessness. The council is composed of the following members
264 ~~shall be:~~ the Secretary of Children and Families, or his or her
265 designee; the executive director of the Department of Economic
266 Opportunity, or his or her designee, who shall advise the
267 council on issues related to rural development; the State
268 Surgeon General, or his or her designee; the Executive Director
269 of Veterans' Affairs, or his or her designee; the Secretary of
270 Corrections, or his or her designee; the Secretary of Health
271 Care Administration, or his or her designee; the Commissioner of
272 Education, or his or her designee; the Director of CareerSource
273 Florida, Inc., or his or her designee; the Executive Director of
274 the Florida Housing Finance Corporation, or his or her designee;
275 the Secretary of the Department of Elderly Affairs, or his or
276 her designee; one representative of the Florida Association of
277 Counties; one representative of the Florida League of Cities;
278 one representative of the Florida Supportive Housing Coalition;
279 one representative of the Florida Coalition for the Homeless;
280 one representative of the Florida Housing Coalition ~~the~~
281 ~~Executive Director of the Florida Housing Finance Corporation,~~
282 ~~or his or her designee; one representative of the Florida~~
283 ~~Coalition for the Homeless;~~ and four members appointed by the
284 Governor, who is encouraged to appoint members who have
285 experience in the administration or the provision of resources
286 or services that address, or of housing that addresses, the
287 needs of persons experiencing homelessness. The council members
288 shall be nonpaid volunteers and shall be reimbursed only for
289 travel expenses. The ~~appointed~~ members of the council appointed
290 by the Governor shall be appointed to staggered 2-year terms.7

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291 ~~and~~ The council shall meet at least four times per year. The
 292 importance of minority, gender, and geographic representation
 293 ~~must shall~~ be considered in appointing members to the council.

294 (3) The State Office on Homelessness, pursuant to the
 295 policies set by the council and subject to the availability of
 296 funding, shall:

297 (a) Coordinate among state, local, and private agencies and
 298 providers to produce a statewide consolidated inventory of ~~for~~
 299 the state's ~~entire system of~~ homeless programs, including local
 300 continuum of care plans which incorporates regionally developed
 301 plans. Such programs include, but are not limited to:

302 1. Programs authorized under the McKinney-Vento Homeless
 303 Assistance Stewart B. McKinney Homeless Assistance Act of 1987,
 304 as amended by the Homeless Emergency Assistance and Rapid
 305 Transition to Housing (HEARTH) Act of 2009, 42 U.S.C. ss. 11302
 306 ~~ss. 11371~~ et seq., and carried out under funds awarded to this
 307 state; and

308 2. Programs, components thereof, or activities that assist
 309 persons who are homeless or at risk for homelessness.

310 (b) Collect, maintain, and make available information
 311 concerning persons who are homeless ~~or at risk for homelessness,~~
 312 including summary demographic demographics information drawn
 313 from the local continuum of care Homeless Management Information
 314 System or the annual Point-in-Time Count and the local continuum
 315 of care Housing Inventory Chart required by the Department of
 316 Housing and Urban Development, current services and resources
 317 available, the cost and availability of services and programs,
 318 and the met and unmet needs of this population. To assist the
 319 council in providing this information, all entities that receive

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320 state funding must provide the council with summary aggregated
 321 ~~access to all data they maintain in summary form, which may not~~
 322 ~~include with no individual identifying information, to assist~~
 323 ~~the council in providing this information.~~ The State Office on
 324 Homelessness, in consultation with the designated lead agencies
 325 for a ~~local homeless~~ continuum of care and with the Council on
 326 Homelessness, shall develop a process by which summary data is
 327 collected the system and process of data collection from all
 328 lead agencies for the purpose of analyzing trends and assessing
 329 impacts in the statewide homeless delivery system for delivering
 330 services to the homeless. Any statewide homelessness survey and
 331 database system must comply with all state and federal statutory
 332 and regulatory confidentiality requirements.

333 (c) Annually evaluate state and continuum of care programs
 334 local services and resources and develop a consolidated plan for
 335 addressing the needs of the homeless or those at risk for
 336 homelessness.

337 (d) Explore, compile, and disseminate information regarding
 338 public and private funding sources for state and local programs
 339 serving the homeless and provide technical assistance in
 340 applying for such funding.

341 (e) Monitor and provide recommendations for coordinating
 342 the activities and programs of continuums of care local
 343 ~~coalitions for the homeless~~ and promote the effectiveness of
 344 programs to prevent and end homelessness in the state addressing
 345 ~~the needs of the homeless.~~

346 (f) Provide technical assistance to facilitate efforts to
 347 support and strengthen establish, maintain, and expand local
 348 ~~homeless assistance~~ continuums of care.

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349 (g) Develop and assist in the coordination of policies and
 350 procedures relating to the discharge or transfer from the care
 351 or custody of state-supported or state-regulated entities
 352 persons who are homeless or at risk for homelessness.

353 (h) Spearhead outreach efforts for maximizing access by
 354 people who are homeless or at risk for homelessness to state and
 355 federal programs and resources.

356 (i) Promote a federal policy agenda that is responsive to
 357 the needs of those who are homeless or at risk of homelessness
 358 the homeless population in this state.

359 (j) Review reports on continuum of care performance
 360 measures and Develop outcome and accountability measures and
 361 promote and use such measures to evaluate program effectiveness
 362 and make recommendations for improving current practices to work
 363 toward ending homelessness in this state in order to best meet
 364 the needs of the homeless.

365 (k) Formulate policies and legislative proposals aimed at
 366 preventing and ending homelessness in this state to address more
 367 effectively the needs of the homeless and coordinate the
 368 implementation of state and federal legislative policies.

369 (l) Convene meetings and workshops of state and local
 370 agencies, continuum of care local coalitions and programs, and
 371 other stakeholders for the purpose of developing and reviewing
 372 policies, services, activities, coordination, and funding of
 373 efforts to end homelessness meet the needs of the homeless.

374 (m) With the input of the continuum of care, conduct or
 375 promote research on the effectiveness of current programs and
 376 propose pilot projects aimed at ending homelessness improving
 377 services.

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378 (n) Serve as an advocate for issues relating to
 379 homelessness.

380 (o) ~~Investigate ways to improve access to participation in~~
 381 ~~state funding and other programs for prevention and alleviation~~
 382 ~~of homelessness to faith based organizations and~~ Collaborate and
 383 coordinate with faith-based organizations, investigate ways to
 384 improve such organizations' access to state funding, and
 385 investigate ways to improve such organizations' participation in
 386 other programs that are intended to prevent and reduce
 387 homelessness.

388 (4) The State Office on Homelessness, ~~with the concurrence~~
 389 ~~of the Council on Homelessness~~, shall accept and administer
 390 moneys appropriated to it pursuant to s. 201.15(4)(c) to provide
 391 annual "challenge grants" to lead agencies of ~~homeless~~
 392 ~~assistance~~ continuums of care designated by the State Office on
 393 Homelessness pursuant to s. 420.6225 ~~s. 420.624~~. The department
 394 shall establish varying levels of grant awards up to \$750,000
 395 ~~\$500,000~~ per continuum of care lead agency. The department, in
 396 consultation with the Council on Homelessness, shall specify a
 397 grant award level in the notice of the solicitation of grant
 398 applications.

399 (a) To qualify for a ~~the~~ grant, a continuum of care lead
 400 agency must develop and implement a local ~~homeless assistance~~
 401 continuum of care plan for its designated catchment area. The
 402 services and housing funded through the grant must be
 403 implemented through the continuum of care's continuum of care
 404 plan must implement a coordinated assessment or central intake
 405 entry system as provided in s. 420.6225(4)(b) and must be
 406 designed to screen, assess, and refer persons seeking assistance

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407 to the appropriate housing intervention and service provider.
 408 The continuum of care lead agency shall also document the
 409 commitment of local government or private organizations to
 410 provide matching funds or in-kind support in an amount equal to
 411 25 percent of the grant requested. Expenditures of leveraged
 412 funds or resources, including third-party cash or in-kind
 413 contributions, ~~may be made~~ are authorized only for eligible
 414 activities carried out in connection with a ~~committed on one~~
 415 project. Such funds or resources may ~~which have not have~~ been
 416 used as leverage or match for any other project or program. The
 417 expenditures ~~and~~ must be certified through a written commitment.
 418 (b) Preference must be given to continuum of care ~~those~~
 419 lead agencies that have demonstrated the ability of their
 420 continuum of care to help households move out of homelessness
 421 ~~provide quality services to homeless persons and the ability to~~
 422 ~~leverage federal homeless assistance funding under the Stewart~~
 423 ~~B. McKinney Act with local government funding or private funding~~
 424 ~~for the provision of services to homeless persons.~~
 425 ~~(c) Preference must be given to lead agencies in catchment~~
 426 ~~areas with the greatest need for the provision of housing and~~
 427 ~~services to the homeless, relative to the population of the~~
 428 ~~catchment area.~~
 429 ~~(c)(d)~~ The grant may be used to fund any of the housing,
 430 program, or service needs included in the local ~~homeless~~
 431 ~~assistance~~ continuum of care plan. The continuum of care lead
 432 agency may allocate the grant to programs, services, or housing
 433 providers that implement the local ~~homeless assistance~~ continuum
 434 of care plan. The lead agency may provide subgrants to a local
 435 agency to implement programs or services or provide housing

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436 identified for funding in the lead agency's application to the
 437 department. A lead agency may spend a maximum of 10 ~~8~~ percent of
 438 its funding on administrative costs.
 439 ~~(d)(e)~~ The continuum of care lead agency shall submit a
 440 final report to the department documenting the outcomes achieved
 441 by the grant-funded programs ~~grant~~ in enabling persons who are
 442 homeless to return to permanent housing, thereby ending such
 443 person's episode of homelessness.
 444 (5) The State Office on Homelessness, ~~with the concurrence~~
 445 ~~of the Council on Homelessness,~~ may administer moneys given
 446 ~~appropriated~~ to it to provide homeless housing assistance grants
 447 annually to continuum of care lead agencies ~~for local homeless~~
 448 ~~assistance continuum of care,~~ as recognized by the State Office
 449 on Homelessness, to acquire, construct, or rehabilitate
 450 ~~transitional or~~ permanent housing units for homeless persons.
 451 These moneys shall consist of any sums that the state may
 452 appropriate, as well as money received from donations, gifts,
 453 bequests, or otherwise from any public or private source, which
 454 are intended to acquire, construct, or rehabilitate ~~transitional~~
 455 ~~or~~ permanent housing units for homeless persons.
 456 (a) Grant applicants shall be ranked competitively based on
 457 criteria determined by the State Office on Homelessness.
 458 ~~Preference must be given to applicants who leverage additional~~
 459 ~~private funds and public funds, particularly federal funds~~
 460 ~~designated for the acquisition, construction, or rehabilitation~~
 461 ~~of transitional or permanent housing for homeless persons; who~~
 462 ~~acquire, build, or rehabilitate the greatest number of units; or~~
 463 ~~who acquire, build, or rehabilitate in catchment areas having~~
 464 ~~the greatest need for housing for the homeless relative to the~~

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465 ~~population of the catchment area.~~

466 (b) Funding for any particular project may not exceed
467 \$750,000.

468 (c) Projects must reserve, for a minimum of 20 ~~10~~ years,
469 the number of units acquired, constructed, or rehabilitated
470 through homeless housing assistance grant funding to serve
471 persons who are homeless at the time they assume tenancy.

472 (d) No more than two grants may be awarded annually in any
473 given ~~local homeless assistance~~ continuum of care catchment
474 area.

475 (e) A project may not be funded which is not included in
476 the local ~~homeless assistance~~ continuum of care plan, as
477 recognized by the State Office on Homelessness, for the
478 catchment area in which the project is located.

479 (f) The maximum percentage of funds that the State Office
480 on Homelessness and each applicant may spend on administrative
481 costs is 10 ~~5~~ percent.

482 (6) The State Office on Homelessness, in conjunction with
483 the Council on Homelessness, shall establish performance
484 measures related to state funding provided through the State
485 Office on Homelessness and shall utilize those grant-related
486 measures to ~~and specific objectives by which it may~~ evaluate the
487 performance and outcomes of continuum of care lead agencies that
488 receive state grant funds. ~~Challenge Grants made through the~~
489 ~~State Office on Homelessness shall be distributed to lead~~
490 ~~agencies based on their overall performance and their~~
491 ~~achievement of specified objectives. Each lead agency for which~~
492 ~~grants are made under this section shall provide the State~~
493 ~~Office on Homelessness a thorough evaluation of the~~

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494 ~~effectiveness of the program in achieving its stated purpose. In~~
495 ~~evaluating the performance of the lead agencies, the State~~
496 ~~Office on Homelessness shall base its criteria upon the program~~
497 ~~objectives, goals, and priorities that were set forth by the~~
498 ~~lead agencies in their proposals for funding. Such criteria may~~
499 ~~include, but are not limited to, the number of persons or~~
500 ~~households that are no longer homeless, the rate of recidivism~~
501 ~~to homelessness, and the number of persons who obtain gainful~~
502 ~~employment.~~

503 (7) The State Office on Homelessness shall ~~must~~ monitor the
504 challenge grants and homeless housing assistance grants to
505 ensure proper expenditure of funds and compliance with the
506 conditions of the applicant's contract.

507 (8) The Department of Children and Families, with input
508 from the Council on Homelessness, may ~~must~~ adopt rules relating
509 to the challenge grants and the homeless housing assistance
510 grants and related issues consistent with the purposes of this
511 section.

512 (9) ~~The council shall,~~ By June 30 of each year, the council
513 shall provide to the Governor, the Legislature, and the
514 Secretary of Children and Families a report summarizing the
515 extent of homelessness in the state and the council's
516 recommendations for ending ~~reducing~~ homelessness in this state.

517 (10) The State Office on Homelessness may administer moneys
518 appropriated to it for distribution among the continuum of care
519 lead agencies and entities funded in the 2020-2021 state fiscal
520 year which are designated by the office as local coalitions for
521 the homeless ~~28 local homeless continuums of care designated by~~
522 ~~the Department of Children and Families.~~

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523 Section 4. Section 420.6225, Florida Statutes, is created
524 to read:

525 420.6225 Continuum of care.-

526 (1) The purposes of a continuum of care, as defined in s.
527 420.621, are to coordinate community efforts to prevent and end
528 homelessness in its catchment area designated as provided in
529 subsection (3) and to fulfill the responsibilities set forth in
530 this chapter.

531 (2) Pursuant to the Homeless Emergency Assistance and Rapid
532 Transition to Housing (HEARTH) Act of 2009, each continuum of
533 care is required to designate a collaborative applicant that is
534 responsible for submitting the continuum of care funding
535 application for the designated catchment area to the United
536 States Department of Housing and Urban Development. The
537 continuum of care collaborative applicant shall serve as the
538 continuum of care's point of contact to the State Office on
539 Homelessness, is accountable for representations made in the
540 application, and, in carrying out its responsibilities under
541 this chapter, may be referred to as the continuum of care lead
542 agency.

543 (3) For the purpose of awarding federal homeless assistance
544 funding for continuum of care programs, the State Office on
545 Homelessness shall do both of the following:

546 (a) Designate and, as necessary, revise continuum of care
547 catchment areas, which must be consistent with the continuum of
548 care catchment areas recognized by the United States Department
549 of Housing and Urban Development.

550 (b) Recognize a single continuum of care lead agency for
551 each such catchment area, which must be consistent with the

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552 continuum of care collaborative applicant designation recognized
553 by the United States Department of Housing and Urban
554 Development.

555 (4) Each continuum of care shall create a continuum of care
556 plan, the purpose of which is to implement an effective and
557 efficient housing crisis response system to prevent and end
558 homelessness in the continuum of care catchment area. A
559 continuum of care plan must include all of the following
560 components:

561 (a) Outreach to unsheltered individuals and families to
562 link them with appropriate housing interventions.

563 (b) A coordinated entry system, compliant with the
564 requirements of the Homeless Emergency Assistance and Rapid
565 Transition to Housing (HEARTH) Act of 2009, which is designed to
566 coordinate intake, utilize common assessment tools, prioritize
567 households for housing interventions, and refer households to
568 the appropriate housing intervention.

569 (c) Emergency shelter, designed to provide safe temporary
570 shelter while the household is in the process of obtaining
571 permanent housing.

572 (d) Supportive services, designed to maximize housing
573 stability once the household is in permanent housing.

574 (e) Permanent supportive housing, designed to provide long-
575 term affordable housing and support services to persons with
576 disabilities who are moving out of homelessness.

577 (f) Rapid ReHousing, as specified in s. 420.6265.

578 (g) Permanent housing, including linkages to affordable
579 housing, subsidized housing, long-term rent assistance, housing
580 vouchers, and mainstream private sector housing.

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581 (h) An ongoing planning mechanism to end homelessness for
 582 all subpopulations of persons experiencing homelessness.

583 (5) Continuums of care must promote participation by all
 584 interested individuals and organizations and may not exclude
 585 individuals and organizations on the basis of race, color,
 586 national origin, sex, handicap, familial status, or religion.
 587 Faith-based organizations, local governments, and persons who
 588 have experienced homelessness are encouraged to participate. To
 589 the extent possible, these individuals and organizations must be
 590 coordinated and integrated with other mainstream health, social
 591 services, and employment programs for which homeless populations
 592 may be eligible, including, but not limited to, Medicaid, the
 593 State Children's Health Insurance Program, the Temporary
 594 Assistance for Needy Families Program, the Food Assistance
 595 Program, and services funded through the Mental Health and
 596 Substance Abuse Block Grant, the Workforce Innovation and
 597 Opportunity Act, and the welfare-to-work grant program.

598 Section 5. Section 420.6227, Florida Statutes, is created
 599 to read:

600 420.6227 Grant-in-aid program.—

601 (1) LEGISLATIVE FINDINGS.—The Legislature hereby finds and
 602 declares that many services for households experiencing
 603 homelessness have been provided by local communities through
 604 voluntary private agencies and religious organizations and that
 605 these resources have not been sufficient to prevent and end
 606 homelessness in this state. The Legislature recognizes that the
 607 level of need and types of problems associated with homelessness
 608 may vary from community to community, due to the diversity and
 609 geographic distribution of the homeless population and the

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610 resulting differing needs of particular communities.

611 (2) PURPOSE.—The principal purpose of the grant-in-aid
 612 program is to provide needed assistance to continuums of care to
 613 enable them to do all of the following:

614 (a) Assist persons in their communities who have become, or
 615 may likely become, homeless.

616 (b) Help homeless households move to permanent housing as
 617 quickly as possible.

618 (3) ESTABLISHMENT.—There is hereby established a state
 619 grant-in-aid program to help continuums of care prevent and end
 620 homelessness, which may include any aspect of the local
 621 continuum of care plan, as described in s. 420.6225.

622 (4) APPLICATION PROCEDURE.—Continuums of care that intend
 623 to apply for the grant-in-aid program must submit an application
 624 for grant-in-aid funds to the State Office on Homelessness for
 625 review.

626 (5) SPENDING PLANS.—The State Office on Homelessness shall
 627 develop guidelines for the development, evaluation, and approval
 628 of spending plans that are created by local continuum of care
 629 lead agencies.

630 (6) ALLOCATION OF GRANT FUNDS.—The State Office on
 631 Homelessness shall administer state grant-in-aid funds for
 632 continuums of care, which must be awarded on a competitive
 633 basis.

634 (7) DISTRIBUTION TO LOCAL AGENCIES.—The State Office on
 635 Homelessness shall distribute funds awarded under subsection (6)
 636 to local agencies to fund programs that are required by the
 637 local continuum of care plan, as described in s. 420.6225 and
 638 that are authorized under subsection (3), based upon the

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 639 recommendations of the local continuum of care lead agencies, in
 640 accordance with spending plans that are developed by the lead
 641 agencies and approved by the office. Not more than 10 percent of
 642 the total state funds awarded under a spending plan may be used
 643 by the continuum of care lead agency for staffing and
 644 administrative expenditures.

645 (8) LOCAL MATCHING FUNDS.—If an entity contracts with local
 646 agencies to provide services and receives financial assistance
 647 under this section, the entity must provide a minimum of 25
 648 percent of the funding necessary for the support of project
 649 operations. In-kind contributions, including, but not limited
 650 to, materials, commodities, transportation, office space, other
 651 types of facilities, or personal services, may be evaluated and
 652 counted as part or all of the required local funding, at the
 653 discretion of the State Office on Homelessness.

654 Section 6. Section 420.623, Florida Statutes, is repealed.

655 Section 7. Section 420.624, Florida Statutes, is repealed.

656 Section 8. Section 420.625, Florida Statutes, is repealed.

657 Section 9. Subsection (3) of section 420.626, Florida
 658 Statutes, is amended, and subsection (2) of that section is
 659 republished, to read:

660 420.626 Homelessness; discharge guidelines.—

661 (2) The following facilities and institutions are
 662 encouraged to develop and implement procedures designed to
 663 reduce the discharge of persons into homelessness when such
 664 persons are admitted or housed for more than 24 hours at such
 665 facilities or institutions: hospitals and inpatient medical
 666 facilities; crisis stabilization units; residential treatment
 667 facilities; assisted living facilities; and detoxification

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 668 centers.

669 (3) The procedures should include all of the following:

670 (a) Development and implementation of a screening process
 671 or other mechanism for identifying persons to be discharged from
 672 the facility or institution who are at considerable risk for
 673 homelessness or face some imminent threat to health and safety
 674 upon discharge.†

675 (b) Development and implementation of a discharge plan
 676 addressing how identified persons will secure housing and other
 677 needed care and support upon discharge.†

678 (c) ~~Communication with Assessment of the capabilities of~~
 679 the entities to whom identified persons may potentially be
 680 discharged to determine their capability to serve such persons
 681 and their acceptance of such discharge into their programs, and
 682 selection of the entity determined to be best equipped to
 683 provide or facilitate the provision of suitable care and
 684 support.†

685 (d) Coordination of effort and sharing of information with
 686 entities that are expected to bear the responsibility for
 687 providing care or support to identified persons upon discharge.†
 688 ~~and~~

689 (e) Provision of sufficient medication, medical equipment
 690 and supplies, clothing, transportation, and other basic
 691 resources necessary to assure that the health and well-being of
 692 identified persons are not jeopardized upon their discharge.

693 Section 10. Section 420.626, Florida Statutes, is amended
 694 to read:

695 420.6265 Rapid ReHousing.—

696 (1) LEGISLATIVE FINDINGS AND INTENT.—

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697 (a) The Legislature finds that Rapid ReHousing is a
 698 strategy of using temporary financial assistance ~~and case~~
 699 ~~management~~ to quickly move an individual or family out of
 700 homelessness and into permanent housing, and using housing
 701 stabilization support services to help them remain stably
 702 housed.

703 (b) The Legislature also finds that public and private
 704 solutions to homelessness in the past have focused on providing
 705 individuals and families who are experiencing homelessness with
 706 emergency shelter, transitional housing, or a combination of
 707 both. While emergency shelter and transitional housing programs
 708 may provide critical access to services for individuals and
 709 families in crisis, the programs often fail to address permanent
 710 housing their long-term needs and may unnecessarily extend their
 711 episodes of homelessness.

712 (c) The Legislature further finds that most households
 713 become homeless as a result of a financial crisis that prevents
 714 individuals and families from paying rent or a domestic conflict
 715 that results in one member being ejected or leaving without
 716 resources or a plan for housing.

717 (d) The Legislature further finds that Rapid ReHousing is a
 718 cost-effective is an alternative approach to ending homelessness
 719 which reduces to the current system of emergency shelter or
 720 transitional housing which tends to reduce the length of time
 721 that a person is homeless and which is demonstrably more ~~has~~
 722 proven to be cost effective than alternative approaches.

723 (e) It is therefore the intent of the Legislature to
 724 encourage ~~homeless~~ continuums of care to adopt the Rapid
 725 ReHousing approach to ending preventing homelessness for

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726 individuals who and families that ~~who~~ do not require the
 727 intensive ~~intense~~ level of supports provided in the permanent
 728 supportive housing model.

729 (2) RAPID REHOUSING METHODOLOGY.—

730 (a) The Rapid ReHousing response to homelessness differs
 731 from traditional approaches to addressing homelessness by
 732 focusing on each individual's or family's barriers to housing.
 733 By using this approach, communities can significantly reduce the
 734 amount of time that individuals and families are homeless and
 735 prevent further episodes of homelessness.

736 (b) In Rapid ReHousing, when an individual or a family is
 737 identified as being homeless, the individual or family is
 738 assessed and prioritized for housing through the continuum of
 739 care's coordinated entry system, temporary assistance is
 740 provided to allow the individual or family to obtain permanent
 741 housing as quickly as possible, and necessary, ~~if needed,~~
 742 assistance is provided to allow the individual or family to
 743 retain housing.

744 (c) The objective of Rapid ReHousing is to provide
 745 assistance for as short a term as possible so that the
 746 individual or family receiving assistance attains stability and
 747 integration into the community as quickly as possible ~~does not~~
 748 ~~develop a dependency on the assistance.~~

749 Section 11. Section 420.6275, Florida Statutes, is amended
 750 to read:

751 420.6275 Housing First.—

752 (1) LEGISLATIVE FINDINGS AND INTENT.—

753 (a) The Legislature finds that many communities plan to
 754 manage homelessness rather than ~~plan to~~ end it.

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755 (b) The Legislature also finds that for nearly most of the
 756 ~~past~~ two decades, public and private solutions to homelessness
 757 ~~have~~ focused on providing individuals and families who ~~were~~ are
 758 experiencing homelessness with emergency shelter, transitional
 759 housing, or a combination of both. This strategy failed to
 760 recognize that, while emergency shelter programs may provide
 761 critical access to services for individuals and families in
 762 crisis, they often fail to address their long-term needs.

763 (c) The Legislature further finds that Housing First is a
 764 cost-effective ~~an alternative approach to the current system of~~
 765 ~~emergency shelter or transitional housing which tends to ending~~
 766 homelessness and reducing ~~reduce~~ the length of time of
 767 homelessness for many individuals and families and has proven to
 768 ~~be cost-effective~~.

769 (d) It is therefore the intent of the Legislature to
 770 encourage ~~homeless~~ continuums of care to adopt the Housing First
 771 approach to ending homelessness for individuals and families.

772 (2) HOUSING FIRST METHODOLOGY.—

773 (a) The Housing First approach to homelessness provides
 774 permanent ~~differs from traditional approaches by providing~~
 775 housing assistance, followed by ~~ease management,~~ and support
 776 services responsive to individual or family needs once ~~after~~
 777 housing is obtained. By using this approach ~~when appropriate,~~
 778 communities can significantly reduce the amount of time that
 779 individuals and families are homeless and prevent further
 780 episodes of homelessness. Housing First emphasizes that social
 781 services provided to enhance individual and family well-being
 782 can be more effective when people are in their own home, and:

- 783 1. The housing is not time-limited.

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784 2. The housing is not contingent on compliance with
 785 services. Instead, participants must comply with a standard
 786 lease agreement.

787 3. Individuals and families ~~and~~ are provided with
 788 individualized ~~the~~ services and support ~~that are~~ necessary to
 789 help them maintain stable housing ~~do so successfully~~.

790 ~~3. A background check and any rehabilitation necessary to~~
 791 ~~combat an addiction related to alcoholism or substance abuse has~~
 792 ~~been completed by the individual for whom assistance or support~~
 793 ~~services are provided.~~

794 (b) The Housing First approach addresses the societal
 795 causes of homelessness and advocates for the immediate return of
 796 individuals and families into housing and communities. Housing
 797 First links affordable housing with community-based social
 798 service and health care organizations ~~Housing First provides a~~
 799 ~~critical link between the emergency and transitional housing~~
 800 ~~system and community-based social service, educational, and~~
 801 ~~health care organizations~~ and consists of four components:

- 802 1. Crisis intervention and short-term stabilization.
 803 2. Screening, intake, and needs assessment.
 804 3. Provision of housing resources.
 805 4. Provision of case management.

806 Section 12. Paragraph (d) of subsection (22) of section
 807 420.507, Florida Statutes, is amended to read:

808 420.507 Powers of the corporation.—The corporation shall
 809 have all the powers necessary or convenient to carry out and
 810 effectuate the purposes and provisions of this part, including
 811 the following powers which are in addition to all other powers
 812 granted by other provisions of this part:

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813 (22) To develop and administer the State Apartment
814 Incentive Loan Program. In developing and administering that
815 program, the corporation may:

816 (d) In counties or rural areas of counties that do not have
817 existing units set aside for homeless persons, forgive
818 indebtedness for loans provided to create permanent rental
819 housing units for persons who are homeless, as defined in s.
820 420.621 ~~s. 420.621(5)~~, or for persons residing in time-limited
821 transitional housing or institutions as a result of a lack of
822 permanent, affordable housing. Such developments must be
823 supported by a ~~local homeless assistance~~ continuum of care
824 developed under s. 420.6225 ~~s. 420.624~~, be developed by
825 nonprofit applicants, be small properties as defined by
826 corporation rule, and be a project in the local housing
827 assistance continuum of care plan recognized by the State Office
828 on Homelessness.

829 Section 13. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human
Services
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR LAUREN BOOK

32nd District

February 13, 2020

Chair Rob Bradley
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley:

I respectfully request that **SB 68 - Homelessness** be placed on the agenda for the next Committee on Appropriations meeting.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

Cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 3, 2020

Meeting Date

SB 68

Bill Number (if applicable)

Topic Homelessness

Amendment Barcode (if applicable)

Name Robert S. Beck

Job Title Partner

Address 150 S. Monroe St., Suite 303

Phone 850-766-1410

Street

Tallahassee

FL

32301

Email robert@pinpointresults.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Coalition to End Homelessness

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)

3/3/2020

Meeting Date

68

Bill Number (if applicable)

Topic Homelessness

Amendment Barcode (if applicable)

Name Jordan Reed

Job Title Legislative Intern

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 National Association of Social Workers - Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

~~600~~ 60
Bill Number (if applicable)

Topic Homeslessness

Amendment Barcode (if applicable)

Name Heather Davidson

Job Title Director, Public Policy

Address 1300 S. Andrews Ave.
Street

Phone 954 308-927

City

State

33316
Zip

Email _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-2020

Meeting Date

0068

Bill Number (if applicable)

Topic Homelessness

Amendment Barcode (if applicable)

Name Rick OWEN

Job Title PRESIDENT

Address 307 E. 7TH AVE

Phone 850-488-8276

Street

TALLAHASSEE

FL

32303

Email Rick@UWCF.ORG

City

State

Zip

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 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)

3.3.2020

Meeting Date

SB 68

Bill Number (if applicable)

Topic Homelessness

Amendment Barcode (if applicable)

Name Tonnette [tone-Net] Graham

Job Title Assoc. Director of Public Policy

Address 100 S. Monroe Street

Phone 850.922.4300

Tallahassee, FL 32301

Email tgraham@fl-counties.com

Speaking: For Against Information

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

Representing FL Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 72 (847972)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senator Stargel

SUBJECT: Postsecondary Education

DATE: February 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------------|----------------|------------|--------------------------|
| 1. | <u>Bouck, Dew</u> | <u>Sikes</u> | <u>ED</u> | Favorable |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | Recommend: Fav/CS |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 72 modifies provisions relating to preeminent state research universities, the prioritization of capital outlay projects at Florida College System (FCS) institutions, the carry forward of operational funds at state universities and FCS institutions, state student financial aid, and textbook affordability at public postsecondary institutions. Specifically, the bill:

- Revises the data for academic and research excellence standards of preeminent research universities by using more timely performance data and requiring the standards to be reported annually in the BOG Accountability Plan.
- Removes funding associated with the emerging preeminent state research university designation and creates State Universities of Distinction.
- Modifies a criterion for new construction, remodeling, or renovation projects at FCS institutions that have not been previously state funded to be added to the Public Education Capital Outlay (PECO) priority list.
- Modifies reporting deadlines and spending plan provisions relating to the carry forward of operational funds at state universities and FCS institutions.
- Replaces the State University System Programs of Excellence with the State Universities of Distinction program, and establishes requirements.
- Aligns student eligibility, maximum awards, fund distribution, remittance deadlines, and reporting requirements between the four Florida Student Assistance Grant programs.
- Clarifies initial and renewal award requirements for the Benacquisto Scholarship Program.

- Provides that pricing and payment options relating to textbook affordability may include either an opt-in or opt-out provision for students.
- Removes the limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.
- Directs the Board of Governors to define in regulation the university faculty and administrative personnel classifications.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.

II. Present Situation:

The present situation for each relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Public Education Capital Outlay

Present Situation

Florida's Public Education Capital Outlay (PECO) program provides funding for capital outlay projects for Florida's public education system, including universities, colleges, public schools and other state owned educational facilities that have no other source for funding for capital outlay. As specified by the Florida Constitution,¹ the PECO program is funded by gross receipts taxes on utilities, including electricity and natural gas, and communication services (cable, wireless, telephone landline, miscellaneous services, and direct to home satellite tax bases).

The Commissioner of Education (commissioner) must annually submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for school districts, Florida College System (FCS) institutions, and state universities, subject to provisions in law.² The commissioner must use estimates for PECO funds by the Revenue Estimating Conference³ in determining the budget request. In addition, the commissioner, in consultation with the appropriations committees of the Legislature, must provide annually an estimate of funds for FCS institutions and state universities in developing three-year priority lists required in law.⁴

FCS institutions and state university boards of trustees (BOT) request funds for projects based on the 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request (LBR) at least 90 days prior to the legislative session.⁵ The State Board

¹ Art. XII, s. 9, Fla. Const.

² Section 1013.60(1), F.S., and applicable provisions of ch. 216.

³ The Revenue Estimating Conference develops official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system. Section 216.136(3), F.S.

⁴ Section 1013.60(1), F.S.

⁵ Section 1013.64(4), F.S.

of Education (SBE) submits a 3-year priority list for FCS institutions, and the Board of Governors of the State University System (BOG) submits a 3-year priority list for state universities. The lists reflect decisions by the SBE and BOG concerning program priorities that implement the statewide plan for program growth and quality improvement in education.⁶

In 2019,⁷ the process by which FCS projects are evaluated for inclusion on the priority list was modified. Projects considered for prioritization are required to be chosen from a preliminary selection group consisting of previously state-funded projects that have not been completed, and the top two priorities of each FCS institution. The SBE is required to develop a points-based prioritization method to rank projects for consideration that awards points for the degree to which a project meets specific criteria compared to other projects.⁸ The criteria specified in law⁹ may be weighted, but no weight may exceed the criterion regarding space needs due to increased instructional capacity.¹⁰

A new construction, remodeling, or renovation project that has not received an appropriation in a previous year may not be considered for inclusion on the required prioritized list, unless:

- A plan is provided to reserve funds in an escrow account, specific to the project, into which must be deposited each year an amount of funds equal to 0.5 percent of the total value of the building for future maintenance;
- There are sufficient excess funds from the allocation provided pursuant to the LBR within the 3-year planning period which are not needed to complete the projects for which state funds were previously appropriated which have not been completed;¹¹ and
- The project has been recommended based on results relating to an educational plant survey.¹²

Effect of Proposed Changes

The bill modifies s. 1001.03, F.S., to replace the existing sufficient excess PECO funds criterion for a specified new construction, remodeling, or renovation project to be added to the priority list. The bill changes the criterion to specify that an FCS project may only be included on the priority list if there is sufficient capacity within the cash and bonding estimate of funds by the Revenue Estimating Conference to accommodate the project within the three-year PECO funding cycle. This modification aligns the requirements for new FCS projects to be considered on the priority list with those for the State University System (SUS) projects.¹³

⁶ Section 1013.31, F.S.

⁷ Section 3, ch. 2019-103, L.O.F.

⁸ On Sept. 20, 2019, the SBE approved a prioritized list of PECO for 2020-2021 and the FCS PECO project priority methodology.

⁹ Section 1001.03(18)(a), F.S.

¹⁰ Section 1001.03(18)(b), F.S.

¹¹ The SBE must continually maintain a list of all public education capital outlay projects for which state funds were previously appropriated which have not been completed. The list must include an estimate of the amount of state funding needed for the completion of each project. Section 1001.03(18)(d), F.S.

¹² Section 1013.31, F.S. Educational plant surveys must be completed every five years, and reflect the capacity of existing facilities in school districts, FCS institutions, and state universities, as well as projections of facility space needs. *Id.*

¹³ Section 1001.706(12)(c), F.S.

End-of-Year Balance of Funds – State Universities and Florida College System Institutions

Present Situation

At the end of each fiscal year, state operational funds for state agencies and departments revert to the fund from which they were appropriated for reappropriation by the Legislature.¹⁴ However, state universities¹⁵ and FCS institutions¹⁶ are authorized to carry forward unexpended amounts in operating funds for subsequent fiscal years.

Each state university, and FCS institution with a final FTE of 15,000 or greater for the prior year, must maintain a minimum carry forward balance of at least 7 percent of its state operating budget. If such university or FCS institution fails to maintain a 7 percent balance in state operating funds, the university and FCS institution must submit a plan to the BOG and SBE, respectively, to attain the 7 percent balance of state operating funds within the next fiscal year.¹⁷ An FCS institution with a final FTE less than 15,000 for the prior must maintain a carry forward balance of at least 5 percent, or submit a similar plan to the SBE.¹⁸

A state university or FCS institution that retains a state operating fund carry forward balance in excess of the required minimum must submit a spending plan for its excess carry forward balance. The spending plan must be submitted to the state university or FCS institution BOT for approval by September 1, 2020, and each September 1 thereafter.¹⁹ The BOG must review, approve, and amend, if necessary, each university's carry forward spending plan by October 1, 2020, and each October 1 thereafter.²⁰ The SBE must review and publish each FCS institution's carry forward spending plan by October 1, 2020, and each October 1 thereafter.²¹

The carry forward spending plan for each state university, and FCS institution with a final FTE of 15,000 or greater for the prior year, must include the estimated cost per planned expenditure and a timeline for completion of the expenditure. The law specifies authorized expenditures, which include nonrecurring operating expenditures that support the university's or FCS institution's mission.²²

Effect of Proposed Changes

The bill modifies provisions in ss. 1011.45 and 1013.841, F.S., relating to the carry forward of operational funds by state universities and FCS institutions to align fund approval activities and provide greater flexibility in spending plan expenditures. Specifically, the bill:

- Modifies the submission and approval dates by an institution BOT, BOG, and SBE, to require that:

¹⁴ Section 216.301(1)(a), F.S.

¹⁵ Section 1011.45, F.S.

¹⁶ Section 1013.841(1), F.S.

¹⁷ Sections 1011.45(1) and 1013.841(3)(a), F.S.

¹⁸ Section 1013.841(2)(a), F.S.

¹⁹ Sections 1011.45(2) and 1013.841(2)(b), F.S.

²⁰ Section 1011.45(2), F.S.

²¹ Section 1013.841(2)(b), F.S.

²² Sections 1011.45(3) and 1013.841(4), F.S.

- The spending plan be submitted to the state university or FCS institution BOT for approval by September 30, 2020, and each September 30 thereafter.²³
- The BOG review, approve, and amend, if necessary, university spending plans, and the SBE review and publish FCS institution spending plans by November 15, 2020, and each November 15 thereafter.
- Removes the requirement that operating expenditures that support the mission of the state university or FCS institution mission be nonrecurring.
- Authorizes the spending plans of state universities and FCS institutions to include a commitment of funds to a contingency reserve to assist in addressing unforeseen circumstances that may arise, including natural disasters and other emergencies.²⁴

Preeminent State Research Universities Program

Present Situation

The preeminent state research universities program is a collaborative partnership between the BOG and the Legislature to raise the academic and research preeminence of the highest performing state research universities in Florida.²⁵ A state university that meets 11 of the 12 academic and research excellence standards specified in law is designated a “preeminent state research university”.^{26 27} A state research university that meets at least six of the 12 standards is designated as an “emerging preeminent state research university.”²⁸ In identifying the performance of each state university against the standards, the BOG is required to use the state university data as published by the national sources specified in statute.

If an increase in the appropriation for preeminent state research universities is provided, each designated preeminent state research university must receive an equal amount of funding, and each designated emerging preeminent state research university must receive an amount of funding that is equal to one-quarter of the total increased amount awarded to each designated preeminent state research university.²⁹

Effect of Proposed Changes

The bill modifies s. 1001.7065, F.S., to require the academic and research excellence standards for preeminent state research universities be reported annually in the BOG Accountability Plan³⁰

²³ The deadline is consistent with current laws that require the chief financial officer of a state university or FCS institution to certify, annually by September 30, the unexpended amount of state funds remaining in the general fund of an institution as of June 30 of the previous fiscal year. Sections 1011.45(4) and 1011.84(3)(e), F.S.

²⁴ Current law authorizes state universities to spend the minimum carry forward balance of 7 percent for a demonstrated emergency, subject to state university BOT and BOG approval. Section 1011.45(5), F.S.

²⁵ Section 1001.7065(1), F.S.

²⁶ Section 1001.7065(2), F.S. The standards include: incoming freshman academic characteristics (average weighted GPA and average SAT score); institutional ranking nationally; freshman retention rate; four-year graduation rate; national academy membership of institution faculty; research expenditures (2 measures); research expenditure national ranking; patents awarded annually; doctoral degrees awarded annually; postdoctoral appointees annually; and institutional endowment.

²⁷ Section 1001.7065(3)(a), F.S.

²⁸ Section 1001.7065(3)(b), F.S.

²⁹ Section 1001.7065(5)(c), F.S.

³⁰ Board of Governors Regulation 2.002 requires the BOG to institute a planning and performance monitoring system for state universities designed to inform strategic planning, budgeting, and other policy decisions for the State University System; the BOG must annually submit the university accountability plans and the system summary of the university plans to

and amends the standards to provide the BOG with the flexibility to access and utilize the most up to date data available.

The bill preserves the designation of emerging preeminent universities, removes the funding component for emerging preeminent universities, and provides that the funding for preeminent universities will be determined annually by the Legislature.

State University System Programs of Excellence

Present Situation

In 2018,³¹ the BOG was required to establish standards and measures whereby individual degree programs that objectively reflect national excellence in state universities could be identified, and make recommendations to the Legislature by September 1, 2018, regarding the enhancement and promotion of such programs.³²

The goal of this initiative was to achieve and improve upon world-class, nationally recognized university programs of excellence within the SUS. The BOG approved a framework to identify programs of excellence that:³³

- Provide opportunities for all 12 SUS institutions to participate.
- Allow for universities to elevate both research and academic programs that are nationally recognized.
- Allow for programs across disciplines and degree levels to be recognized.
- Encourage institution collaboration.
- Address key areas important to Florida.
- Provide for flexibility in implementation.

The BOG requested \$30 million for this initiative in its 2019-2020 legislative budget request.³⁴ This request was not funded by the 2019 Legislature.

Effect of Proposed Changes

The bill modifies s. 1001.7065, F.S., to replace the SUS Programs of Excellence with a State Universities of Distinction program, which requires the BOG to establish standards and measures to identify state universities that focus on one core competency unique to the SUS that:

- Achieves excellence at the national or state level;
- Meets state workforce needs; and

the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Board of Governors 2019 System Accountability Plan is available at https://www.flbog.edu/wp-content/uploads/2019_System_Accountability_Plan_FINAL_2019-10-30.pdf.

³¹ Section 3, ch. 2018-4, L.O.F.

³² Section 1001.7065(7), F.S.

³³ Board of Governors, *Programs of Excellence Report* (Sept. 2018), available at https://www.flbog.edu/wp-content/uploads/0273_1154_8738_10.3.2-AREC-03b-Programs-of-Excellence-Report_CE.pdf.

³⁴ Board of Governors, *State University System of Florida, Education and General, 2019-2020 Executive Summary, Universities and Special Units* (Sept. 13, 2018), available at https://www.flbog.edu/wp-content/uploads/0273_1152_8727_8.8.1.2-BUD-10a-2019-20-LBR_SUS-Executive-Summary-updated-8-31.pdf.

- Fosters an innovation economy that focuses on areas such as health care, security, transportation, and science, technology, engineering, and mathematics (STEM), including supply chain management.

The bill requires the BOG to annually submit such programs by January 1 for funding.

This bill provision aligns with a recent BOG initiative targeting Universities of Distinction as a path towards excellence that will produce high-quality talent to diversify Florida's economy, stimulate innovation, and provide a return on investment to the state.³⁵

Financial Aid and Tuition Assistance Programs

Present Situation

Various student financial aid and tuition assistance programs have been created to assist students in accessing and continuing higher education in Florida. Student financial assistance available in Florida³⁶ includes a variety of grant and scholarship programs outlined in law³⁷ or SBE rule³⁸ and loans through Federal Student Aid.

Florida Student Assistance Grant Program

The Florida Student Assistance Grant (FSAG) Program, created in 1972, is Florida's largest need-based grant program, consisting of FSAG Public, FSAG Public Postsecondary Career Education (FSAGCE), FSAG Private, and FSAG Postsecondary.³⁹ The FSAG Program provides state student assistance grants to students who meet general eligibility requirements⁴⁰ and stipulations specific to each program.

For each of the programs, except FSAGCE, the Department of Education is required to establish a maximum expected family (EFC) contribution that is used in determining eligibility to receive a grant award.⁴¹ For the 2019-2020 academic year, the maximum EFC for FSAG Public and FSAG Postsecondary matches the maximum EFC established for Pell: 5576.^{42 43}

³⁵ Board of Governors, *Universities of Distinction* (draft document), available at <https://www.flbog.edu/wp-content/uploads/University-of-Distinction.pdf>.

³⁶ See Florida Student Financial Aid, *Office of Student Financial Assistance*, <http://www.floridastudentfinancialaid.org/> (last visited Dec. 11, 2019).

³⁷ See ss. 1009.50-1009.894, F.S.

³⁸ See Rule 6A-20.001 - 20.111, F.A.C.

³⁹ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019), at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁴⁰ Section 1009.40, F.S.

⁴¹ Sections 1009.50(2)(c), 1009.51(2)(c), and 1009.52(2)(c), F.S.

⁴² Florida Department of Education Office of Student Financial Assistance, *Florida Student Assistance Grant (FSAG) Allocations*, available at <https://www.floridastudentfinancialaidsg.org/PDF/PSI/1920-09.pdf>.

⁴³ See Federal Student Aid, *Office of the U.S. Department of Education*, <https://ifap.ed.gov/dpccletters/GEN1901.html> (last visited Jan. 19, 2020).

The FSAG Program is administered by participating institutions in accordance with SBE rule.⁴⁴ A total of \$269,396,012 was appropriated for the FSAG Program for the 2019-2020 fiscal year.⁴⁵ The current maximum award amount of \$2,610 has not changed since 2013.⁴⁶

Similarities and differences in specified provisions across the FSAG programs are depicted in the table below.

| | FSAG Public | FSAGCE | FSAG Private | FSAG Postsecondary |
|---|--|--|--|--|
| Student Eligibility⁴⁷ | Degree-seeking and enrolled in at least 6 hours at an FCS institution or state university. | Certificate-seeking and enrolled in a career center or FCS institution at least half-time. ⁴⁸ | Full-time, degree-seeking enrollment at an eligible independent nonprofit college or university. ⁴⁹ | Full-time, degree-seeking enrollment at an eligible private nursing school or an eligible independent college or university. ⁵⁰ |
| Grant Award | Between \$200 and weighted average of cost of tuition and fees for 30 hours at state universities, up to 110 percent of the program, or as specified in the GAA. ⁵¹ | Between \$200 and the student’s unmet need for the cost of education, which may not exceed the average annual cost of tuition and other registration fees, or as specified in the GAA. ⁵² | Between \$200 and the amount of demonstrated unmet need for tuition and fees, not to exceed an amount equal to the average tuition and other registration fees for 30 credit hours at state universities plus \$1,000 per academic year, or as specified in the GAA. ⁵³ | Similar to FSAG Private. |

⁴⁴ Sections 1009.50(6), 1009.505(5), 1009.51(6), and 1009.52(7), F.S. *See also* Rule 6A-20.031, F.A.C. Postsecondary educational institution administrative responsibilities for state student aid and tuition assistance programs are outlined in Rule 6A-20.002, F.A.C.

⁴⁵ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019), at 5, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>. *See also* Specific Appropriation 75, ch. 2019-115, L.O.F.

⁴⁶ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2016-17* (2019), at 10, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁴⁷ A demonstrated unmet need of less than \$200 renders an applicant ineligible for a state student assistance grant. Sections 1009.50(2)(a), 1009.51(2)(a), and 1009.52(2)(a), F.S. *See also* Rule 6A-20.031, F.A.C.

⁴⁸ Section 1009.505(3)(a), F.S. “Half-time” means the equivalent in clock hours at a public postsecondary career certificate program of 6 semester credit hours at a FCS institution. Section 1009.505(2)(b), F.S.

⁴⁹ An eligible independent college or university is nonprofit, baccalaureate-degree-granting, accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, and located in and chartered as a domestic corporation by the state. Section 1009.51(2)(a), F.S.

⁵⁰ An eligible nursing diploma school must be approved by the Florida Board of Nursing, and an eligible independent college or university must be licensed by the Commission for Independent Education. Section 1009.52(2)(a), F.S. The Commission for Independent Education has statutory responsibilities in matters relating to nonpublic, postsecondary, educational institutions, including the licensure of independent schools, colleges, and universities. Florida Department of Education, *Commission For Independent Education*, <http://www.fldoe.org/policy/cie/> (last visited Dec. 16, 2019).

⁵¹ Section 1009.50(3), F.S. The amount is specified in the GAA. *Id.* *See s.* 1009.50(2)(a), F.S. The legal requirement is contained in s. 1009.40(3), F.S.

⁵² Section 1009.505(3)(a), F.S.

⁵³ No student may receive an award for more than the equivalent of 9 semesters or 14 quarters of full-time enrollment. Section 1009.51(2)(a), F.S.

| | FSAG Public | FSAGCE | FSAG Private | FSAG Postsecondary |
|--|--|-------------------------|---|----------------------------|
| Priority in Distribution of Funds | Priority given to students with the lowest total family resources. ⁵⁴ | No provision. | Identical to FSAG Public. | Identical to FSAG Public. |
| Reporting Requirement | Report disbursed students to DOE. ⁵⁵ | Similar to FSAG Public. | Similar to FSAG Public. | Similar to FSAG Public. |
| Audit | No provision. | No provision. | Biennial financial and program audit. ⁵⁶ | Identical to FSAG Private. |

In addition, the FSAG Public, FSAG Private, and FSAG Postsecondary programs provide for deposit of funds appropriated by the Legislature for grants through the FSAG program into the State Student Financial Assistance Trust Fund.⁵⁷ The FSAGCE program does not have this provision.

For the 2018-2019 fiscal year, amounts disbursed through the FSAG Program include:

- A total of \$234,334,619 for FSAG Public, disbursed to 156,301 students with an average award amount of \$1,499.55.⁵⁸
- A total of \$3,144,476 for FSAGCE, disbursed to 4,305 students with an average award amount of \$730.42.⁵⁹
- A total of \$24,500,519 for FSAG Private, disbursed to 16,338 students with an average award amount of \$1,499.60.⁶⁰
- A total of \$6,799,009 for FSAG Postsecondary, disbursed to 6,281 students with an average award amount of \$1,082.47.⁶¹

Benacquisto Scholarship Program

The Benacquisto Scholarship Program (scholarship)⁶² was created in 2014 to reward a Florida high school graduate who achieves recognition as a National Merit Scholar (NMS)⁶³ or National

⁵⁴ Section 1009.50(2)(c), F.S.

⁵⁵ Sections 1009.50(2)(d) and 1009.50(4)(d), F.S. All eligible students are required to be reported. Rule 6A-20.031(7), F.A.C.

⁵⁶ Section 1009.51(4)(e), F.S. The DOE retains the ability to suspend or revoke an institution’s eligibility to receive future moneys from the trust fund for the program or request a refund of any moneys overpaid to the institution.

⁵⁷ Sections 1009.50(5), 1009.51(5), and 1009.52(6), F.S.

⁵⁸ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 4, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPU_2018_2019.pdf.

⁵⁹ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 5, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGCE_2018_2019.pdf.

⁶⁰ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 4, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPR_2018_2019.pdf.

⁶¹ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 6, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPO_2018_2019.pdf.

⁶² The scholarship was renamed in 2016 from the Florida National Merit Scholar Incentive Program to the Benacquisto Scholarship Program. Section 26, ch. 2016-237, L.O.F.

⁶³ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019), at 17, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>. The National Merit Scholarship Corporation (NMSC) is a private, not-for-profit organization that operates without government assistance to recognize and honor academically talented students. National Merit Scholarship Corporation, Mission, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=395> (last visited Dec. 11, 2019). NMSC organizes the National Merit Scholarship Program, which began in 1955 as an academic competition for recognition and

Achievement Scholar (NAS)⁶⁴ and enrolls in a baccalaureate degree program at an eligible Florida public or independent postsecondary educational institution.⁶⁵

In addition to achieving recognition as an NMS or NAS, in order to be eligible for an award under the scholarship, a student must:⁶⁶

- Be a state resident as determined by statute and SBE rules;
- Earn a standard Florida high school diploma or its equivalent pursuant to statute, unless:
 - The student completes a home education program pursuant to statute,⁶⁷ or
 - The student earns a high school diploma from a non-Florida school while living with a parent who is on military or public service assignment out of this state;
- Be accepted by and enroll in a Florida public or independent postsecondary educational institution that is regionally accredited; and
- Be enrolled full-time in a baccalaureate degree program at an eligible regionally accredited Florida public or independent postsecondary educational institution during the fall academic term following high school graduation.

In 2018, eligibility was expanded to allow out-of-state students to qualify for a scholarship.⁶⁸

Scholarship recipients attending a public postsecondary institution, who qualify as a Florida resident, receive an award equal to the institutional cost of attendance minus the sum of the student's Florida Bright Futures Scholarship and NMS or NAS award. Scholarship recipients attending a public postsecondary institution, who qualify as non-residents of Florida, receive an award equal to the institutional cost of attendance for a Florida resident minus the student's NMS award. Eligible students who attend independent postsecondary educational institutions in Florida each receive scholarship awards equal to the highest cost of attendance for a resident of this state enrolled at a Florida public university, as reported by the BOG, minus the sum of the student's Florida Bright Futures Scholarship and NMS or NAS award.⁶⁹

A student must earn all credits for which he or she was enrolled and maintain a 3.0 or higher grade point average to be eligible for a renewal award. A student may receive an award for up to 100 percent of the number of credit hours required to complete a baccalaureate degree program.⁷⁰

scholarship. High school students enter the National Merit Program by taking the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), which serves as an initial screen of approximately 1.6 million entrants each year, and meeting the program participation requirements. National Merit Scholarship Corporation, *National Merit Scholarship Program*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=424> (last visited Dec. 11, 2019).

⁶⁴ The National Merit Scholarship Corporation discontinued the National Achievement Scholarship Program with the conclusion of the 2015 program. National Merit Scholarship Corporation, *National Achievement Scholarship Program*, <http://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=433> (last visited Dec. 26, 2019).

⁶⁵ Section 1009.893(2), F.S.

⁶⁶ Section 1009.893(4)(a), F.S.

⁶⁷ Section 1002.41, F.S.

⁶⁸ Section 22, ch. 2018-4, L.O.F. See s. 1009.893(4)(b), F.S.

⁶⁹ Section 1009.893(5)(b), F.S.

⁷⁰ Section 1009.893(5)(a), F.S. The National Achievement Scholarship Program has since been discontinued. National Merit Scholarship Corporation, *supra* note 57.

For the 2019-2020 fiscal year, \$21,372,911⁷¹ was appropriated to fund 1,416 scholarship recipients.⁷²

Effect of Proposed Changes

Florida Student Assistance Grant Program

The bill provides flexibility and aligns specific requirements across the FSAG programs.

Specifically, the bill:

- Establishes that the maximum award amount for each FSAG program as specified in the General Appropriations Act (GAA).
- Allows a student who received a FSAG award in the fall or spring term to receive the FSAG award during the summer, if funds are available.⁷³
- Removes the requirement that institutions must prioritize the distribution of grant funds to students with the lowest family resources, thus allowing an institution to provide the grant funds to students who have the greatest unmet need.
- Specifies that, for all FSAG programs, institutions must report to the DOE all eligible students, regardless of actual disbursements.⁷⁴
- Modifies the fund distribution formula to include part-time and full-time eligible students, and requires that the formula account for changes in the number of eligible students across all FSAG programs.
- Establishes a disbursement deadline of 30 days after the end of regular registration each term and deadline of 60 days after the end of regular registration each spring term for return of undisbursed funds, which aligns to other financial aid programs, in accordance with DOE rule. However, the bill authorizes an exception to the remittance deadline if the institution documents to the DOE how the institution plans to disburse awards to students for the subsequent summer term. Such reporting and remittance deadlines may ensure that returned funds can be disbursed to qualified students prior to the end of the fiscal year.
- Removes the required DOE need analysis for the FSAG Public, FSAG Private, and FSAG Postsecondary programs to specify that a grant may not be made to a student whose expected family contribution exceeds one and one-half times the maximum Pell Grant-eligible family contribution.⁷⁵
- Requires institutions receiving funds through the FSAG Public and FSAGCE programs to prepare the same biennial report currently required of the FSAG Private and FSAG Postsecondary programs. The requirement specifies that:

⁷¹ Specific Appropriation 68, ch. 2019-115, L.O.F.

⁷² Education Estimating Conference on Student Financial Aid, *Executive Summary* (March 2019), available at <http://edr.state.fl.us/Content/conferences/financialaid/archives/190315financialaid.pdf>.

⁷³ All students entering a SUS university with fewer than 60 semester hours credit are required to earn at least 9 semester hours prior to graduation by attendance at one or more summer sessions. BOG Regulation 6.016. Allowing students to use FSAG awards during the summer may assist students to fulfill this requirement, take more credits in a year, and graduate on-time in four years.

⁷⁴ Reporting all eligible students, rather than only those students who received a disbursement, is consistent with requirements in rule 6A-20.031(7), 6A-20.032(7), and 6A-20.033(7), F.A.C.

⁷⁵ Expected Family Contribution is calculated using a student's: family size; family's taxed and untaxed income, assets, and benefits; and number of family members who will attend college or career school during the year. Federal Student Aid, *How Aid is Calculated*, <https://studentaid.gov/complete-aid-process/how-calculated#efc> (last visited Dec. 23, 2019).

- Each institution that receives moneys through the FSAG program must prepare a biennial report that includes a financial audit, conducted by the Auditor General, of the institution's administration of the program and a complete accounting of moneys allocated to the institution for the program to the DOE by March 1 every other year.
- The DOE may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and financial audit report.
- The DOE may suspend or revoke an institution's eligibility to receive future moneys for the program or request a refund of any moneys overpaid to the institution for the program if the DOE finds that an institution has not complied and specifies that any refund requested must be remitted within 60 days after notification by the DOE.

Benacquisto Scholarship Program

The bill modifies s. 1009.893, F.S., to clarify requirements for initial eligibility and modify scholarship renewal provisions. Specifically, the bill:

- Removes an outdated reference to the National Achievement Scholar program.
- Requires scholarship renewal students to be enrolled full-time. However, the bill authorizes a student to be enrolled less than full-time and receive funding for one term to complete his or her degree, if the student has less than 12 credits remaining to graduate.⁷⁶
- Specifies that a student's renewal status is not affected by subsequent changes in the residency status of the student or the student's family.
- Authorizes that students who fail to meet renewal requirements due to a verifiable illness or other documented emergency may be granted an exception pursuant to law.⁷⁷
- Specifies that a student may receive an award for up to five years following high school graduation and may not receive the award for more than 10 semesters, which may encourage students to complete degree programs in a timely manner and may lower some program costs.

Textbook and Instructional Materials Affordability

Present Situation

In 2008, the federal government⁷⁸ and Florida Legislature⁷⁹ addressed measures to reduce costs and make textbooks more affordable for needy students. Since 2016,⁸⁰ each FCS institution and state university BOT has been authorized to adopt policies in consultation with textbook and instructional materials providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials. Such policies are authorized to include bulk pricing arrangements that enable students to purchase course

⁷⁶ Modifying provisions relating to full-time enrollment will more closely align the law with DOE implementation of the scholarship program.

⁷⁷ Section 1009.40(1)(b)4., F.S.

⁷⁸ The Higher Education Opportunity Act (Public Law 110-315).

⁷⁹ Section 1004.0085, F.S.

⁸⁰ Section 3, ch. 2016-236, L.O.F.

materials or texts that are delivered digitally; delivered through other technologies that are, or the licenses of which are, required for use within a course; or delivered in a print format.⁸¹

FCS institution and state university BOT innovative pricing techniques and payment options policies may only be approved if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course and if the policy includes an opt-in provision for students.⁸² An institution may not automatically enroll students in services that provide textbooks or other materials electronically, students must opt-in to such programs.

Effect of Proposed Changes

The bill modifies s. 1004.085, F.S., to require that each FCS institution and state university BOT that adopts innovative pricing techniques and payment options policies include either an opt in or opt out provision for students. Therefore, if an institution adopts such a policy, the institution may automatically assign all students in a course to receive digital materials or other pricing payment options unless the student opts out of the policy.

Phosphate Research and Activities Board

Present Situation

The Florida Industrial and Phosphate Research Institute is housed within Florida Polytechnic University (FPU)⁸³ and the Phosphate Research and Activities Board is tasked with monitoring the expenditure of funds appropriated to FPU from the Phosphate Research Trust Fund.⁸⁴ The board consists of five members. The Governor is required to appoint two persons representing the phosphate mining or processing industry and one member representing a major environmental conservation group in the state. The Secretary of Environmental Protection or his or her designee and the president of FPU are required to serve as board members.⁸⁵

Members of the board appointed by the Governor are appointed to 3-year terms. A board member may continue to serve until a successor is appointed, but not more than 180 days after the expiration of his or her term. A board member is eligible for reappointment to subsequent terms.⁸⁶

⁸¹ Section 1004.085(4), F.S. Such policies are often called “inclusive access.” Where previously students might have been assigned textbooks individually, now many institutions are signing up whole classes of students to automatically receive digital course materials at a discounted rate, rather than purchasing individually. Every student has the same materials on the first day of class, with the charge included as part of their tuition. Many institutions automatically sign up students for such services, requiring students to opt-out if they do not wish to receive such digital materials or services. Inside Higher Education, *‘Inclusive Access’ Takes Off*, <https://www.insidehighered.com/news/2017/11/07/inclusive-access-takes-model-college-textbook-sales> (last visited Jan. 2, 2020). For federal financial assistance, an institution may include the cost of textbooks and supplies as part of tuition and fees if the institution has an arrangement with a publisher or other entity that makes books or supplies cheaper, provides a way for students to get timely access to materials, and includes a student opt out provision. Section 668.164(c) (2)(i), C.F.R.

⁸² Section 1004.085(4), F.S.

⁸³ Section 1004.346(1), F.S.

⁸⁴ Section 1004.346(2), F.S.

⁸⁵ Section 1004.346(2)(b), F.S.

⁸⁶ Section 1004.346(2)(c), F.S.

Effect of Proposed Changes

The bill modifies s. 1004.346, F.S., to remove the limitation that a board member may not serve more than 180 days after the expiration of his or her term, which prevents vacancies on the board by allowing that member to serve on the board until a replacement is appointed or that member is reappointed.

Remuneration of State University Administrative Employees**Present Situation**

A state university administrative employee may not receive more than \$200,000 in remuneration annually from appropriated state funds. However, university teaching faculty or medical school faculty or staff are not limited to how much compensation they can receive each year from appropriated state funds. State law does not direct the Board of Governors (BOG) to identify which employee classifications are exempt from the remuneration cap.^{87 88} However, the BOG defines in regulation the position of university president, university administrative employees, and university teaching faculty or medical school faculty for the purpose of regulating remuneration for such employees.⁸⁹

Effect of Proposed Changes

The bill modifies s. 1012.976, F.S., to require the BOG to define in regulation the university faculty and administrative personnel classifications.

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.

⁸⁷ See ss. 1012.976(2) and 1012.976(3), F.S.

⁸⁸ State of Florida Auditor General, *Operational Audit, State University System Board of Governors, Report 2020-032*, (September 2019), at 3-4, available at https://flauditor.gov/pages/pdf_files/2020-032.pdf. The Auditor General (AG) finding cited the BOG for creating a definition of university teaching faculty that included those who provide indirect instructional support. The AG indicated that the BOG definition “may undercut the dichotomy between administrative employees and teaching faculty contemplated in state law.” The AG recommended that the BOG review and revise the regulation to ensure definitions of teaching faculty are consistent with state law.

⁸⁹ Board of Governors Regulation 9.006.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Providing for Florida Student Assistance Grant (FSAG) Program summer awards may provide additional financial assistance to students who attend during the summer term.

Establishing a deadline for the return of undisbursed funds to the Department of Education may provide opportunities for additional students to receive an FSAG program scholarship. Returned funds may then be repurposed to fund other eligible students at the same or another institution.⁹⁰

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.03, 1001.7065, 1004.085, 1004.346, 1009.50, 1009.505, 1009.51, 1009.52, 1009.893, 1011.45, 1012.976, and 1013.841.

This bill repeals section 11 of chapter 2019-116, Laws of Florida.

⁹⁰ In the 2019 General Appropriations Act, student financial aid funds may be reallocated among the FSAG programs, the children and spouses of deceased and disabled veterans scholarship program, the Florida Work Experience program, and the Rosewood Family and Florida Farmworker scholarships. Specific Appropriation 75, s.2 ch. 2019-115, L.O.F.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

Recommended CS by Appropriation Subcommittee on Education on January 29, 2020:

The committee substitute makes the following changes to the bill:

- Removes the requirement that participating institutions in the Florida Student Assistance Grant program prioritize the distribution of grant funds to students with the lowest family resources.
- Modifies the appointment term of members to the Florida Industrial and Phosphate Research Institute board, to allow board members to serve until their replacement is named. Removes the limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.
- Modifies the remuneration statute for state universities, directing the Board of Governors to define in regulation the university faculty and administrative personnel classifications.
- Modifies the Academic and Research Excellence Standards subsection so that the BOG Accountability Plan is the source for the measures rather than third-party sources. Revises the data for academic and research excellence standards of preeminent institutions by using more timely performance data and requiring the standards to be reported annually in the BOG Accountability Plan.
- Modifies the preeminence statute to preserves the designation of emerging preeminent universities, removes funding component for emerging preeminent universities, and changes the funding for preeminent universities to be determined annually by the Legislature.
- Removes the repeal of section 11, ch. 2019-116, L.O.F., as that provision is no longer necessary because the award cap was permanently removed from law in 2019.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 03/03/2020 | . | |
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 136 and 137
insert:

Section 1. Section (21) of section 287.057, Florida Statutes, is amended to read:

287.057 Procurement of commodities or contractual services.—

(21) An agency may contract for services with any independent, nonprofit college or university which is located



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11 within the state on the same basis as it may contract with any
12 state university and college if the independent, nonprofit
13 college or university:

14 (a) and Is accredited by the Southern Association of
15 Colleges and Schools; ~~or, on the same basis as it may contract~~
16 ~~with any state university and college~~

17 (b) Is authorized to operate within this state pursuant to
18 chapter 1005, offers a professional degree, and is accredited by
19 the Middle States Commission on Higher Education.

20
21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Between lines 2 and 3

24 insert:

25 s. 287.057, F.S.; authorizing state agencies to
26 contract with independent, nonprofit colleges and
27 universities that meet specified requirements;
28 amending



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LEGISLATIVE ACTION

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| Senate | . | House |
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 162 and 163
insert:

Section 2. Paragraph (a) of subsection (6) of section
1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(6) POWERS AND DUTIES RELATING TO PERSONNEL.—

(a) The Board of Governors, or the board's designee, shall
establish the personnel program for all employees of a state



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11 university. The Board of Governors shall confirm the
12 presidential selection and reappointment by a university board
13 of trustees as a means of acknowledging that system cooperation
14 is expected. The selection of a president by a university board
15 of trustees must be from among at least three candidates.

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Between lines 4 and 5

20 insert:

21 amending s. 1001.706, F.S.; requiring that selection
22 of a president by a university board of trustees be
23 from among at least three candidates;



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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment

Delete lines 172 - 173

and insert:

higher on a 4.0 scale and an average SAT score of ~~1800 or higher on a 2400-point scale or~~ 1200 or higher on a 1600-point scale or an average ACT score of 25 or higher on a 36 score scale, using the latest published national concordance table developed jointly by the College Board and ACT, Inc.,



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| Senate | . | House |
| Comm: RCS | . | |
| 03/03/2020 | . | |
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 298 and 299

insert:

Section 5. Section 1004.6499, Florida Statutes, is created to read:

1004.6499 Florida Institute of Politics.—

(1) The Florida Institute of Politics is established at the Florida State University within the College of Social Sciences and Public Policy. The purpose of the institute is to provide



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11 the southeastern region of the United States with a world class,
12 bipartisan, nationally renowned institute of politics.

13 (2) The goals of the institute are to:

14 (a) Motivate students throughout the Florida State
15 University to become aware of the significance of government and
16 civic engagement at all levels and politics in general.

17 (b) Provide students with an opportunity to be politically
18 active and civically engaged.

19 (c) Nurture a greater awareness and passion for public
20 service and politics.

21 (d) Plan and host forums to allow students and guests to
22 hear from and interact with experts from government, politics,
23 policy, and journalism on a frequent basis.

24 (e) Become a national and state resource on polling
25 information and survey methodology.

26 (f) Provide fellowships and internship opportunities to
27 students in government, nonprofit organizations, and community
28 organizations.

29 (g) Provide training sessions for newly elected state and
30 local public officials.

31 (h) Organize and sponsor conferences, symposia, and
32 workshops throughout this state to educate and inform citizens,
33 elected officials, and appointed policymakers regarding
34 effective policymaking techniques and processes.

35 (i) Create and promote research and awareness regarding
36 politics, citizen involvement, and public service.

37 (j) Collaborate with related policy institutes and research
38 activities at the Florida State University and other
39 institutions of higher education to motivate, increase, and



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40 sustain citizen involvement in public affairs.

41

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

43 And the title is amended as follows:

44 Delete line 21

45 and insert:

46 Board members; creating s. 1004.6499, F.S.; creating
47 the Florida Institute of Politics within the Florida
48 State University College of Social Sciences and Public
49 Policy; providing the purpose and goals of the
50 institute; amending s. 1009.50, F.S.; revising a



957022

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/03/2020 | . | |
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| | . | |
| | . | |

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

1 Delete lines 929 - 931

2

3 and insert:

4 ~~teaching~~ faculty or medical school faculty or staff. The Board

5 of Governors shall define in regulation the university faculty

6 and administrative personnel classifications.

7

8

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

10 And the title is amended as follows:



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11 Between lines 122 and 123
12 insert:
13 deleting a provision relating to applicability;



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to postsecondary education; amending s. 1001.03, F.S.; clarifying requirements for new construction, remodeling, or renovation projects; amending s. 1001.7065, F.S.; requiring that certain academic and research excellence standards be reported annually in the accountability plan prepared by the Board of Governors; revising the academic and research excellence standards established for the preeminent state research universities program; establishing criteria for identifying state universities of distinction, rather than programs of excellence, throughout the State University System; authorizing the Board of Governors to annually submit, by a specified date, the programs for funding by the Legislature; amending s. 1004.085, F.S.; requiring certain innovative pricing techniques and payment options to contain an opt-out provision for students; amending s. 1004.346, F.S.; deleting a provision related to terms of Phosphate Research and Activities Board members; amending s. 1009.50, F.S.; revising a provision relating to the maximum annual grant amount; providing that students who receive a grant award in the fall or spring term may also receive an award in the summer term, subject to availability of funds; prohibiting institutions from dispensing grants to students whose expected family contribution exceeds a



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certain amount; requiring that the formula used to distribute funds for the program account for changes in the number of eligible students across all student assistance grant programs; requiring institutions to certify the amount of funds disbursed within a certain timeframe; requiring institutions to remit any undisbursed advances within a specified timeframe; providing an exception; requiring institutions that receive moneys through the program to submit to the department by a specified date a biennial report that includes a financial audit conducted by the Auditor General; authorizing the department to conduct its own annual or biennial audit under certain circumstances; authorizing the department to suspend or revoke an institution's eligibility or request a refund of moneys overpaid to the institution under certain circumstances; providing a timeframe for such refunds; amending s. 1009.505, F.S.; requiring that grant awards administered through the Florida Public Postsecondary Career Education Student Assistance Grant Program not exceed a certain amount; providing that students who receive a grant award in the fall or spring term may also receive an award in the summer term, subject to the availability of funds; requiring the formula used to distribute funds for the program to account for changes in the number of eligible students across all student assistance grant programs; requiring institutions to certify within a certain timeframe the amount of funds disbursed; requiring



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57 institutions to remit within a specified timeframe any
58 undisbursed advances; providing an exception;
59 requiring institutions that receive moneys through the
60 program to submit to the department by a specified
61 date a biennial report that includes a financial audit
62 conducted by the Auditor General; authorizing the
63 department to conduct its own annual or biennial audit
64 under certain circumstances; authorizing the
65 department to suspend or revoke an institution's
66 eligibility or to request a refund of moneys overpaid
67 to the institution under certain circumstances;
68 authorizing funds appropriated for state student
69 assistance grants to be deposited in a specified trust
70 fund; requiring that any balance in the trust fund at
71 the end of a fiscal year which has been allocated to
72 the Florida Public Postsecondary Career Education
73 Student Assistance Grant Program remain therein,
74 subject to certain statutory exceptions; amending s.
75 1009.51, F.S.; requiring that grant awards
76 administered through the Florida Private Student
77 Assistance Grant Program not exceed the maximum annual
78 award amount specified in the General Appropriations
79 Act; providing that students who receive an award in
80 the fall or spring term may also receive an award in
81 the summer term, subject to the availability of funds;
82 prohibiting institutions from dispensing grants to
83 students whose expected family contribution exceeds a
84 certain amount; requiring that the formula used to
85 distribute funds for the program account for changes



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86 in the number of eligible students across all student
87 assistance grant programs; requiring institutions to
88 certify within a certain timeframe the amount of funds
89 disbursed; requiring institutions to remit within a
90 specified timeframe any undisbursed advances;
91 providing an exception; revising a requirement for a
92 biennial report; amending s. 1009.52, F.S.; requiring
93 that grants administered through the Florida
94 Postsecondary Student Assistance Grant Program not
95 exceed a certain annual award amount; providing that
96 students who receive a grant award in the fall or
97 spring term may also receive an award in the summer
98 term, subject to the availability of funds;
99 prohibiting institutions from dispensing grants to
100 students whose expected family contribution exceeds a
101 certain amount; requiring that the formula used to
102 distribute funds for the program account for changes
103 in the number of eligible students across all student
104 assistance grant programs; requiring institutions to
105 certify within a certain timeframe the amount of funds
106 disbursed; requiring institutions to remit within a
107 specified timeframe any undisbursed advances;
108 providing an exception; revising a requirement for a
109 biennial report; amending s. 1009.893, F.S.;
110 specifying eligibility for initial awards under the
111 Benacquisto Scholarship Program; revising requirements
112 for a student to receive a renewal award; providing a
113 timeframe within which students can receive an award;
114 providing an exception to renewal requirements;



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115 amending s. 1011.45, F.S.; revising the date by which
116 a spending plan must be submitted to a university's
117 board of trustees for approval; revising the date by
118 which the Board of Governors must review and approve
119 such spending plan; authorizing certain expenditures
120 in a carry forward spending plan to include a
121 commitment of funds to a contingency reserve for
122 certain purposes; amending s. 1012.976, F.S.;
123 requiring the Board of Governors to adopt regulations
124 defining university faculty and administrative
125 personnel classifications; amending s. 1013.841, F.S.;
126 revising the dates by which a spending plan must be
127 submitted to a Florida College System institution's
128 board of trustees for approval; revising the dates by
129 which the State Board of Education shall review and
130 publish such plans; authorizing certain expenditures
131 in a carry forward spending plan to include a
132 commitment of funds to a contingency reserve for
133 certain purposes; providing an effective date.

134
135 Be It Enacted by the Legislature of the State of Florida:

136
137 Section 1. Paragraph (c) of subsection (18) of section
138 1001.03, Florida Statutes, is amended to read:
139 1001.03 Specific powers of State Board of Education.—
140 (18) PUBLIC EDUCATION CAPITAL OUTLAY.—The State Board of
141 Education shall develop and submit the prioritized list required
142 by s. 1013.64(4). Projects considered for prioritization shall
143 be chosen from a preliminary selection group which shall include



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144 the list of projects maintained pursuant to paragraph (d) and
145 the top two priorities of each Florida College System
146 institution.

147 (c) A new construction, remodeling, or renovation project
148 that has not received an appropriation in a previous year shall
149 not be considered for inclusion on the prioritized list required
150 by s. 1013.64(4), unless:

151 1. A plan is provided to reserve funds in an escrow
152 account, specific to the project, into which shall be deposited
153 each year an amount of funds equal to 0.5 percent of the total
154 value of the building for future maintenance;

155 2. There exists ~~are~~ sufficient capacity within the cash and
156 bonding estimate of funds by the Revenue Estimating Conference
157 to accommodate the project ~~excess funds from the allocation~~
158 ~~provided pursuant to s. 1013.60~~ within the 3-year Public
159 Education Capital Outlay funding cycle planning period ~~which are~~
160 ~~not needed to complete the projects listed pursuant to paragraph~~
161 ~~(d)~~; and

162 3. The project has been recommended pursuant to s. 1013.31.
163 Section 2. Subsections (2), (5), and (7) of section
164 1001.7065, Florida Statutes, are amended to read:

165 1001.7065 Preeminent state research universities program.—
166 (2) ACADEMIC AND RESEARCH EXCELLENCE STANDARDS.—The
167 following academic and research excellence standards are
168 established for the preeminent state research universities
169 program and must be reported annually in the Board of Governors
170 Accountability Plan:

171 (a) An average weighted grade point average of 4.0 or
172 higher on a 4.0 scale and an average SAT score of 1800 or higher



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173 on a 2400-point scale or 1200 or higher on a 1600-point scale
174 for fall semester incoming freshmen, as reported annually.

175 (b) A top-50 ranking on at least two well-known and highly
176 respected national public university rankings, including, but
177 not limited to, the U.S. News and World Report rankings,
178 reflecting national preeminence, using most recent rankings.

179 (c) A freshman retention rate of 90 percent or higher for
180 full-time, first-time-in-college students, ~~as reported annually~~
181 ~~to the Integrated Postsecondary Education Data System (IPEDS).~~

182 (d) A 4-year graduation rate of 60 percent or higher for
183 full-time, first-time-in-college students, ~~as reported annually~~
184 ~~to the IPEDS. However, for the 2018 determination of a state~~
185 ~~university's preeminence designation and the related~~
186 ~~distribution of the 2018-2019 fiscal year appropriation~~
187 ~~associated with preeminence and emerging preeminence, a~~
188 ~~university is considered to have satisfied this graduation rate~~
189 ~~measure by attaining a 6-year graduation rate of 70 percent or~~
190 ~~higher by October 1, 2017, for full time, first time in college~~
191 ~~students, as reported to the IPEDS and confirmed by the Board of~~
192 ~~Governors.~~

193 (e) Six or more faculty members at the state university who
194 are members of a national academy, ~~as reported by the Center for~~
195 ~~Measuring University Performance in the Top American Research~~
196 ~~Universities (TARU) annual report or the official membership~~
197 ~~directories maintained by each national academy.~~

198 (f) Total annual research expenditures, including federal
199 research expenditures, of \$200 million or more, ~~as reported~~
200 ~~annually by the National Science Foundation (NSF).~~

201 (g) Total annual research expenditures in diversified



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202 nonmedical sciences of \$150 million or more, ~~based on data~~
203 ~~reported annually by the NSF.~~

204 (h) A top-100 university national ranking for research
205 expenditures in five or more science, technology, engineering,
206 or mathematics fields of study, ~~as reported annually by the NSF.~~

207 (i) One hundred or more total patents awarded by the United
208 States Patent and Trademark Office for the most recent 3-year
209 period.

210 (j) Four hundred or more doctoral degrees awarded annually,
211 including professional doctoral degrees awarded in medical and
212 health care disciplines, ~~as reported in the Board of Governors~~
213 ~~Annual Accountability Report.~~

214 (k) Two hundred or more postdoctoral appointees annually,
215 ~~as reported in the TARU annual report.~~

216 (l) An endowment of \$500 million or more, ~~as reported in~~
217 ~~the Board of Governors Annual Accountability Report.~~

218 (5) PREEMINENT STATE RESEARCH UNIVERSITIES PROGRAM
219 SUPPORT.—

220 (a) A state university that is designated as a preeminent
221 state research university shall submit to the Board of Governors
222 a 5-year benchmark plan with target rankings on key performance
223 metrics for national excellence. Upon approval by the Board of
224 Governors, and upon the university's meeting the benchmark plan
225 goals annually, the Board of Governors shall award the
226 university its proportionate share of any funds provided
227 annually to support the program created under this section.

228 (b) A state university designated as an emerging preeminent
229 state research university shall submit for approval to the Board
230 of Governors a 5-year benchmark plan with target rankings on key



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231 performance metrics for national excellence. ~~Upon approval by~~
232 ~~the Board of Governors, and upon the university's meeting the~~
233 ~~benchmark plan goals annually, the Board of Governors shall~~
234 ~~award the university its proportionate share of any funds~~
235 ~~provided annually to support the program created under this~~
236 ~~section.~~

237 (c) The award of funds under this subsection is contingent
238 upon funding provided by the Legislature to support the
239 preeminent state research universities program created under
240 this section. Funding increases appropriated beyond the amounts
241 funded in the previous fiscal year shall be distributed as
242 determined annually by the Legislature to as follows:

243 ~~1. each designated preeminent state research university~~
244 ~~that meets the criteria in paragraph (a) shall receive an equal~~
245 ~~amount of funding.~~

246 ~~2. Each designated emerging preeminent state research~~
247 ~~university that meets the criteria in paragraph (b) shall,~~
248 ~~beginning in the 2018-2019 fiscal year, receive an amount of~~
249 ~~funding that is equal to one-fourth of the total increased~~
250 ~~amount awarded to each designated preeminent state research~~
251 ~~university.~~

252 (7) ~~STATE UNIVERSITIES PROGRAMS OF DISTINCTION EXCELLENCE~~
253 ~~THROUGHOUT THE STATE UNIVERSITY SYSTEM.~~—The Board of Governors
254 shall establish standards and measures that may be used in
255 identifying state universities that focus on one core competency
256 unique to the State University System and that achieve
257 excellence at the national or state level, meet state workforce
258 needs, and foster an innovation economy that focuses on such
259 areas as health care, security, transportation, and science,



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260 technology, engineering, and mathematics (STEM), including
261 supply chain management. By each January 1, the Board of
262 Governors may submit such programs whereby individual
263 undergraduate, graduate, and professional degree programs in
264 state universities which objectively reflect national excellence
265 ~~can be identified and make recommendations to the Legislature~~
266 for funding by September 1, 2018, as to how any such programs
267 ~~could be enhanced and promoted.~~

268 Section 3. Subsection (4) of section 1004.085, Florida
269 Statutes, is amended to read:

270 1004.085 Textbook and instructional materials
271 affordability.—

272 (4) Each Florida College System institution and state
273 university board of trustees is authorized to adopt policies in
274 consultation with providers, including bookstores, which allow
275 for the use of innovative pricing techniques and payment options
276 for textbooks and instructional materials. Such policies may
277 include bulk pricing arrangements that enable students to
278 purchase course materials or texts that are delivered digitally;
279 delivered through other technologies that are, or the licenses
280 of which are, required for use within a course; or delivered in
281 a print format. Innovative pricing techniques and payment
282 options must include an opt-in or opt-out provision for students
283 and may be approved only if there is documented evidence that
284 the options reduce the cost of textbooks and instructional
285 materials for students taking a course.

286 Section 4. Paragraph (c) of subsection (2) of section
287 1004.346, Florida Statutes, is amended to read:

288 1004.346 Florida Industrial and Phosphate Research



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289 Institute.-

290 (2) PHOSPHATE RESEARCH AND ACTIVITIES BOARD.—The Phosphate
291 Research and Activities Board is created to monitor the
292 expenditure of funds appropriated to the university from the
293 Phosphate Research Trust Fund.

294 (c) Members of the board appointed by the Governor shall be
295 appointed to 3-year terms. A board member may continue to serve
296 until a successor is appointed, ~~but not more than 180 days after~~
297 ~~the expiration of his or her term.~~ A board member is eligible
298 for reappointment to subsequent terms.

299 Section 5. Section 1009.50, Florida Statutes, is amended to
300 read:

301 1009.50 Florida Public Student Assistance Grant Program;
302 eligibility for grants.—

303 (1) There is hereby created a Florida Public Student
304 Assistance Grant Program. The program shall be administered by
305 the participating institutions in accordance with rules of the
306 state board.

307 (2) (a) State student assistance grants through the program
308 may be made only to degree-seeking students who enroll in at
309 least 6 semester hours, or the equivalent per term, and who meet
310 the general requirements for student eligibility as provided in
311 s. 1009.40, except as otherwise provided in this section. The
312 grants shall be awarded annually for the amount of demonstrated
313 unmet need for the cost of education and may not exceed the
314 maximum annual award ~~an amount equal to the average prior~~
315 ~~academic year cost of tuition fees and other registration fees~~
316 ~~for 30 credit hours at state universities or such other amount~~
317 ~~as specified in the General Appropriations Act, to any~~



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318 ~~recipient.~~ A demonstrated unmet need of less than \$200 shall
319 render the applicant ineligible for a state student assistance
320 grant. Recipients of the grants must have been accepted at a
321 state university or Florida College System institution
322 authorized by Florida law. If funds are available, a student who
323 received an award in the fall or spring term may receive a
324 summer term award. A student is eligible for the award for 110
325 percent of the number of credit hours required to complete the
326 program in which enrolled, except as otherwise provided in s.
327 1009.40(3).

328 (b) A student applying for a Florida public student
329 assistance grant shall be required to apply for the Pell Grant.
330 The Pell Grant entitlement shall be considered when conducting
331 an assessment of the financial resources available to each
332 student.

333 (c) ~~Priority in the distribution of grant moneys shall be~~
334 ~~given to students with the lowest total family resources, in~~
335 ~~accordance with a nationally recognized system of need analysis.~~
336 ~~Using the system of need analysis, the department shall~~
337 ~~establish a maximum expected family contribution.~~ An institution
338 may not make a grant from this program to a student whose
339 expected family contribution exceeds one and one-half times the
340 maximum Pell Grant-eligible family contribution level
341 ~~established by the department.~~ An institution may not impose
342 additional criteria to determine a student's eligibility to
343 receive a grant award.

344 (d) Each participating institution shall report, to the
345 department by the established date, the eligible students
346 eligible for the program for ~~to whom grant moneys are disbursed~~



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347 each academic term. Each institution shall also report to the
348 department necessary demographic and eligibility data for such
349 students.

350 (3) Based on the unmet financial need of an eligible
351 applicant, the amount of a Florida public student assistance
352 grant must be between \$200 and the ~~weighted average of the cost~~
353 ~~of tuition and other registration fees for 30 credit hours at~~
354 ~~state universities per academic year or the amount specified in~~
355 the General Appropriations Act.

356 (4) (a) The funds appropriated for the Florida Public
357 Student Assistance Grant shall be distributed to eligible
358 institutions in accordance with a formula approved by the State
359 Board of Education. The formula ~~must shall~~ consider at least the
360 prior year's distribution of funds, the number of ~~full-time~~
361 eligible applicants who did not receive awards, the
362 standardization of the expected family contribution, and
363 provisions for unused funds. The formula must account for
364 changes in the number of eligible students across all student
365 assistance grant programs established pursuant to this section
366 and ss. 1009.505, 1009.51, and 1009.52.

367 (b) Payment of Florida public student assistance grants
368 shall be transmitted to the president of the state university or
369 Florida College System institution, or to his or her
370 representative, in advance of the registration period.
371 Institutions shall notify students of the amount of their
372 awards.

373 (c) The eligibility status of each student to receive a
374 disbursement shall be determined by each institution as of the
375 end of its regular registration period, inclusive of a drop-add



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376 period. Institutions shall not be required to reevaluate a
377 student's eligibility status after this date for purposes of
378 changing eligibility determinations previously made.

379 (d) Institutions shall certify to the department within 30
380 days after the end of regular registration each term the amount
381 of funds disbursed to each student and shall remit to the
382 department any undisbursed advances within 60 days after the end
383 of regular registration each spring term any advances by June 1
384 of each year. An exception to the remittance deadline may be
385 granted if the institution documents to the department how it
386 plans to disburse awards to students for the subsequent summer
387 term. An institution that uses funds for the summer term shall
388 certify to the department the amount of funds disbursed to each
389 student and shall remit to the department any undisbursed
390 advances within 30 days after the end of the summer term.

391 (e) Each institution that receives moneys through the
392 Florida Public Student Assistance Grant Program shall prepare a
393 biennial report that includes a financial audit, conducted by
394 the Auditor General, of the institution's administration of the
395 program and a complete accounting of moneys allocated to the
396 institution for the program. Such report shall be submitted to
397 the department by March 1 every other year. The department may
398 conduct its own annual or biennial audit of an institution's
399 administration of the program and its allocated funds in lieu of
400 the required biennial report and financial audit report. The
401 department may suspend or revoke an institution's eligibility to
402 receive future moneys for the program or may request a refund of
403 any moneys overpaid to the institution for the program if the
404 department finds that an institution has not complied with this



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405 section. Any refund requested pursuant to this paragraph shall
406 be remitted within 60 days after notification by the department.

407 (5) Funds appropriated by the Legislature for state student
408 assistance grants may be deposited in the State Student
409 Financial Assistance Trust Fund. ~~Notwithstanding the provisions~~
410 ~~of~~ s. 216.301 and pursuant to s. 216.351, any balance in the
411 trust fund at the end of any fiscal year which has been
412 allocated to the Florida Public Student Assistance Grant Program
413 shall remain therein and shall be available for carrying out the
414 purposes of this section.

415 (6) The State Board of Education shall establish rules
416 necessary to implement this section.

417 Section 6. Present subsections (5) and (6) of section
418 1009.505, Florida Statutes, are redesignated as subsections (6)
419 and (7), respectively, a new subsection (5) is added to that
420 section, and subsections (3) and (4) of that section are
421 amended, to read:

422 1009.505 Florida Public Postsecondary Career Education
423 Student Assistance Grant Program.—

424 (3) (a) Student assistance grants through the program may be
425 made only to certificate-seeking students enrolled at least
426 half-time in a public postsecondary career certificate program
427 who meet the general requirements for student eligibility as
428 provided in s. 1009.40, except as otherwise provided in this
429 section. The grants shall be awarded annually to any recipient
430 for the amount of demonstrated unmet need for the cost of
431 education and may not exceed the ~~average annual cost of tuition~~
432 ~~and registration fees or such other~~ amount as specified in the
433 General Appropriations Act. A demonstrated unmet need of less



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434 than \$200 shall render the applicant ineligible for a grant
435 under this section. Recipients of the grants must have been
436 accepted at a Florida College System institution authorized by
437 Florida law or a career center operated by a district school
438 board under s. 1001.44. If funds are available, a student who
439 received an award in the fall or spring term may receive a
440 summer term award. A student is eligible for the award for 110
441 percent of the number of clock hours required to complete the
442 program in which enrolled.

443 (b) A student applying for a Florida public postsecondary
444 career education student assistance grant shall be required to
445 apply for the Pell Grant. A Pell Grant entitlement shall be
446 considered when conducting an assessment of the financial
447 resources available to each student; however, a Pell Grant
448 entitlement shall not be required as a condition of receiving a
449 grant under this section.

450 (c) Each participating institution shall report, to the
451 department by the established date, the ~~eligible~~ students
452 eligible for the program for ~~to whom grant moneys are disbursed~~
453 each academic term. Each institution shall also report to the
454 department necessary demographic and eligibility data for such
455 students.

456 (4) (a) The funds appropriated for the Florida Public
457 Postsecondary Career Education Student Assistance Grant Program
458 shall be distributed to eligible Florida College System
459 institutions and district school boards in accordance with a
460 formula approved by the department. The formula must account for
461 changes in the number of eligible students across all student
462 assistance grant programs established pursuant to this section



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463 and ss. 1009.50, 1009.51, and 1009.52.

464 (b) Payment of Florida public postsecondary career
465 education student assistance grants shall be transmitted to the
466 president of the Florida College System institution or to the
467 district school superintendent, or to the designee thereof, in
468 advance of the registration period. Institutions shall notify
469 students of the amount of their awards.

470 (c) The eligibility status of each student to receive a
471 disbursement shall be determined by each institution as of the
472 end of its regular registration period, inclusive of a drop-add
473 period. Institutions shall not be required to reevaluate a
474 student's eligibility status after this date for purposes of
475 changing eligibility determinations previously made.

476 (d) Participating institutions shall certify to the
477 department within 30 days after the end of regular registration
478 each term the amount of funds disbursed to each student and
479 shall remit to the department any undisbursed advances within 60
480 days after the end of regular registration each spring term by
481 June 1 of each year. An exception to the remittance deadline may
482 be granted if the institution documents to the department how it
483 plans to disburse awards to students for the subsequent summer
484 term. An institution that uses funds for the summer term shall
485 certify to the department the amount of funds disbursed to each
486 student and shall remit to the department any undisbursed
487 advances within 30 days after the end of the summer term.

488 (e) Each institution that receives moneys through the
489 Florida Public Postsecondary Career Education Student Assistance
490 Grant Program shall prepare a biennial report that includes a
491 financial audit, conducted by the Auditor General, of the



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492 institution's administration of the program and a complete
493 accounting of moneys allocated to the institution for the
494 program. Such report shall be submitted to the department by
495 March 1 every other year. The department may conduct its own
496 annual or biennial audit of an institution's administration of
497 the program and its allocated funds in lieu of the required
498 biennial report and financial audit report. The department may
499 suspend or revoke an institution's eligibility to receive future
500 moneys for the program or may request a refund of any moneys
501 overpaid to the institution if the department finds that an
502 institution has not complied with this section. Any refund
503 requested pursuant to this paragraph shall be remitted within 60
504 days after notification by the department.

505 (5) Funds appropriated by the Legislature for state student
506 assistance grants may be deposited in the State Student
507 Financial Assistance Trust Fund. Notwithstanding s. 216.301, and
508 pursuant to s. 216.351, any balance in the trust fund at the end
509 of any fiscal year which has been allocated to the Florida
510 Public Postsecondary Career Education Student Assistance Grant
511 Program shall remain therein and shall be available for carrying
512 out the purposes of this section.

513 Section 7. Section 1009.51, Florida Statutes, is amended to
514 read:

515 1009.51 Florida Private Student Assistance Grant Program;
516 eligibility for grants.-

517 (1) There is created a Florida Private Student Assistance
518 Grant Program. The program shall be administered by the
519 participating institutions in accordance with rules of the State
520 Board of Education.



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521 (2) (a) Florida private student assistance grants ~~from the~~
522 ~~State Student Financial Assistance Trust Fund~~ may be made only
523 to full-time degree-seeking students who meet the general
524 requirements for student eligibility as provided in s. 1009.40,
525 except as otherwise provided in this section. Such grants shall
526 be awarded for the amount of demonstrated unmet need for tuition
527 and fees and may not exceed the maximum annual award ~~an amount~~
528 ~~equal to the average tuition and other registration fees for 30~~
529 ~~credit hours at state universities plus \$1,000 per academic~~
530 ~~year, or as specified in the General Appropriations Act, to any~~
531 ~~applicant~~. A demonstrated unmet need of less than \$200 shall
532 render the applicant ineligible for a Florida private student
533 assistance grant. Recipients of such grants must have been
534 accepted at a baccalaureate-degree-granting independent
535 nonprofit college or university, which is accredited by the
536 Commission on Colleges of the Southern Association of Colleges
537 and Schools and which is located in and chartered as a domestic
538 corporation by the state. If funds are available, a student who
539 received an award in the fall or spring term may receive a
540 summer term award. No student may receive an award for more than
541 the equivalent of 9 semesters or 14 quarters of full-time
542 enrollment, except as otherwise provided in s. 1009.40(3).

543 (b) A student applying for a Florida private student
544 assistance grant shall be required to apply for the Pell Grant.
545 The Pell Grant entitlement shall be considered when conducting
546 an assessment of the financial resources available to each
547 student.

548 (c) ~~Priority in the distribution of grant moneys shall be~~
549 ~~given to students with the lowest total family resources, in~~



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550 ~~accordance with a nationally recognized system of need analysis.~~
551 ~~Using the system of need analysis, the department shall~~
552 ~~establish a maximum expected family contribution.~~ An institution
553 may not make a grant from this program to a student whose
554 expected family contribution exceeds one and one-half times the
555 maximum Pell Grant-eligible family contribution level
556 ~~established by the department~~. An institution may not impose
557 additional criteria to determine a student's eligibility to
558 receive a grant award.

559 (d) Each participating institution shall report, to the
560 department by the established date, the eligible students
561 eligible for the program for to whom grant moneys are disbursed
562 each academic term. Each institution shall also report to the
563 department necessary demographic and eligibility data for such
564 students.

565 (3) Based on the unmet financial need of an eligible
566 applicant, the amount of a Florida private student assistance
567 grant must be between \$200 and ~~the average cost of tuition and~~
568 ~~other registration fees for 30 credit hours at state~~
569 ~~universities plus \$1,000 per academic year or~~ the amount
570 specified in the General Appropriations Act.

571 (4) (a) The funds appropriated for the Florida Private
572 Student Assistance Grant shall be distributed to eligible
573 institutions in accordance with a formula approved by the State
574 Board of Education. The formula must ~~shall~~ consider at least the
575 prior year's distribution of funds, the number of full-time
576 eligible applicants who did not receive awards, the
577 standardization of the expected family contribution, and
578 provisions for unused funds. The formula must account for



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579 changes in the number of eligible students across all student
580 assistance grant programs established pursuant to this section
581 and ss. 1009.50, 1009.505, and 1009.52.

582 (b) Payment of Florida private student assistance grants
583 shall be transmitted to the president of the college or
584 university, or to his or her representative, in advance of the
585 registration period. Institutions shall notify students of the
586 amount of their awards.

587 (c) The eligibility status of each student to receive a
588 disbursement shall be determined by each institution as of the
589 end of its regular registration period, inclusive of a drop-add
590 period. Institutions shall not be required to reevaluate a
591 student's eligibility status after this date for purposes of
592 changing eligibility determinations previously made.

593 (d) Institutions shall certify to the department within 30
594 days after the end of regular registration each term the amount
595 of funds disbursed to each student and shall remit to the
596 department any undisbursed advances within 60 days after the end
597 of regular registration each spring term by June 1 of each year.
598 An exception to the remittance deadline may be granted if the
599 institution documents to the department how it plans to disburse
600 awards to students for the subsequent summer term. An
601 institution that uses funds for the summer term shall certify to
602 the department the amount of funds disbursed to each student and
603 shall remit to the department any undisbursed advances within 30
604 days after the end of the summer term.

605 (e) Each institution that receives moneys through the
606 Florida Private Student Assistance Grant Program shall prepare a
607 biennial report that includes a financial audit, conducted by an



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608 independent certified public accountant, of the institution's
609 administration of the program and a complete accounting of
610 moneys ~~in the State Student Financial Assistance Trust Fund~~
611 allocated to the institution for the program. Such report shall
612 be submitted to the department by March 1 every other year. The
613 department may conduct its own annual or biennial audit of an
614 institution's administration of the program and its allocated
615 funds in lieu of the required biennial report and financial
616 audit report. The department may suspend or revoke an
617 institution's eligibility to receive future moneys ~~from the~~
618 ~~trust fund~~ for the program or request a refund of any moneys
619 overpaid to the institution ~~through the trust fund~~ for the
620 program if the department finds that an institution has not
621 complied with ~~the provisions of~~ this section. Any refund
622 requested pursuant to this paragraph shall be remitted within 60
623 days after notification by the department.

624 (5) Funds appropriated by the Legislature for Florida
625 private student assistance grants may be deposited in the State
626 Student Financial Assistance Trust Fund. Notwithstanding ~~the~~
627 ~~provisions of~~ s. 216.301 and pursuant to s. 216.351, any balance
628 in the trust fund at the end of any fiscal year which has been
629 allocated to the Florida Private Student Assistance Grant
630 Program shall remain therein and shall be available for carrying
631 out the purposes of this section and as otherwise provided by
632 law.

633 (6) The State Board of Education shall adopt rules
634 necessary to implement this section.

635 Section 8. Section 1009.52, Florida Statutes, is amended to
636 read:



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637 1009.52 Florida Postsecondary Student Assistance Grant
638 Program; eligibility for grants.—

639 (1) There is created a Florida Postsecondary Student
640 Assistance Grant Program. The program shall be administered by
641 the participating institutions in accordance with rules of the
642 State Board of Education.

643 (2) (a) Florida postsecondary student assistance grants
644 ~~through the State Student Financial Assistance Trust Fund~~ may be
645 made only to full-time degree-seeking students who meet the
646 general requirements for student eligibility as provided in s.
647 1009.40, except as otherwise provided in this section. Such
648 grants shall be awarded for the amount of demonstrated unmet
649 need for tuition and fees and may not exceed the maximum annual
650 award an amount equal to the average prior academic year cost of
651 ~~tuition and other registration fees for 30 credit hours at state~~
652 ~~universities plus \$1,000 per academic year, or as~~ specified in
653 the General Appropriations Act, ~~to any applicant~~. A demonstrated
654 unmet need of less than \$200 shall render the applicant
655 ineligible for a Florida postsecondary student assistance grant.
656 Recipients of such grants must have been accepted at a
657 postsecondary institution that is located in this ~~the~~ state and
658 that is:

659 1. A private nursing diploma school approved by the Florida
660 Board of Nursing; or

661 2. A college or university licensed by the Commission for
662 Independent Education, excluding those institutions the students
663 of which are eligible to receive a Florida private student
664 assistance grant pursuant to s. 1009.51.
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666 If funds are available, a student who received an award in the
667 fall or spring term may receive a summer term award. No student
668 may receive an award for more than the equivalent of 9 semesters
669 or 14 quarters of full-time enrollment, except as otherwise
670 provided in s. 1009.40(3).

671 (b) A student applying for a Florida postsecondary student
672 assistance grant shall be required to apply for the Pell Grant.
673 The Pell Grant entitlement shall be considered when conducting
674 an assessment of the financial resources available to each
675 student.

676 (c) ~~Priority in the distribution of grant moneys shall be~~
677 ~~given to students with the lowest total family resources, in~~
678 ~~accordance with a nationally recognized system of need analysis.~~
679 ~~Using the system of need analysis, the department shall~~
680 ~~establish a maximum expected family contribution.~~ An institution
681 may not make a grant from this program to a student whose
682 expected family contribution exceeds one and one-half times the
683 maximum Pell Grant-eligible family contribution level
684 ~~established by the department.~~ An institution may not impose
685 additional criteria to determine a student's eligibility to
686 receive a grant award.

687 (d) Each participating institution shall report, ~~to the~~
688 department by the established date, ~~the eligible students~~
689 eligible for the program for to whom grant moneys are disbursed
690 each academic term. Each institution shall also report to the
691 department necessary demographic and eligibility data for such
692 students.

693 (3) Based on the unmet financial need of an eligible
694 applicant, the amount of a Florida postsecondary student



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695 assistance grant must be between \$200 and ~~the average cost of~~
696 ~~tuition and other registration fees for 30 credit hours at state~~
697 ~~universities plus \$1,000 per academic year or the amount~~
698 specified in the General Appropriations Act.

699 (4) (a) The funds appropriated for the Florida Postsecondary
700 Student Assistance Grant shall be distributed to eligible
701 institutions in accordance with a formula approved by the State
702 Board of Education. The formula must ~~shall~~ consider at least the
703 prior year's distribution of funds, the number of ~~full-time~~
704 eligible applicants who did not receive awards, the
705 standardization of the expected family contribution, and
706 provisions for unused funds. The formula must account for
707 changes in the number of eligible students across all student
708 assistance grant programs established pursuant to this section
709 and ss. 1009.50, 1009.505, and 1009.51.

710 (b) Payment of Florida postsecondary student assistance
711 grants shall be transmitted to the president of the eligible
712 institution, or to his or her representative, in advance of the
713 registration period. Institutions shall notify students of the
714 amount of their awards.

715 (c) The eligibility status of each student to receive a
716 disbursement shall be determined by each institution as of the
717 end of its regular registration period, inclusive of a drop-add
718 period. Institutions shall not be required to reevaluate a
719 student's eligibility status after this date for purposes of
720 changing eligibility determinations previously made.

721 (d) Institutions shall certify to the department within 30
722 days after the end of regular registration each term the amount
723 of funds disbursed to each student and shall remit to the



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724 department any undisbursed advances within 60 days after the end
725 of regular registration each spring term by June 1 of each year.
726 An exception to the remittance deadline may be granted if the
727 institution documents to the department how it plans to disburse
728 awards to students for the subsequent summer term. An
729 institution that uses funds for the summer term shall certify to
730 the department the amount of funds disbursed to each student and
731 shall remit to the department any undisbursed advances within 30
732 days after the end of the summer term.

733 (e) Each institution that receives moneys through the
734 Florida Postsecondary Student Assistance Grant Program shall
735 prepare a biennial report that includes a financial audit,
736 conducted by an independent certified public accountant, of the
737 institution's administration of the program and a complete
738 accounting of moneys ~~in the State Student Financial Assistance~~
739 ~~Trust Fund allocated to the institution~~ for the program. Such
740 report shall be submitted to the department by March 1 every
741 other year. The department may conduct its own annual or
742 biennial audit of an institution's administration of the program
743 and its allocated funds in lieu of the required biennial report
744 and financial audit report. The department may suspend or revoke
745 an institution's eligibility to receive future moneys ~~from the~~
746 ~~trust fund~~ for the program or request a refund of any moneys
747 overpaid to the institution ~~through the trust fund~~ for the
748 program if the department finds that an institution has not
749 complied with ~~the provisions of~~ this section. Any refund
750 requested pursuant to this paragraph shall be remitted within 60
751 days after notification by the department.

752 (5) Any institution that was eligible to receive state



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753 student assistance grants on January 1, 1989, and that is not
754 eligible to receive grants pursuant to s. 1009.51 is eligible to
755 receive grants pursuant to this section.

756 (6) Funds appropriated by the Legislature for Florida
757 postsecondary student assistance grants may be deposited in the
758 State Student Financial Assistance Trust Fund. Notwithstanding
759 ~~the provisions of s. 216.301 and pursuant to s. 216.351, any~~
760 balance in the trust fund at the end of any fiscal year which
761 has been allocated to the Florida Postsecondary Student
762 Assistance Grant Program shall remain therein and shall be
763 available for carrying out the purposes of this section and as
764 otherwise provided by law.

765 (7) The State Board of Education shall adopt rules
766 necessary to implement this section.

767 Section 9. Subsections (2), (4), (5), and (6) of section
768 1009.893, Florida Statutes, are amended to read:

769 1009.893 Benacquisto Scholarship Program.—

770 (2) The Benacquisto Scholarship Program is created to
771 reward a high school graduate who receives recognition as a
772 National Merit Scholar ~~or National Achievement Scholar~~ and who
773 initially enrolls in the 2014-2015 academic year or, later, in a
774 baccalaureate degree program at an eligible Florida public or
775 independent postsecondary educational institution.

776 (4) In order to be eligible for an initial award under the
777 scholarship program, a student must meet the requirements of
778 paragraph (a) or paragraph (b).

779 (a) A student who is a resident of this state, as
780 determined in s. 1009.40 and rules of the State Board of
781 Education, must:



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782 1. Earn a standard Florida high school diploma or its
783 equivalent pursuant to s. 1002.3105, s. 1003.4281, s. 1003.4282,
784 or s. 1003.435 unless:

785 a. The student completes a home education program according
786 to s. 1002.41; or

787 b. The student earns a high school diploma from a non-
788 Florida school while living with a parent who is on military or
789 public service assignment out of this state;

790 2. Be accepted by and enroll in a Florida public or
791 independent postsecondary educational institution that is
792 regionally accredited; and

793 3. Be enrolled full-time in a baccalaureate degree program
794 at an eligible regionally accredited Florida public or
795 independent postsecondary educational institution during the
796 fall academic term following high school graduation.

797 (b) A student who initially enrolls in a baccalaureate
798 degree program in the 2018-2019 academic year or later and who
799 is not a resident of this state, as determined in s. 1009.40 and
800 rules of the State Board of Education, must:

801 1. Physically reside in this state on or near the campus of
802 the postsecondary educational institution in which the student
803 is enrolled;

804 2. Earn a high school diploma from a school outside Florida
805 which is comparable to a standard Florida high school diploma or
806 its equivalent pursuant to s. 1002.3105, s. 1003.4281, s.

807 1003.4282, or s. 1003.435 or must complete a home education
808 program in another state; and

809 3. Be accepted by and enrolled full-time in a baccalaureate
810 degree program at an eligible regionally accredited Florida



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811 public or independent postsecondary educational institution
812 during the fall academic term following high school graduation.

813 (5) (a) 1. An eligible student who meets the requirements of
814 paragraph (4) (a), who is a National Merit Scholar ~~or National~~
815 ~~Achievement Scholar~~, and who attends a Florida public
816 postsecondary educational institution shall receive a
817 scholarship award equal to the institutional cost of attendance
818 minus the sum of the student's Florida Bright Futures
819 Scholarship and National Merit Scholarship ~~or National~~
820 ~~Achievement Scholarship~~.

821 2. An eligible student who meets the requirements of
822 paragraph (4) (b), who is a National Merit Scholar, and who
823 attends a Florida public postsecondary educational institution
824 shall receive a scholarship award equal to the institutional
825 cost of attendance for a resident of this state minus the
826 student's National Merit Scholarship. Such student is exempt
827 from the payment of out-of-state fees.

828 (b) An eligible student who is a National Merit Scholar ~~or~~
829 ~~National Achievement Scholar~~ and who attends a Florida
830 independent postsecondary educational institution shall receive
831 a scholarship award equal to the highest cost of attendance for
832 a resident of this state enrolled at a Florida public
833 university, as reported by the Board of Governors of the State
834 University System, minus the sum of the student's Florida Bright
835 Futures Scholarship and National Merit Scholarship ~~or National~~
836 ~~Achievement Scholarship~~.

837 (6) (a) To be eligible for a renewal award, a student must
838 be enrolled full time, earn all credits for which he or she was
839 enrolled, and maintain a 3.0 or higher grade point average. An



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840 eligible Benacquisto Scholar who has fewer than 12 credits
841 remaining to complete his or her first baccalaureate degree may
842 receive funding for one term in order to complete the degree.

843 (b) A student's renewal status is not affected by
844 subsequent changes in the residency status of the student or the
845 residency status of the student's family.

846 (c) ~~(b)~~ A student may receive the scholarship award for a
847 maximum of 100 percent of the number of credit hours required to
848 complete a baccalaureate degree program, or until completion of
849 a baccalaureate degree program, whichever comes first.

850 (d) A student may receive an award for up to 5 years
851 following high school graduation and may not receive the award
852 for more than 10 semesters.

853 (e) A student who receives an award under this program and
854 fails to meet the renewal requirements due to a verifiable
855 illness or other documented emergency may be granted an
856 exception pursuant to s. 1009.40(1)(b)4.

857 Section 10. Section 1011.45, Florida Statutes, is amended
858 to read:

859 1011.45 End of year balance of funds.—Unexpended amounts in
860 any fund in a university current year operating budget shall be
861 carried forward and included as the balance forward for that
862 fund in the approved operating budget for the following year.

863 (1) Each university shall maintain a minimum carry forward
864 balance of at least 7 percent of its state operating budget. If
865 a university fails to maintain a 7 percent balance in state
866 operating funds, the university shall submit a plan to the Board
867 of Governors to attain the 7 percent balance of state operating
868 funds within the next fiscal year.



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869 (2) Each university that retains a state operating fund
870 carry forward balance in excess of the 7 percent minimum shall
871 submit a spending plan for its excess carry forward balance. The
872 spending plan shall be submitted to the university's board of
873 trustees for review, approval, or, if necessary, amendment by
874 September 30 ~~±~~, 2020, and each September 30 ~~±~~ thereafter. The
875 Board of Governors shall review, approve, and amend, if
876 necessary, each university's carry forward spending plan by
877 November 15 ~~October 1~~, 2020, and each November 15 ~~October 1~~
878 thereafter.

879 (3) A university's carry forward spending plan shall
880 include the estimated cost per planned expenditure and a
881 timeline for completion of the expenditure. Authorized
882 expenditures in a carry forward spending plan may include:

883 (a) Commitment of funds to a public education capital
884 outlay project for which an appropriation has previously been
885 provided that requires additional funds for completion and which
886 is included in the list required by s. 1001.706(12) (d);

887 (b) Completion of a renovation, repair, or maintenance
888 project that is consistent with ~~the provisions of~~ s. 1013.64(1),
889 up to \$5 million per project, and replacement of a minor
890 facility that does not exceed 10,000 gross square feet in size
891 up to \$2 million;

892 (c) Completion of a remodeling or infrastructure project,
893 including a project for a development research school, up to \$10
894 million per project, if such project is survey recommended
895 pursuant to s. 1013.31;

896 (d) Completion of a repair or replacement project necessary
897 due to damage caused by a natural disaster for buildings



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898 included in the inventory required pursuant to s. 1013.31;

899 (e) Operating expenditures that support the university
900 mission ~~and that are nonrecurring; and~~

901 (f) Any purpose specified by the board or in the General
902 Appropriations Act; and

903 (g) A commitment of funds to a contingency reserve to
904 assist in addressing unforeseen circumstances that may arise,
905 including natural disasters and other emergencies.

906 (4) Annually, by September 30, the chief financial officer
907 of each university shall certify the unexpended amount of funds
908 appropriated to the university from the General Revenue Fund,
909 the Educational Enhancement Trust Fund, and the
910 Education/General Student and Other Fees Trust Fund as of June
911 30 of the previous fiscal year.

912 (5) A university may spend the minimum carry forward
913 ~~carry forward~~ balance of 7 percent if a demonstrated emergency
914 exists and the plan is approved by the university's board of
915 trustees and the Board of Governors.

916 Section 11. Subsection (3) of section 1012.976, Florida
917 Statutes, is amended to read:

918 1012.976 Remuneration of state university administrative
919 employees; limitations.—

920 (3) EXCEPTIONS.—This section does not prohibit any party
921 from providing cash or cash-equivalent compensation from funds
922 that are not appropriated state funds to a state university
923 administrative employee in excess of the limit in subsection
924 (2). If a party is unable or unwilling to fulfill an obligation
925 to provide cash or cash-equivalent compensation to a state
926 university administrative employee as permitted under this



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927 subsection, appropriated state funds may not be used to fulfill
928 such obligation. This section does not apply to university
929 teaching faculty or medical school faculty or staff. The Board
930 of Governors shall define in regulation the university faculty
931 and administrative personnel classifications.

932 Section 12. Paragraph (b) of subsection (2), paragraph (b)
933 of subsection (3), and subsection (4) of section 1013.841,
934 Florida Statutes, are amended to read:

935 1013.841 End of year balance of Florida College System
936 institution funds.—

937 (2) (b) Each Florida College System institution with a final
938 FTE less than 15,000 for the prior year that retains a state
939 operating fund carry forward balance in excess of the 5 percent
940 minimum shall submit a spending plan for its excess carry
941 forward balance. The spending plan shall include all excess
942 carry forward funds from state operating funds. The spending
943 plan shall be submitted to the Florida College System
944 institution's board of trustees for approval by September 30 ±,
945 2020, and each September 30 ± thereafter. The State Board of
946 Education shall review and publish each Florida College System
947 institution's carry forward spending plan by November 15 ~~October~~
948 ~~±~~, 2020, and each November 15 ~~October~~ ± thereafter.

949 (3) (b) Each Florida College System institution with a final
950 FTE of 15,000 or greater for the prior year that retains a state
951 operating fund carry forward balance in excess of the 7 percent
952 minimum shall submit a spending plan for its excess carry
953 forward balance. The spending plan shall include all excess
954 carry forward funds from state operating funds. The spending
955 plan shall be submitted to the Florida College System



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956 institution's board of trustees for approval by September 30 ±,
957 2020, and each September 30 ± thereafter. The State Board of
958 Education shall review and publish each Florida College System
959 institution's carry forward spending plan by November 15 ~~October~~
960 ~~±~~, 2020, and each November 15 ~~October~~ ± thereafter.

961 (4) A Florida College System institution identified in
962 paragraph (3) (a) must include in its carry forward spending plan
963 the estimated cost per planned expenditure and a timeline for
964 completion of the expenditure. Authorized expenditures in a
965 carry forward spending plan may include:

966 (a) Commitment of funds to a public education capital
967 outlay project for which an appropriation was previously
968 provided, which requires additional funds for completion, and
969 which is included in the list required by s. 1001.03(18) (d);

970 (b) Completion of a renovation, repair, or maintenance
971 project that is consistent with ~~the provisions of~~ s. 1013.64(1),
972 up to \$5 million per project;

973 (c) Completion of a remodeling or infrastructure project,
974 up to \$10 million per project, if such project is survey
975 recommended pursuant to s. 1013.31;

976 (d) Completion of a repair or replacement project necessary
977 due to damage caused by a natural disaster for buildings
978 included in the inventory required pursuant to s. 1013.31;

979 (e) Operating expenditures that support the Florida College
980 System institution's mission ~~which are nonrecurring~~; and

981 (f) Any purpose approved by the state board or specified in
982 the General Appropriations Act; and

983 (g) A commitment of funds to a contingency reserve to
984 assist in addressing unforeseen circumstances that may arise,



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985 including natural disasters and other emergencies.

986 Section 13. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/SB 72

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senator Stargel

SUBJECT: Postsecondary Education

DATE: March 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------------|----------------|------------|--------------------------|
| 1. | <u>Bouck, Dew</u> | <u>Sikes</u> | <u>ED</u> | Favorable |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | Recommend: Fav/CS |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 72 modifies provisions relating to preeminent state research universities, the prioritization of capital outlay projects at Florida College System (FCS) institutions, the carry forward of operational funds at state universities and FCS institutions, state student financial aid, and textbook affordability at public postsecondary institutions. Specifically, the bill:

- Requires a University Board of Trustees to select a university president from a minimum of three candidates.
- Revises the data for academic and research excellence standards of preeminent research universities by using more timely performance data and requiring the standards to be reported annually in the BOG Accountability Plan.
- Amends a criterion for the state university preeminence designation to include the concordant ACT scores.
- Removes funding associated with the emerging preeminent state research university designation and creates State Universities of Distinction.
- Establishes the Florida Institute of Politics at the Florida State University to provide the southeastern region of the United States with a world class, bipartisan, nationally-renowned institute of politics.
- Authorizes a state agency to contract with an independent, nonprofit college or university that operates in the state, offers professional degrees, and is accredited by the Middle States Commission on Higher Education.

- Modifies a criterion for new construction, remodeling, or renovation projects at FCS institutions that have not been previously state funded to be added to the Public Education Capital Outlay (PECO) priority list.
- Modifies reporting deadlines and spending plan provisions relating to the carry forward of operational funds at state universities and FCS institutions.
- Replaces the State University System Programs of Excellence with the State Universities of Distinction program, and establishes requirements.
- Aligns student eligibility, maximum awards, fund distribution, remittance deadlines, and reporting requirements between the four Florida Student Assistance Grant programs.
- Clarifies initial and renewal award requirements for the Benacquisto Scholarship Program.
- Provides that pricing and payment options relating to textbook affordability may include either an opt-in or opt-out provision for students.
- Removes the limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.
- Directs the Board of Governors to define in regulation the university faculty and administrative personnel classifications, and expands the exemption from restrictions on remuneration.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.

II. Present Situation:

The present situation for each relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Public Education Capital Outlay

Present Situation

Florida's Public Education Capital Outlay (PECO) program provides funding for capital outlay projects for Florida's public education system, including universities, colleges, public schools and other state owned educational facilities that have no other source for funding for capital outlay. As specified by the Florida Constitution,¹ the PECO program is funded by gross receipts taxes on utilities, including electricity and natural gas, and communication services (cable, wireless, telephone landline, miscellaneous services, and direct to home satellite tax bases).

The Commissioner of Education (commissioner) must annually submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for school districts, Florida College System (FCS) institutions, and state universities, subject to provisions in law.² The commissioner must use

¹ Art. XII, s. 9, Fla. Const.

² Section 1013.60(1), F.S., and applicable provisions of ch. 216.

estimates for PECO funds by the Revenue Estimating Conference³ in determining the budget request. In addition, the commissioner, in consultation with the appropriations committees of the Legislature, must provide annually an estimate of funds for FCS institutions and state universities in developing three-year priority lists required in law.⁴

FCS institutions and state university boards of trustees (BOT) request funds for projects based on the 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request (LBR) at least 90 days prior to the legislative session.⁵ The State Board of Education (SBE) submits a 3-year priority list for FCS institutions, and the Board of Governors of the State University System (BOG) submits a 3-year priority list for state universities. The lists reflect decisions by the SBE and BOG concerning program priorities that implement the statewide plan for program growth and quality improvement in education.⁶

In 2019,⁷ the process by which FCS projects are evaluated for inclusion on the priority list was modified. Projects considered for prioritization are required to be chosen from a preliminary selection group consisting of previously state-funded projects that have not been completed, and the top two priorities of each FCS institution. The SBE is required to develop a points-based prioritization method to rank projects for consideration that awards points for the degree to which a project meets specific criteria compared to other projects.⁸ The criteria specified in law⁹ may be weighted, but no weight may exceed the criterion regarding space needs due to increased instructional capacity.¹⁰

A new construction, remodeling, or renovation project that has not received an appropriation in a previous year may not be considered for inclusion on the required prioritized list, unless:

- A plan is provided to reserve funds in an escrow account, specific to the project, into which must be deposited each year an amount of funds equal to 0.5 percent of the total value of the building for future maintenance;
- There are sufficient excess funds from the allocation provided pursuant to the LBR within the 3-year planning period which are not needed to complete the projects for which state funds were previously appropriated which have not been completed;¹¹ and
- The project has been recommended based on results relating to an educational plant survey.¹²

³ The Revenue Estimating Conference develops official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system. Section 216.136(3), F.S.

⁴ Section 1013.60(1), F.S.

⁵ Section 1013.64(4), F.S.

⁶ Section 1013.31, F.S.

⁷ Section 3, ch. 2019-103, L.O.F.

⁸ On Sept. 20, 2019, the SBE approved a prioritized list of PECO for 2020-2021 and the FCS PECO project priority methodology.

⁹ Section 1001.03(18)(a), F.S.

¹⁰ Section 1001.03(18)(b), F.S.

¹¹ The SBE must continually maintain a list of all public education capital outlay projects for which state funds were previously appropriated which have not been completed. The list must include an estimate of the amount of state funding needed for the completion of each project. Section 1001.03(18)(d), F.S.

¹² Section 1013.31, F.S. Educational plant surveys must be completed every five years, and reflect the capacity of existing facilities in school districts, FCS institutions, and state universities, as well as projections of facility space needs. *Id.*

Effect of Proposed Changes

The bill modifies s. 1001.03, F.S., to replace the existing sufficient excess PECO funds criterion for a specified new construction, remodeling, or renovation project to be added to the priority list. The bill changes the criterion to specify that an FCS project may only be included on the priority list if there is sufficient capacity within the cash and bonding estimate of funds by the Revenue Estimating Conference to accommodate the project within the three-year PECO funding cycle. This modification aligns the requirements for new FCS projects to be considered on the priority list with those for the State University System (SUS) projects.¹³

End-of-Year Balance of Funds – State Universities and Florida College System Institutions***Present Situation***

At the end of each fiscal year, state operational funds for state agencies and departments revert to the fund from which they were appropriated for reappropriation by the Legislature.¹⁴ However, state universities¹⁵ and FCS institutions¹⁶ are authorized to carry forward unexpended amounts in operating funds for subsequent fiscal years.

Each state university, and FCS institution with a final FTE of 15,000 or greater for the prior year, must maintain a minimum carry forward balance of at least 7 percent of its state operating budget. If such university or FCS institution fails to maintain a 7 percent balance in state operating funds, the university and FCS institution must submit a plan to the BOG and SBE, respectively, to attain the 7 percent balance of state operating funds within the next fiscal year.¹⁷ An FCS institution with a final FTE less than 15,000 for the prior must maintain a carry forward balance of at least 5 percent, or submit a similar plan to the SBE.¹⁸

A state university or FCS institution that retains a state operating fund carry forward balance in excess of the required minimum must submit a spending plan for its excess carry forward balance. The spending plan must be submitted to the state university or FCS institution BOT for approval by September 1, 2020, and each September 1 thereafter.¹⁹ The BOG must review, approve, and amend, if necessary, each university's carry forward spending plan by October 1, 2020, and each October 1 thereafter.²⁰ The SBE must review and publish each FCS institution's carry forward spending plan by October 1, 2020, and each October 1 thereafter.²¹

The carry forward spending plan for each state university, and FCS institution with a final FTE of 15,000 or greater for the prior year, must include the estimated cost per planned expenditure and a timeline for completion of the expenditure. The law specifies authorized expenditures,

¹³ Section 1001.706(12)(c), F.S.

¹⁴ Section 216.301(1)(a), F.S.

¹⁵ Section 1011.45, F.S.

¹⁶ Section 1013.841(1), F.S.

¹⁷ Sections 1011.45(1) and 1013.841(3)(a), F.S.

¹⁸ Section 1013.841(2)(a), F.S.

¹⁹ Sections 1011.45(2) and 1013.841(2)(b), F.S.

²⁰ Section 1011.45(2), F.S.

²¹ Section 1013.841(2)(b), F.S.

which include nonrecurring operating expenditures that support the university's or FCS institution's mission.²²

Effect of Proposed Changes

The bill modifies provisions in ss. 1011.45 and 1013.841, F.S., relating to the carry forward of operational funds by state universities and FCS institutions to align fund approval activities and provide greater flexibility in spending plan expenditures. Specifically, the bill:

- Modifies the submission and approval dates by an institution BOT, BOG, and SBE, to require that:
 - The spending plan be submitted to the state university or FCS institution BOT for approval by September 30, 2020, and each September 30 thereafter.²³
 - The BOG review, approve, and amend, if necessary, university spending plans, and the SBE review and publish FCS institution spending plans by November 15, 2020, and each November 15 thereafter.
- Removes the requirement that operating expenditures that support the mission of the state university or FCS institution mission be nonrecurring.
- Authorizes the spending plans of state universities and FCS institutions to include a commitment of funds to a contingency reserve to assist in addressing unforeseen circumstances that may arise, including natural disasters and other emergencies.²⁴

Board of Governors Duties – Presidential Selection

Present Situation

The Board of Governors (BOG) has the authority to regulate the state university system pursuant to Art. IX, s. 7(d) of the State Constitution and the Florida Statutes, and may develop procedures for adopting regulations to implement its constitutional duties.²⁵ The BOG establishes the powers and duties of the each university boards of trustees and confirms the selection and reappointment of presidents.^{26 27}

A university board of trustees is responsible for conducting a search and selecting a candidate to serve as president. A search committee is appointed by the chair of the board of trustees and is responsible for ensuring transparency of the university president selection process, vetting and interviewing applicants, and recommending an unranked list of applicants who are qualified for

²² Sections 1011.45(3) and 1013.841(4), F.S.

²³ The deadline is consistent with current laws that require the chief financial officer of a state university or FCS institution to certify, annually by September 30, the unexpended amount of state funds remaining in the general fund of an institution as of June 30 of the previous fiscal year. Sections 1011.45(4) and 1011.84(3)(e), F.S.

²⁴ Current law authorizes state universities to spend the minimum carry forward balance of 7 percent for a demonstrated emergency, subject to state university BOT and BOG approval. Section 1011.45(5), F.S.

²⁵ Sections 20.155 and 1001.70-1001.706, F.S. *see also* s. 1001.705(a) and (d), F.S., defining the terms “Board of Governors” and “state universities” as used in the Florida K-20 Education Code.

²⁶ Article IX, s. 7(b)-(c), FLA. CONST.; *see also* ss. 1001.72(2) and 1001.706(2)(b), F.S.

²⁷ Sections 1001.705(2)(k) and 1001.706(6)(a), F.S.; *see also* Florida Board of Governors, Regulation 1.001 University Board of Trustees Powers and Duties, (5)(c), available at https://www.flbog.edu/wp-content/uploads/1_001-PowersandDuties.pdf.

consideration. The search committee is required to submit more than two qualified applicants to the board of trustees for consideration.²⁸

Prior to confirmation of a university president, the board of trustees must submit a description of the selection process and criteria, the qualifications of the selected candidate, and a copy of the proposed employment contract to the BOG for its consideration in confirming the candidate. The candidate selected by the board of trustees must appear at the BOG meeting where confirmation of the candidate will be considered.²⁹

Effect of Proposed Changes

The bill modifies s. 1001.706, F.S., to require the selection of a president by a university board of trustees to be from at least three candidates.

Preeminent State Research Universities Program

Present Situation

The preeminent state research universities program is a collaborative partnership between the BOG and the Legislature to raise the academic and research preeminence of the highest performing state research universities in Florida.³⁰ A state university that meets 11 of the 12 academic and research excellence standards specified in law is designated a “preeminent state research university”.³¹³² A state research university that meets at least six of the 12 standards is designated as an “emerging preeminent state research university.”³³ In identifying the performance of each state university against the standards, the BOG is required to use the state university data as published by the national sources specified in statute.

If an increase in the appropriation for preeminent state research universities is provided, each designated preeminent state research university must receive an equal amount of funding, and each designated emerging preeminent state research university must receive an amount of funding that is equal to one-quarter of the total increased amount awarded to each designated preeminent state research university.³⁴

²⁸ Florida Board of Governors, Regulation 1.002 Presidential Search and Selection, (1), (1)(a), (c)i.-viii, *available at* <https://www.flbog.edu/wp-content/uploads/1.002-Presidential-Search-and-Selection.pdf>.

²⁹ Florida Board of Governors, Regulation 1.001 University Board of Trustees Powers and Duties, (5)(c), *available at* https://www.flbog.edu/wp-content/uploads/1_001-PowersandDuties.pdf.

³⁰ Section 1001.7065(1), F.S.

³¹ Section 1001.7065(2), F.S. The standards include: incoming freshman academic characteristics (average weighted GPA and average SAT score); institutional ranking nationally; freshman retention rate; four-year graduation rate; national academy membership of institution faculty; research expenditures (2 measures); research expenditure national ranking; patents awarded annually; doctoral degrees awarded annually; postdoctoral appointees annually; and institutional endowment.

³² Section 1001.7065(3)(a), F.S.

³³ Section 1001.7065(3)(b), F.S.

³⁴ Section 1001.7065(5)(c), F.S.

Effect of Proposed Changes

The bill modifies s. 1001.7065, F.S., to require the academic and research excellence standards for preeminent state research universities be reported annually in the BOG Accountability Plan³⁵ and amends the standards to provide the BOG with the flexibility to access and utilize the most up to date data available.

The bill also removes an outdated SAT score scale and adds to the academic characteristics a student's average ACT score of 25 or higher on a 36 score scale.³⁶ The bill requires the use of the national concordance table developed jointly by the College Board and ACT, Inc. to ensure accurate reporting of scores across the SAT and ACT.

The bill preserves the designation of emerging preeminent universities, removes the funding component for emerging preeminent universities, and provides that the funding for preeminent universities will be determined annually by the Legislature.

State University System Programs of Excellence

Present Situation

In 2018,³⁷ the BOG was required to establish standards and measures whereby individual degree programs that objectively reflect national excellence in state universities could be identified, and make recommendations to the Legislature by September 1, 2018, regarding the enhancement and promotion of such programs.³⁸

The goal of this initiative was to achieve and improve upon world-class, nationally recognized university programs of excellence within the SUS. The BOG approved a framework to identify programs of excellence that:³⁹

- Provide opportunities for all 12 SUS institutions to participate.
- Allow for universities to elevate both research and academic programs that are nationally recognized.
- Allow for programs across disciplines and degree levels to be recognized.
- Encourage institution collaboration.
- Address key areas important to Florida.

³⁵ Board of Governors Regulation 2.002 requires the BOG to institute a planning and performance monitoring system for state universities designed to inform strategic planning, budgeting, and other policy decisions for the State University System; the BOG must annually submit the university accountability plans and the system summary of the university plans to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Board of Governors 2019 System Accountability Plan is available at https://www.flbog.edu/wp-content/uploads/2019_System_Accountability_Plan_FINAL_2019-10-30.pdf.

³⁶ See 2018 ACT/SAT Concordance Tables, Table A2, available at <https://www.act.org/content/dam/act/unsecured/documents/ACT-SAT-Concordance-Tables.pdf>; see also Students applying for admission as an undergraduate first time in college degree seeking student to a state university system institution are required to submit SAT scores from the College Board or ACT scores from ACT, Inc. see Florida Board of Governors, Regulation 6.002 Admission of Undergraduate First-Time-in-College, Degree-Seeking Freshman, at (1)(e), available at https://www.flbog.edu/wp-content/uploads/6.002FTICAdmissionsTechnicalchange2018_08_17-1.pdf.

³⁷ Section 3, ch. 2018-4, L.O.F.

³⁸ Section 1001.7065(7), F.S.

³⁹ Board of Governors, *Programs of Excellence Report* (Sept. 2018), available at https://www.flbog.edu/wp-content/uploads/0273_1154_8738_10.3.2-AREC-03b-Programs-of-Excellence-Report_CE.pdf.

- Provide for flexibility in implementation.

The BOG requested \$30 million for this initiative in its 2019-2020 legislative budget request.⁴⁰ This request was not funded by the 2019 Legislature.

Effect of Proposed Changes

The bill modifies s. 1001.7065, F.S., to replace the SUS Programs of Excellence with a State Universities of Distinction program, which requires the BOG to establish standards and measures to identify state universities that focus on one core competency unique to the SUS that:

- Achieves excellence at the national or state level;
- Meets state workforce needs; and
- Fosters an innovation economy that focuses on areas such as health care, security, transportation, and science, technology, engineering, and mathematics (STEM), including supply chain management.

The bill requires the BOG to annually submit such programs by January 1 for funding.

This bill provision aligns with a recent BOG initiative targeting Universities of Distinction as a path towards excellence that will produce high-quality talent to diversify Florida's economy, stimulate innovation, and provide a return on investment to the state.⁴¹

Civic Literacy

Present Situation

Florida law establishes civic literacy as a priority of the Florida K-20 education system and defines civic literacy to mean that students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.⁴²

Each student entering a Florida College System (FCS) institution or state university must demonstrate competency in civic literacy through successful completion of a civic literacy course or by achieving a passing score on an assessment.⁴³

Effect of Proposed Changes

The bill creates section 1004.6499, F.S., to establish the Florida Institute of Politics at Florida State University (FSU). The purpose of the Institute is to provide the southeastern region of the United States with a bipartisan, world-class, nationally-renowned institute of politics. The goals of the institute are to:

- Motivate students throughout the Florida State University to become aware of the significance of government and civic engagement at all levels and politics in general.

⁴⁰ Board of Governors, *State University System of Florida, Education and General, 2019-2020 Executive Summary, Universities and Special Units* (Sept. 13, 2018), available at https://www.flbog.edu/wp-content/uploads/0273_1152_8727_8.8.1.2-BUD-10a-2019-20-LBR_SUS-Executive-Summary-updated-8-31.pdf.

⁴¹ Board of Governors, *Universities of Distinction* (draft document), available at <https://www.flbog.edu/wp-content/uploads/University-of-Distinction.pdf>.

⁴² Section 1000.03(5)(c), F.S.

⁴³ Section 1007.25(4), F.S.

- Provide students with an opportunity to be politically active and civically engaged.
- Nurture a greater awareness and passion for public service and politics.
- Plan and host forums to allow students and guests to hear from and interact with experts from government, politics, policy, and journalism on a frequent basis.
- Become a national and state resource on polling information and survey methodology.
- Provide fellowships and internship opportunities to students in government, nonprofit organizations, and community organizations.
- Provide training sessions for newly elected state and local public officials.
- Organize and sponsor conferences, symposia, and workshops throughout this state to educate and inform citizens, elected officials, and appointed policymakers regarding effective policymaking techniques and processes.
- Create and promote research and awareness regarding politics, citizen involvement, and public service.
- Collaborate with related policy institutes and research activities at the Florida State University and other institutions of higher education to motivate, increase, and sustain citizen involvement in public affairs.

Procurement of Commodities or Contractual Services

Present Situation

A state agency is authorized to contract with an independent, nonprofit college or university that is located within the state and is accredited by the Southern Association of Colleges and Schools (SACS) on the same basis as a state agency may contract with any public college or university.⁴⁴ As of December 2018, SACS accredited 77 postsecondary institutions in Florida, of which 35 were classified as private, not-for-profit institutions.⁴⁵

Effect of Proposed Changes

The bill modifies section 287.057, F.S., to add to the authorization for a state agency to contract with a nonprofit college or university to include an independent, nonprofit college or university that operates in the state, offers professional degrees, and is accredited by the Middle States Commission on Higher Education.

Financial Aid and Tuition Assistance Programs

Present Situation

Various student financial aid and tuition assistance programs have been created to assist students in accessing and continuing higher education in Florida. Student financial assistance available in

⁴⁴ Section 287.057(21), F.S.

⁴⁵ Southern Association of Colleges and Schools Commission on Colleges, *2018 Annual Report and Proceedings*, available at <http://sacscoc.org/app/uploads/2020/01/June-24-Final-2018-Annual-Report-Web-1.pdf>

Florida⁴⁶ includes a variety of grant and scholarship programs outlined in law⁴⁷ or SBE rule⁴⁸ and loans through Federal Student Aid.

Florida Student Assistance Grant Program

The Florida Student Assistance Grant (FSAG) Program, created in 1972, is Florida's largest need-based grant program, consisting of FSAG Public, FSAG Public Postsecondary Career Education (FSAGCE), FSAG Private, and FSAG Postsecondary.⁴⁹ The FSAG Program provides state student assistance grants to students who meet general eligibility requirements⁵⁰ and stipulations specific to each program.

For each of the programs, except FSAGCE, the Department of Education is required to establish a maximum expected family (EFC) contribution that is used in determining eligibility to receive a grant award.⁵¹ For the 2019-2020 academic year, the maximum EFC for FSAG Public and FSAG Postsecondary matches the maximum EFC established for Pell: 5576.^{52 53}

The FSAG Program is administered by participating institutions in accordance with SBE rule.⁵⁴ A total of \$269,396,012 was appropriated for the FSAG Program for the 2019-2020 fiscal year.⁵⁵ The current maximum award amount of \$2,610 has not changed since 2013.⁵⁶

Similarities and differences in specified provisions across the FSAG programs are depicted in the table below.

⁴⁶ See Florida Student Financial Aid, *Office of Student Financial Assistance*, <http://www.floridastudentfinancialaid.org/> (last visited Dec. 11, 2019).

⁴⁷ See ss. 1009.50-1009.894, F.S.

⁴⁸ See Rule 6A-20.001 - 20.111, F.A.C.

⁴⁹ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019), at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁵⁰ Section 1009.40, F.S.

⁵¹ Sections 1009.50(2)(c), 1009.51(2)(c), and 1009.52(2)(c), F.S.

⁵² Florida Department of Education Office of Student Financial Assistance, *Florida Student Assistance Grant (FSAG) Allocations*, available at <https://www.floridastudentfinancialaidsg.org/PDF/PSI/1920-09.pdf>.

⁵³ See Federal Student Aid, *Office of the U.S. Department of Education*, <https://ifap.ed.gov/dpccletters/GEN1901.html> (last visited Jan. 19, 2020).

⁵⁴ Sections 1009.50(6), 1009.505(5), 1009.51(6), and 1009.52(7), F.S. See also Rule 6A-20.031, F.A.C. Postsecondary educational institution administrative responsibilities for state student aid and tuition assistance programs are outlined in Rule 6A-20.002, F.A.C.

⁵⁵ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019), at 5, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>. See also Specific Appropriation 75, ch. 2019-115, L.O.F.

⁵⁶ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2016-17* (2019), at 10, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

| | FSAG Public | FSAGCE | FSAG Private | FSAG Postsecondary |
|--|--|--|--|--|
| Student Eligibility ⁵⁷ | Degree-seeking and enrolled in at least 6 hours at an FCS institution or state university. | Certificate-seeking and enrolled in a career center or FCS institution at least half-time. ⁵⁸ | Full-time, degree-seeking enrollment at an eligible independent nonprofit college or university. ⁵⁹ | Full-time, degree-seeking enrollment at an eligible private nursing school or an eligible independent college or university. ⁶⁰ |
| Grant Award | Between \$200 and weighted average of cost of tuition and fees for 30 hours at state universities, up to 110 percent of the program, or as specified in the GAA. ⁶¹ | Between \$200 and the student’s unmet need for the cost of education, which may not exceed the average annual cost of tuition and other registration fees, or as specified in the GAA. ⁶² | Between \$200 and the amount of demonstrated unmet need for tuition and fees, not to exceed an amount equal to the average tuition and other registration fees for 30 credit hours at state universities plus \$1,000 per academic year, or as specified in the GAA. ⁶³ | Similar to FSAG Private. |
| Priority in Distribution of Funds | Priority given to students with the lowest total family resources. ⁶⁴ | No provision. | Identical to FSAG Public. | Identical to FSAG Public. |
| Reporting Requirement | Report disbursed students to DOE. ⁶⁵ | Similar to FSAG Public. | Similar to FSAG Public. | Similar to FSAG Public. |
| Audit | No provision. | No provision. | Biennial financial and program audit. ⁶⁶ | Identical to FSAG Private. |

In addition, the FSAG Public, FSAG Private, and FSAG Postsecondary programs provide for deposit of funds appropriated by the Legislature for grants through the FSAG program into the

⁵⁷ A demonstrated unmet need of less than \$200 renders an applicant ineligible for a state student assistance grant. Sections 1009.50(2)(a), 1009.51(2)(a), and 1009.52(2)(a), F.S. *See also* Rule 6A-20.031, F.A.C.

⁵⁸ Section 1009.505(3)(a), F.S. “Half-time” means the equivalent in clock hours at a public postsecondary career certificate program of 6 semester credit hours at a FCS institution. Section 1009.505(2)(b), F.S.

⁵⁹ An eligible independent college or university is nonprofit, baccalaureate-degree-granting, accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, and located in and chartered as a domestic corporation by the state. Section 1009.51(2)(a), F.S.

⁶⁰ An eligible nursing diploma school must be approved by the Florida Board of Nursing, and an eligible independent college or university must be licensed by the Commission for Independent Education. Section 1009.52(2)(a), F.S. The Commission for Independent Education has statutory responsibilities in matters relating to nonpublic, postsecondary, educational institutions, including the licensure of independent schools, colleges, and universities. Florida Department of Education, *Commission For Independent Education*, <http://www.fldoe.org/policy/cie/> (last visited Dec. 16, 2019).

⁶¹ Section 1009.50(3), F.S. The amount is specified in the GAA. *Id.* *See s.* 1009.50(2)(a), F.S. The legal requirement is contained in s. 1009.40(3), F.S.

⁶² Section 1009.505(3)(a), F.S.

⁶³ No student may receive an award for more than the equivalent of 9 semesters or 14 quarters of full-time enrollment. Section 1009.51(2)(a), F.S.

⁶⁴ Section 1009.50(2)(c), F.S.

⁶⁵ Sections 1009.50(2)(d) and 1009.50(4)(d), F.S. All eligible students are required to be reported. Rule 6A-20.031(7), F.A.C.

⁶⁶ Section 1009.51(4)(e), F.S. The DOE retains the ability to suspend or revoke an institution’s eligibility to receive future moneys from the trust fund for the program or request a refund of any moneys overpaid to the institution.

State Student Financial Assistance Trust Fund.⁶⁷ The FSAGCE program does not have this provision.

For the 2018-2019 fiscal year, amounts disbursed through the FSAG Program include:

- A total of \$234,334,619 for FSAG Public, disbursed to 156,301 students with an average award amount of \$1,499.55.⁶⁸
- A total of \$3,144,476 for FSAGCE, disbursed to 4,305 students with an average award amount of \$730.42.⁶⁹
- A total of \$24,500,519 for FSAG Private, disbursed to 16,338 students with an average award amount of \$1,499.60.⁷⁰
- A total of \$6,799,009 for FSAG Postsecondary, disbursed to 6,281 students with an average award amount of \$1,082.47.⁷¹

Benacquisto Scholarship Program

The Benacquisto Scholarship Program (scholarship)⁷² was created in 2014 to reward a Florida high school graduate who achieves recognition as a National Merit Scholar (NMS)⁷³ or National Achievement Scholar (NAS)⁷⁴ and enrolls in a baccalaureate degree program at an eligible Florida public or independent postsecondary educational institution.⁷⁵

In addition to achieving recognition as an NMS or NAS, in order to be eligible for an award under the scholarship, a student must:⁷⁶

- Be a state resident as determined by statute and SBE rules;
- Earn a standard Florida high school diploma or its equivalent pursuant to statute, unless:

⁶⁷ Sections 1009.50(5), 1009.51(5), and 1009.52(6), F.S.

⁶⁸ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 4, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPU_2018_2019.pdf.

⁶⁹ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 5, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGCE_2018_2019.pdf.

⁷⁰ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 4, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPR_2018_2019.pdf.

⁷¹ Florida Department of Education (DOE) Office of Financial Assistance, *End-of-Year-Report 2018-19* (Sept. 3, 2019), at 6, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPO_2018_2019.pdf.

⁷² The scholarship was renamed in 2016 from the Florida National Merit Scholar Incentive Program to the Benacquisto Scholarship Program. Section 26, ch. 2016-237, L.O.F.

⁷³ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019), at 17, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>. The National Merit Scholarship Corporation (NMSC) is a private, not-for-profit organization that operates without government assistance to recognize and honor academically talented students. National Merit Scholarship Corporation, Mission, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=395> (last visited Dec. 11, 2019). NMSC organizes the National Merit Scholarship Program, which began in 1955 as an academic competition for recognition and scholarship. High school students enter the National Merit Program by taking the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), which serves as an initial screen of approximately 1.6 million entrants each year, and meeting the program participation requirements. National Merit Scholarship Corporation, *National Merit Scholarship Program*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=424> (last visited Dec. 11, 2019).

⁷⁴ The National Merit Scholarship Corporation discontinued the National Achievement Scholarship Program with the conclusion of the 2015 program. National Merit Scholarship Corporation, *National Achievement Scholarship Program*, <http://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=433> (last visited Dec. 26, 2019).

⁷⁵ Section 1009.893(2), F.S.

⁷⁶ Section 1009.893(4)(a), F.S.

- The student completes a home education program pursuant to statute;⁷⁷ or
- The student earns a high school diploma from a non-Florida school while living with a parent who is on military or public service assignment out of this state;
- Be accepted by and enroll in a Florida public or independent postsecondary educational institution that is regionally accredited; and
- Be enrolled full-time in a baccalaureate degree program at an eligible regionally accredited Florida public or independent postsecondary educational institution during the fall academic term following high school graduation.

In 2018, eligibility was expanded to allow out-of-state students to qualify for a scholarship.⁷⁸

Scholarship recipients attending a public postsecondary institution, who qualify as a Florida resident, receive an award equal to the institutional cost of attendance minus the sum of the student's Florida Bright Futures Scholarship and NMS or NAS award. Scholarship recipients attending a public postsecondary institution, who qualify as non-residents of Florida, receive an award equal to the institutional cost of attendance for a Florida resident minus the student's NMS award. Eligible students who attend independent postsecondary educational institutions in Florida each receive scholarship awards equal to the highest cost of attendance for a resident of this state enrolled at a Florida public university, as reported by the BOG, minus the sum of the student's Florida Bright Futures Scholarship and NMS or NAS award.⁷⁹

A student must earn all credits for which he or she was enrolled and maintain a 3.0 or higher grade point average to be eligible for a renewal award. A student may receive an award for up to 100 percent of the number of credit hours required to complete a baccalaureate degree program.⁸⁰

For the 2019-2020 fiscal year, \$21,372,911⁸¹ was appropriated to fund 1,416 scholarship recipients.⁸²

Effect of Proposed Changes

Florida Student Assistance Grant Program

The bill provides flexibility and aligns specific requirements across the FSAG programs.

Specifically, the bill:

- Establishes that the maximum award amount for each FSAG program as specified in the General Appropriations Act (GAA).

⁷⁷ Section 1002.41, F.S.

⁷⁸ Section 22, ch. 2018-4, L.O.F. *See* s. 1009.893(4)(b), F.S.

⁷⁹ Section 1009.893(5)(b), F.S.

⁸⁰ Section 1009.893(5)(a), F.S. The National Achievement Scholarship Program has since been discontinued. National Merit Scholarship Corporation, *supra* note 57.

⁸¹ Specific Appropriation 68, ch. 2019-115, L.O.F.

⁸² Education Estimating Conference on Student Financial Aid, *Executive Summary* (March 2019), available at <http://edr.state.fl.us/Content/conferences/financialaid/archives/190315financialaid.pdf>.

- Allows a student who received a FSAG award in the fall or spring term to receive the FSAG award during the summer, if funds are available.⁸³
- Removes the requirement that institutions must prioritize the distribution of grant funds to students with the lowest family resources, thus allowing an institution to provide the grant funds to students who have the greatest unmet need.
- Specifies that, for all FSAG programs, institutions must report to the DOE all eligible students, regardless of actual disbursements.⁸⁴
- Modifies the fund distribution formula to include part-time and full-time eligible students, and requires that the formula account for changes in the number of eligible students across all FSAG programs.
- Establishes a disbursement deadline of 30 days after the end of regular registration each term and deadline of 60 days after the end of regular registration each spring term for return of undisbursed funds, which aligns to other financial aid programs, in accordance with DOE rule. However, the bill authorizes an exception to the remittance deadline if the institution documents to the DOE how the institution plans to disburse awards to students for the subsequent summer term. Such reporting and remittance deadlines may ensure that returned funds can be disbursed to qualified students prior to the end of the fiscal year.
- Removes the required DOE need analysis for the FSAG Public, FSAG Private, and FSAG Postsecondary programs to specify that a grant may not be made to a student whose expected family contribution exceeds one and one-half times the maximum Pell Grant-eligible family contribution.⁸⁵
- Requires institutions receiving funds through the FSAG Public and FSAGCE programs to prepare the same biennial report currently required of the FSAG Private and FSAG Postsecondary programs. The requirement specifies that:
 - Each institution that receives moneys through the FSAG program must prepare a biennial report that includes a financial audit, conducted by the Auditor General, of the institution's administration of the program and a complete accounting of moneys allocated to the institution for the program to the DOE by March 1 every other year.
 - The DOE may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and financial audit report.
 - The DOE may suspend or revoke an institution's eligibility to receive future moneys for the program or request a refund of any moneys overpaid to the institution for the program if the DOE finds that an institution has not complied and specifies that any refund requested must be remitted within 60 days after notification by the DOE.

⁸³ All students entering a SUS university with fewer than 60 semester hours credit are required to earn at least 9 semester hours prior to graduation by attendance at one or more summer sessions. BOG Regulation 6.016. Allowing students to use FSAG awards during the summer may assist students to fulfill this requirement, take more credits in a year, and graduate on-time in four years.

⁸⁴ Reporting all eligible students, rather than only those students who received a disbursement, is consistent with requirements in rule 6A-20.031(7), 6A-20.032(7), and 6A-20.033(7), F.A.C.

⁸⁵ Expected Family Contribution is calculated using a student's: family size; family's taxed and untaxed income, assets, and benefits; and number of family members who will attend college or career school during the year. Federal Student Aid, *How Aid is Calculated*, <https://studentaid.gov/complete-aid-process/how-calculated#efc> (last visited Dec. 23, 2019).

Benacquisto Scholarship Program

The bill modifies s. 1009.893, F.S., to clarify requirements for initial eligibility and modify scholarship renewal provisions. Specifically, the bill:

- Removes an outdated reference to the National Achievement Scholar program.
- Requires scholarship renewal students to be enrolled full-time. However, the bill authorizes a student to be enrolled less than full-time and receive funding for one term to complete his or her degree, if the student has less than 12 credits remaining to graduate.⁸⁶
- Specifies that a student's renewal status is not affected by subsequent changes in the residency status of the student or the student's family.
- Authorizes that students who fail to meet renewal requirements due to a verifiable illness or other documented emergency may be granted an exception pursuant to law.⁸⁷
- Specifies that a student may receive an award for up to five years following high school graduation and may not receive the award for more than 10 semesters, which may encourage students to complete degree programs in a timely manner and may lower some program costs.

Textbook and Instructional Materials Affordability

Present Situation

In 2008, the federal government⁸⁸ and Florida Legislature⁸⁹ addressed measures to reduce costs and make textbooks more affordable for needy students. Since 2016,⁹⁰ each FCS institution and state university BOT has been authorized to adopt policies in consultation with textbook and instructional materials providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials. Such policies are authorized to include bulk pricing arrangements that enable students to purchase course materials or texts that are delivered digitally; delivered through other technologies that are, or the licenses of which are, required for use within a course; or delivered in a print format.⁹¹

FCS institution and state university BOT innovative pricing techniques and payment options policies may only be approved if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course and if the policy includes an

⁸⁶ Modifying provisions relating to full-time enrollment will more closely align the law with DOE implementation of the scholarship program.

⁸⁷ Section 1009.40(1)(b)4., F.S.

⁸⁸ The Higher Education Opportunity Act (Public Law 110-315).

⁸⁹ Section 1004.0085, F.S.

⁹⁰ Section 3, ch. 2016-236, L.O.F.

⁹¹ Section 1004.085(4), F.S. Such policies are often called "inclusive access." Where previously students might have been assigned textbooks individually, now many institutions are signing up whole classes of students to automatically receive digital course materials at a discounted rate, rather than purchasing individually. Every student has the same materials on the first day of class, with the charge included as part of their tuition. Many institutions automatically sign up students for such services, requiring students to opt-out if they do not wish to receive such digital materials or services. Inside Higher Education, *'Inclusive Access' Takes Off*, <https://www.insidehighered.com/news/2017/11/07/inclusive-access-takes-model-college-textbook-sales> (last visited Jan. 2, 2020). For federal financial assistance, an institution may include the cost of textbooks and supplies as part of tuition and fees if the institution has an arrangement with a publisher or other entity that makes books or supplies cheaper, provides a way for students to get timely access to materials, and includes a student opt out provision. Section 668.164(c) (2)(i), C.F.R.

opt-in provision for students.⁹² An institution may not automatically enroll students in services that provide textbooks or other materials electronically, students must opt-in to such programs.

Effect of Proposed Changes

The bill modifies s. 1004.085, F.S., to require that each FCS institution and state university BOT that adopts innovative pricing techniques and payment options policies include either an opt in or opt out provision for students. Therefore, if an institution adopts such a policy, the institution may automatically assign all students in a course to receive digital materials or other pricing payment options unless the student opts out of the policy.

Phosphate Research and Activities Board

Present Situation

The Florida Industrial and Phosphate Research Institute is housed within Florida Polytechnic University (FPU)⁹³ and the Phosphate Research and Activities Board is tasked with monitoring the expenditure of funds appropriated to FPU from the Phosphate Research Trust Fund.⁹⁴ The board consists of five members. The Governor is required to appoint two persons representing the phosphate mining or processing industry and one member representing a major environmental conservation group in the state. The Secretary of Environmental Protection or his or her designee and the president of FPU are required to serve as board members.⁹⁵

Members of the board appointed by the Governor are appointed to 3-year terms. A board member may continue to serve until a successor is appointed, but not more than 180 days after the expiration of his or her term. A board member is eligible for reappointment to subsequent terms.⁹⁶

Effect of Proposed Changes

The bill modifies s. 1004.346, F.S., to remove the limitation that a board member may not serve more than 180 days after the expiration of his or her term, which prevents vacancies on the board by allowing that member to serve on the board until a replacement is appointed or that member is reappointed.

Remuneration of State University Administrative Employees

Present Situation

A state university administrative employee may not receive more than \$200,000 in remuneration annually from appropriated state funds. However, university teaching faculty or medical school faculty or staff are not limited to how much compensation they can receive each year from appropriated state funds. State law does not direct the Board of Governors (BOG) to identify

⁹² Section 1004.085(4), F.S.

⁹³ Section 1004.346(1), F.S.

⁹⁴ Section 1004.346(2), F.S.

⁹⁵ Section 1004.346(2)(b), F.S.

⁹⁶ Section 1004.346(2)(c), F.S.

which employee classifications are exempt from the remuneration cap.^{97 98} However, the BOG defines in regulation the position of university president, university administrative employees, and university teaching faculty or medical school faculty for the purpose of regulating remuneration for such employees.⁹⁹

Effect of Proposed Changes

The bill modifies s. 1012.976, F.S., to require the BOG to define in regulation the university faculty and administrative personnel classifications. In addition, the bill expands the exception from the restrictions on remuneration to include all university faculty, not limited to teaching faculty or medical school faculty and staff.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹⁷ See ss. 1012.976(2) and 1012.976(3), F.S.

⁹⁸ State of Florida Auditor General, *Operational Audit, State University System Board of Governors, Report 2020-032*, (September 2019), at 3-4, available at https://flauditor.gov/pages/pdf_files/2020-032.pdf. The Auditor General (AG) finding cited the BOG for creating a definition of university teaching faculty that included those who provide indirect instructional support. The AG indicated that the BOG definition “may undercut the dichotomy between administrative employees and teaching faculty contemplated in state law.” The AG recommended that the BOG review and revise the regulation to ensure definitions of teaching faculty are consistent with state law.

⁹⁹ Board of Governors Regulation 9.006.

B. Private Sector Impact:

Providing for Florida Student Assistance Grant (FSAG) Program summer awards may provide additional financial assistance to students who attend during the summer term.

Establishing a deadline for the return of undisbursed funds to the Department of Education may provide opportunities for additional students to receive an FSAG program scholarship. Returned funds may then be repurposed to fund other eligible students at the same or another institution.¹⁰⁰

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 287.057, 1001.03, 1001.706, 1001.7065, 1004.085, 1004.346, 1009.50, 1009.505, 1009.51, 1009.52, 1009.893, 1011.45, 1012.976, and 1013.841.

The bill creates section 1004.6499 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 Appropriations on March 3, 2020:

The committee substitute makes the following changes to the bill:

- Authorizes a state agency to contract with an independent, nonprofit college or university that operates in the state, offers professional degrees, and is accredited by the Middle States Commission on Higher Education.
- Establishes the Florida Institute of Politics at the Florida State University to provide the southeastern region of the United States with a world class, bipartisan, nationally-renowned institute of politics.
- Requires a University Board of Trustees to select a university president from a minimum of three candidates.

¹⁰⁰ In the 2019 General Appropriations Act, student financial aid funds may be reallocated among the FSAG programs, the children and spouses of deceased and disabled veterans scholarship program, the Florida Work Experience program, and the Rosewood Family and Florida Farmworker scholarships. Specific Appropriation 75, s.2 ch. 2019-115, L.O.F.

- Amends the criteria for preeminence to include the concordant ACT scores.
- Removes the requirement that participating institutions in the Florida Student Assistance Grant program prioritize the distribution of grant funds to students with the lowest family resources.
- Modifies the appointment term of members to the Florida Industrial and Phosphate Research Institute board, to allow board members to serve until their replacement is named. Removes the limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.
- Modifies the remuneration statute for state universities, directing the Board of Governors to define in regulation the university faculty and administrative personnel classifications, and expands the exemption from restrictions in remuneration to include all faculty, not only teaching faculty and medical school faculty and staff.
- Modifies the Academic and Research Excellence Standards subsection so that the BOG Accountability Plan is the source for the measures rather than third-party sources. Revises the data for academic and research excellence standards of preeminent institutions by using more timely performance data and requiring the standards to be reported annually in the BOG Accountability Plan.
- Modifies the preeminence statute to preserves the designation of emerging preeminent universities, removes funding component for emerging preeminent universities, and changes the funding for preeminent universities to be determined annually by the Legislature.
- Removes the repeal of section 11, ch. 2019-116, L.O.F., as that provision is no longer necessary because the award cap was permanently removed from law in 2019.

B. Amendments:

None.

By Senator Stargel

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1 A bill to be entitled
 2 An act relating to postsecondary education; amending
 3 s. 1001.03, F.S.; clarifying requirements for new
 4 construction, remodeling, or renovation projects;
 5 amending s. 1001.7065, F.S.; establishing state
 6 universities of distinction throughout the State
 7 University System; amending s. 1004.085, F.S.;
 8 requiring certain innovative pricing techniques and
 9 payment options to contain an opt-out provision;
 10 amending s. 1009.50, F.S.; requiring that grant awards
 11 administered through the Florida Public Student
 12 Assistance Grant Program not exceed a certain amount;
 13 providing that students who receive a grant award in
 14 the fall or spring term may also receive an award in
 15 the summer term, subject to availability of funds;
 16 prohibiting institutions from dispensing grants to
 17 students whose expected family contribution exceeds a
 18 certain amount; requiring the formula used to
 19 distribute funds for the program to account for
 20 changes in the number of eligible students across all
 21 student assistance grant programs; requiring
 22 institutions to certify the amount of funds disbursed
 23 within a certain timeframe; requiring institutions to
 24 remit any undisbursed advances within a specified
 25 timeframe; providing an exception; requiring
 26 institutions that receive moneys through the program
 27 to submit to the department by a specified date a
 28 biennial report that includes a financial audit
 29 conducted by the Auditor General; authorizing the

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30 department to conduct its own annual or biennial audit
 31 under certain circumstances; authorizing the
 32 department to suspend or revoke an institution's
 33 eligibility or request a refund of moneys overpaid to
 34 such institution under certain circumstances;
 35 providing a timeframe for such refunds; amending s.
 36 1009.505, F.S.; requiring that grant awards
 37 administered through the Florida Public Postsecondary
 38 Career Education Student Assistance Grant Program not
 39 exceed a certain amount; providing that students who
 40 receive a grant award in the fall or spring term may
 41 also receive an award in the summer term, subject to
 42 the availability of funds; requiring the formula used
 43 to distribute funds for the program to account for
 44 changes in the number of eligible students across all
 45 student assistance grant programs; requiring
 46 institutions to certify within a certain timeframe the
 47 amount of funds disbursed; requiring institutions to
 48 remit within a specified timeframe any undisbursed
 49 advances; providing an exception; requiring
 50 institutions that receive moneys through the program
 51 to submit to the department by a specified date a
 52 biennial report that includes a financial audit
 53 conducted by the Auditor General; authorizing the
 54 department to conduct its own annual or biennial audit
 55 under certain circumstances; authorizing the
 56 department to suspend or revoke an institution's
 57 eligibility or to request a refund of moneys overpaid
 58 to such institution under certain circumstances;

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59 authorizing funds appropriated for state student
60 assistance grants to be deposited in a specified trust
61 fund; requiring that any balance in the trust fund at
62 the end of a fiscal year which has been allocated to
63 the Florida Public Postsecondary Career Education
64 Student Assistance Grant Program remain therein,
65 subject to certain statutory exceptions; amending s.
66 1009.51, F.S.; requiring that grant awards
67 administered through the Florida Private Student
68 Assistance Grant Program not exceed a certain amount;
69 providing that students who receive an award in the
70 fall or spring term may also receive an award in the
71 summer term, subject to the availability of funds;
72 prohibiting institutions from dispensing grants to
73 students whose expected family contribution exceeds a
74 certain amount; requiring the formula used to
75 distribute funds for the program to account for
76 changes in the number of eligible students across all
77 student assistance grant programs; requiring
78 institutions to certify within a certain timeframe the
79 amount of funds disbursed; requiring institutions to
80 remit within a specified timeframe any undisbursed
81 advances; providing an exception; revising a
82 requirement for a biennial report; amending s.
83 1009.52, F.S.; requiring that grants administered
84 through the Florida Postsecondary Student Assistance
85 Grant Program not exceed a certain amount; providing
86 that students who receive a grant award in the fall or
87 spring term may also receive an award in the summer

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88 term, subject to the availability of funds;
89 prohibiting institutions from dispensing grants to
90 students whose expected family contribution exceeds a
91 certain amount; requiring the formula used to
92 distribute funds for the program to account for
93 changes in the number of eligible students across all
94 student assistance grant programs; requiring
95 institutions to certify within a certain timeframe the
96 amount of funds disbursed; requiring institutions to
97 remit within a specified timeframe any undisbursed
98 advances; providing an exception; revising a
99 requirement for a biennial report; amending s.
100 1009.893, F.S.; specifying eligibility for initial
101 awards under the Benacquisto Scholarship Program;
102 revising requirements for a student to receive a
103 renewal award; providing a timeframe within which
104 students can receive an award; providing an exception
105 to renewal requirements; amending s. 1011.45, F.S.;
106 revising the date by which a spending plan must be
107 submitted to a university's board of trustees for
108 approval; revising the date by which the Board of
109 Governors must review and approve such spending plan;
110 authorizing certain expenditures in a carry forward
111 spending plan to include a commitment of funds to a
112 contingency reserve for certain purposes; amending s.
113 1013.841, F.S.; revising the dates by which a spending
114 plan must be submitted to a Florida College System
115 institution's board of trustees for approval; revising
116 the dates by which the Board of Education shall review

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117 and publish such plans; authorizing certain
 118 expenditures in a carry forward spending plan to
 119 include a commitment of funds to a contingency reserve
 120 for certain purposes; repealing s. 11, chapter 2019-
 121 116, Laws of Florida, relating to the scheduled
 122 reversion of provisions placing a limitation on the
 123 maximum amount of funding that may be appropriated for
 124 performance funding relating to funds for the
 125 operation of workforce education programs and industry
 126 certifications for Florida College System
 127 institutions; providing an effective date.

128
 129 Be It Enacted by the Legislature of the State of Florida:

130
 131 Section 1. Paragraph (c) of subsection (18) of section
 132 1001.03, Florida Statutes, is amended to read:

133 1001.03 Specific powers of State Board of Education.—

134 (18) PUBLIC EDUCATION CAPITAL OUTLAY.—The State Board of
 135 Education shall develop and submit the prioritized list required
 136 by s. 1013.64(4). Projects considered for prioritization shall
 137 be chosen from a preliminary selection group which shall include
 138 the list of projects maintained pursuant to paragraph (d) and
 139 the top two priorities of each Florida College System
 140 institution.

141 (c) A new construction, remodeling, or renovation project
 142 that has not received an appropriation in a previous year shall
 143 not be considered for inclusion on the prioritized list required
 144 by s. 1013.64(4), unless:

145 1. A plan is provided to reserve funds in an escrow

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146 account, specific to the project, into which shall be deposited
 147 each year an amount of funds equal to 0.5 percent of the total
 148 value of the building for future maintenance;

149 2. There ~~exists are~~ sufficient capacity within the cash and
 150 bonding estimate of funds by the Revenue Estimating Conference
 151 to accommodate the project excess funds from the allocation
 152 provided pursuant to s. 1013.60 within the 3-year Public
 153 Education Capital Outlay funding cycle planning period which are
 154 ~~not needed to complete the projects listed pursuant to paragraph~~
 155 ~~(d); and~~

156 3. The project has been recommended pursuant to s. 1013.31.

157 Section 2. Subsection (7) of section 1001.7065, Florida
 158 Statutes, is amended to read:

159 1001.7065 Preeminent state research universities program.—

160 (7) STATE UNIVERSITIES PROGRAMS OF DISTINCTION EXCELLENCE
 161 THROUGHOUT THE STATE UNIVERSITY SYSTEM.—The Board of Governors
 162 shall establish standards and measures whereby state
 163 universities that focus on one core competency unique to the
 164 State University System which achieve excellence at the national
 165 or state level, meet state workforce needs, and foster an
 166 innovation economy that focuses on areas such as health care,
 167 security, transportation, and science, technology, engineering,
 168 and mathematics (STEM), including supply chain management,
 169 ~~individual undergraduate, graduate, and professional degree~~
 170 ~~programs in state universities which objectively reflect~~
 171 ~~national excellence~~ can be identified. The Board of Governors
 172 may annually submit such programs and make recommendations to
 173 the Legislature by January September 1 for funding, 2018, as to
 174 ~~how any such programs could be enhanced and promoted.~~

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175 Section 3. Subsection (4) of section 1004.085, Florida
176 Statutes, is amended to read:

177 1004.085 Textbook and instructional materials
178 affordability.-

179 (4) Each Florida College System institution and state
180 university board of trustees is authorized to adopt policies in
181 consultation with providers, including bookstores, which allow
182 for the use of innovative pricing techniques and payment options
183 for textbooks and instructional materials. Such policies may
184 include bulk pricing arrangements that enable students to
185 purchase course materials or texts that are delivered digitally;
186 delivered through other technologies that are, or the licenses
187 of which are, required for use within a course; or delivered in
188 a print format. Innovative pricing techniques and payment
189 options must include an opt-in or opt-out provision for students
190 and may be approved only if there is documented evidence that
191 the options reduce the cost of textbooks and instructional
192 materials for students taking a course.

193 Section 4. Section 1009.50, Florida Statutes, is amended to
194 read:

195 1009.50 Florida Public Student Assistance Grant Program;
196 eligibility for grants.-

197 (1) There is hereby created a Florida Public Student
198 Assistance Grant Program. The program shall be administered by
199 the participating institutions in accordance with rules of the
200 state board.

201 (2) (a) State student assistance grants through the program
202 may be made only to degree-seeking students who enroll in at
203 least 6 semester hours, or the equivalent per term, and who meet

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204 the general requirements for student eligibility as provided in
205 s. 1009.40, except as otherwise provided in this section. The
206 grants shall be awarded annually for the amount of demonstrated
207 unmet need for the cost of education and may not exceed the
208 maximum annual award ~~an amount equal to the average prior~~
209 ~~academic year cost of tuition fees and other registration fees~~
210 ~~for 30 credit hours at state universities or such other amount~~
211 ~~as specified in the General Appropriations Act, to any~~
212 ~~recipient~~. A demonstrated unmet need of less than \$200 shall
213 render the applicant ineligible for a state student assistance
214 grant. Recipients of the grants must have been accepted at a
215 state university or Florida College System institution
216 authorized by Florida law. If funds are available, a student who
217 received an award in the fall or spring term may receive a
218 summer award. A student is eligible for the award for 110
219 percent of the number of credit hours required to complete the
220 program in which enrolled, except as otherwise provided in s.
221 1009.40(3).

222 (b) A student applying for a Florida public student
223 assistance grant shall be required to apply for the Pell Grant.
224 The Pell Grant entitlement shall be considered when conducting
225 an assessment of the financial resources available to each
226 student.

227 (c) Priority in the distribution of grant moneys shall be
228 given to students with the lowest total family resources, in
229 accordance with a nationally recognized system of need analysis.
230 ~~Using the system of need analysis, the department shall~~
231 ~~establish a maximum expected family contribution~~. An institution
232 may not make a grant from this program to a student whose

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233 expected family contribution exceeds one and one-half times the
 234 maximum Pell Grant-eligible family contribution level
 235 ~~established by the department~~. An institution may not impose
 236 additional criteria to determine a student's eligibility to
 237 receive a grant award.

238 (d) Each participating institution shall report, to the
 239 department by the established date, the eligible students
 240 eligible for the program for to whom grant moneys are disbursed
 241 each academic term. Each institution shall also report to the
 242 department necessary demographic and eligibility data for such
 243 students.

244 (3) Based on the unmet financial need of an eligible
 245 applicant, the amount of a Florida public student assistance
 246 grant must be between \$200 and the weighted average of the cost
 247 of tuition and other registration fees for 30 credit hours at
 248 state universities per academic year or the amount specified in
 249 the General Appropriations Act.

250 (4) (a) The funds appropriated for the Florida Public
 251 Student Assistance Grant shall be distributed to eligible
 252 institutions in accordance with a formula approved by the State
 253 Board of Education. The formula shall consider at least the
 254 prior year's distribution of funds, the number of ~~full-time~~
 255 eligible applicants who did not receive awards, the
 256 standardization of the expected family contribution, and
 257 provisions for unused funds. The formula shall account for
 258 changes in the number of eligible students across all student
 259 assistance grant programs established pursuant to this section
 260 and ss. 1009.505, 1009.51, and 1009.52.

261 (b) Payment of Florida public student assistance grants

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262 shall be transmitted to the president of the state university or
 263 Florida College System institution, or to his or her
 264 representative, in advance of the registration period.
 265 Institutions shall notify students of the amount of their
 266 awards.

267 (c) The eligibility status of each student to receive a
 268 disbursement shall be determined by each institution as of the
 269 end of its regular registration period, inclusive of a drop-add
 270 period. Institutions shall not be required to reevaluate a
 271 student's eligibility status after this date for purposes of
 272 changing eligibility determinations previously made.

273 (d) Institutions shall certify to the department within 30
 274 days after the end of regular registration each term the amount
 275 of funds disbursed to each student and shall remit to the
 276 department any undisbursed advances within 60 days after the end
 277 of regular registration each spring term any advances by June 1
 278 of each year. An exception to the remittance deadline may be
 279 granted if the institution documents to the department how it
 280 plans to disburse awards to students for the subsequent summer
 281 term. An institution that uses funds for the summer term shall
 282 certify to the department the amount of funds disbursed to each
 283 student and shall remit to the department any undisbursed
 284 advances within 30 days after the end of the summer term.

285 (e) Each institution that receives moneys through the
 286 Florida Public Student Assistance Grant Program shall prepare a
 287 biennial report that includes a financial audit conducted by the
 288 Auditor General of the institution's administration of the
 289 program and a complete accounting of moneys allocated to the
 290 institution for the program. Such report shall be submitted to

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291 the department by March 1 every other year. The department may
 292 conduct its own annual or biennial audit of an institution's
 293 administration of the program and its allocated funds in lieu of
 294 the required biennial report and financial audit report. The
 295 department may suspend or revoke an institution's eligibility to
 296 receive future moneys for the program or request a refund of any
 297 moneys overpaid to the institution for the program if the
 298 department finds that an institution has not complied with this
 299 section. Any refund requested pursuant to this paragraph shall
 300 be remitted within 60 days after notification by the department.

301 (5) Funds appropriated by the Legislature for state student
 302 assistance grants may be deposited in the State Student
 303 Financial Assistance Trust Fund. Notwithstanding ~~the provisions~~
 304 ~~of~~ s. 216.301 and pursuant to s. 216.351, any balance in the
 305 trust fund at the end of any fiscal year which has been
 306 allocated to the Florida Public Student Assistance Grant Program
 307 shall remain therein and shall be available for carrying out the
 308 purposes of this section.

309 (6) The State Board of Education shall establish rules
 310 necessary to implement this section.

311 Section 5. Present subsections (5) and (6) of section
 312 1009.505, Florida Statutes, are redesignated as subsections (6)
 313 and (7), respectively, a new subsection (5) is added to that
 314 section, and subsections (3) and (4) of that section are
 315 amended, to read:

316 1009.505 Florida Public Postsecondary Career Education
 317 Student Assistance Grant Program.—

318 (3) (a) Student assistance grants through the program may be
 319 made only to certificate-seeking students enrolled at least

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320 half-time in a public postsecondary career certificate program
 321 who meet the general requirements for student eligibility as
 322 provided in s. 1009.40, except as otherwise provided in this
 323 section. The grants shall be awarded annually to any recipient
 324 for the amount of demonstrated unmet need for the cost of
 325 education and may not exceed the ~~average annual cost of tuition~~
 326 ~~and registration fees or such other~~ amount as specified in the
 327 General Appropriations Act. A demonstrated unmet need of less
 328 than \$200 shall render the applicant ineligible for a grant
 329 under this section. Recipients of the grants must have been
 330 accepted at a Florida College System institution authorized by
 331 Florida law or a career center operated by a district school
 332 board under s. 1001.44. If funds are available, a student who
 333 received an award in the fall or spring term may receive a
 334 summer award. A student is eligible for the award for 110
 335 percent of the number of clock hours required to complete the
 336 program in which enrolled.

337 (b) A student applying for a Florida public postsecondary
 338 career education student assistance grant shall be required to
 339 apply for the Pell Grant. A Pell Grant entitlement shall be
 340 considered when conducting an assessment of the financial
 341 resources available to each student; however, a Pell Grant
 342 entitlement shall not be required as a condition of receiving a
 343 grant under this section.

344 (c) Each participating institution shall report~~7~~ to the
 345 department by the established date~~7~~ the ~~eligible~~ students
 346 eligible for the program for to whom grant moneys are disbursed
 347 each academic term. Each institution shall also report to the
 348 department necessary demographic and eligibility data for such

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349 students.

350 (4) (a) The funds appropriated for the Florida Public
351 Postsecondary Career Education Student Assistance Grant Program
352 shall be distributed to eligible Florida College System
353 institutions and district school boards in accordance with a
354 formula approved by the department. The formula shall account
355 for changes in the number of eligible students across all
356 student assistance grant programs established pursuant to this
357 section and ss. 1009.50, 1009.51, and 1009.52.

358 (b) Payment of Florida public postsecondary career
359 education student assistance grants shall be transmitted to the
360 president of the Florida College System institution or to the
361 district school superintendent, or to the designee thereof, in
362 advance of the registration period. Institutions shall notify
363 students of the amount of their awards.

364 (c) The eligibility status of each student to receive a
365 disbursement shall be determined by each institution as of the
366 end of its regular registration period, inclusive of a drop-add
367 period. Institutions shall not be required to reevaluate a
368 student's eligibility status after this date for purposes of
369 changing eligibility determinations previously made.

370 (d) Participating institutions shall certify to the
371 department within 30 days after the end of regular registration
372 each term the amount of funds disbursed to each student and
373 shall remit to the department any undisbursed advances within 60
374 days after the end of regular registration each spring term ~~by~~
375 ~~June 1 of each year.~~ An exception to the remittance deadline may
376 be granted if the institution documents to the department how it
377 plans to disburse awards to students for the subsequent summer

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378 term. An institution that uses funds for the summer term shall
379 certify to the department the amount of funds disbursed to each
380 student and shall remit to the department any undisbursed
381 advances within 30 days after the end of the summer term.

382 (e) Each institution that receives moneys through the
383 Florida Public Postsecondary Career Education Student Assistance
384 Grant Program shall prepare a biennial report that includes a
385 financial audit, conducted by the Auditor General, of the
386 institution's administration of the program and a complete
387 accounting of moneys allocated to the institution for the
388 program. Such report shall be submitted to the department by
389 March 1 every other year. The department may conduct its own
390 annual or biennial audit of an institution's administration of
391 the program and its allocated funds in lieu of the required
392 biennial report and financial audit report. The department may
393 suspend or revoke an institution's eligibility to receive future
394 moneys for the program or request a refund of any moneys
395 overpaid to the institution if the department finds that an
396 institution has not complied with this section. Any refund
397 requested pursuant to this paragraph shall be remitted within 60
398 days after notification by the department.

399 (5) Funds appropriated by the Legislature for state student
400 assistance grants may be deposited in the State Student
401 Financial Assistance Trust Fund. Notwithstanding s. 216.301, and
402 pursuant to s. 216.351, any balance in the trust fund at the end
403 of any fiscal year which has been allocated to the Florida
404 Public Postsecondary Career Education Student Assistance Grant
405 Program shall remain therein and shall be available for carrying
406 out the purposes of this section.

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407 Section 6. Section 1009.51, Florida Statutes, is amended to
408 read:

409 1009.51 Florida Private Student Assistance Grant Program;
410 eligibility for grants.—

411 (1) There is created a Florida Private Student Assistance
412 Grant Program. The program shall be administered by the
413 participating institutions in accordance with rules of the State
414 Board of Education.

415 (2) (a) Florida private student assistance grants ~~from the~~
416 ~~State Student Financial Assistance Trust Fund~~ may be made only
417 to full-time degree-seeking students who meet the general
418 requirements for student eligibility as provided in s. 1009.40,
419 except as otherwise provided in this section. Such grants shall
420 be awarded for the amount of demonstrated unmet need for tuition
421 and fees and may not exceed the maximum annual award ~~an~~ amount
422 ~~equal to the average tuition and other registration fees for 30~~
423 ~~credit hours at state universities plus \$1,000 per academic~~
424 ~~year, or as~~ specified in the General Appropriations Act, ~~to any~~
425 ~~applicant~~. A demonstrated unmet need of less than \$200 shall
426 render the applicant ineligible for a Florida private student
427 assistance grant. Recipients of such grants must have been
428 accepted at a baccalaureate-degree-granting independent
429 nonprofit college or university, which is accredited by the
430 Commission on Colleges of the Southern Association of Colleges
431 and Schools and which is located in and chartered as a domestic
432 corporation by the state. If funds are available, a student who
433 received an award in the fall or spring term may receive a
434 summer award. No student may receive an award for more than the
435 equivalent of 9 semesters or 14 quarters of full-time

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436 enrollment, except as otherwise provided in s. 1009.40(3).

437 (b) A student applying for a Florida private student
438 assistance grant shall be required to apply for the Pell Grant.
439 The Pell Grant entitlement shall be considered when conducting
440 an assessment of the financial resources available to each
441 student.

442 (c) Priority in the distribution of grant moneys shall be
443 given to students with the lowest total family resources, in
444 accordance with a nationally recognized system of need analysis.
445 ~~Using the system of need analysis, the department shall~~
446 ~~establish a maximum expected family contribution.~~ An institution
447 may not make a grant from this program to a student whose
448 expected family contribution exceeds one and one-half times the
449 maximum Pell Grant-eligible family contribution level
450 ~~established by the department.~~ An institution may not impose
451 additional criteria to determine a student's eligibility to
452 receive a grant award.

453 (d) Each participating institution shall report, ~~to the~~
454 department by the established date, ~~the eligible students~~
455 eligible for the program for to whom grant moneys are disbursed
456 each academic term. Each institution shall also report to the
457 department necessary demographic and eligibility data for such
458 students.

459 (3) Based on the unmet financial need of an eligible
460 applicant, the amount of a Florida private student assistance
461 grant must be between \$200 and ~~the average cost of tuition and~~
462 ~~other registration fees for 30 credit hours at state~~
463 ~~universities plus \$1,000 per academic year or~~ the amount
464 specified in the General Appropriations Act.

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465 (4) (a) The funds appropriated for the Florida Private
 466 Student Assistance Grant shall be distributed to eligible
 467 institutions in accordance with a formula approved by the State
 468 Board of Education. The formula shall consider at least the
 469 prior year's distribution of funds, the number of ~~full-time~~
 470 eligible applicants who did not receive awards, the
 471 standardization of the expected family contribution, and
 472 provisions for unused funds. The formula shall account for
 473 changes in the number of eligible students across all student
 474 assistance grant programs established pursuant to this section
 475 and ss. 1009.50, 1009.505, and 1009.52.

476 (b) Payment of Florida private student assistance grants
 477 shall be transmitted to the president of the college or
 478 university, or to his or her representative, in advance of the
 479 registration period. Institutions shall notify students of the
 480 amount of their awards.

481 (c) The eligibility status of each student to receive a
 482 disbursement shall be determined by each institution as of the
 483 end of its regular registration period, inclusive of a drop-add
 484 period. Institutions shall not be required to reevaluate a
 485 student's eligibility status after this date for purposes of
 486 changing eligibility determinations previously made.

487 (d) Institutions shall certify to the department within 30
 488 days after the end of regular registration each term the amount
 489 of funds disbursed to each student and shall remit to the
 490 department any undisbursed advances within 60 days after the end
 491 of regular registration each spring term by June 1 of each year.
 492 An exception to the remittance deadline may be granted if the
 493 institution documents to the department how it plans to disburse

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494 awards to students for the subsequent summer term. An
 495 institution that uses funds for the summer term shall certify to
 496 the department the amount of funds disbursed to each student and
 497 shall remit to the department any undisbursed advances within 30
 498 days after the end of the summer term.

499 (e) Each institution that receives moneys through the
 500 Florida Private Student Assistance Grant Program shall prepare a
 501 biennial report that includes a financial audit, conducted by an
 502 independent certified public accountant, of the institution's
 503 administration of the program and a complete accounting of
 504 moneys ~~in the State Student Financial Assistance Trust Fund~~
 505 allocated to the institution for the program. Such report shall
 506 be submitted to the department by March 1 every other year. The
 507 department may conduct its own annual or biennial audit of an
 508 institution's administration of the program and its allocated
 509 funds in lieu of the required biennial report and financial
 510 audit report. The department may suspend or revoke an
 511 institution's eligibility to receive future moneys ~~from the~~
 512 ~~trust fund~~ for the program or request a refund of any moneys
 513 overpaid to the institution ~~through the trust fund~~ for the
 514 program if the department finds that an institution has not
 515 complied with ~~the provisions of~~ this section. Any refund
 516 requested pursuant to this paragraph shall be remitted within 60
 517 days after notification by the department.

518 (5) Funds appropriated by the Legislature for Florida
 519 private student assistance grants may be deposited in the State
 520 Student Financial Assistance Trust Fund. Notwithstanding ~~the~~
 521 ~~provisions of~~ s. 216.301 and pursuant to s. 216.351, any balance
 522 in the trust fund at the end of any fiscal year which has been

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523 allocated to the Florida Private Student Assistance Grant
 524 Program shall remain therein and shall be available for carrying
 525 out the purposes of this section and as otherwise provided by
 526 law.

527 (6) The State Board of Education shall adopt rules
 528 necessary to implement this section.

529 Section 7. Section 1009.52, Florida Statutes, is amended to
 530 read:

531 1009.52 Florida Postsecondary Student Assistance Grant
 532 Program; eligibility for grants.—

533 (1) There is created a Florida Postsecondary Student
 534 Assistance Grant Program. The program shall be administered by
 535 the participating institutions in accordance with rules of the
 536 State Board of Education.

537 (2) (a) Florida postsecondary student assistance grants
 538 ~~through the State Student Financial Assistance Trust Fund~~ may be
 539 made only to full-time degree-seeking students who meet the
 540 general requirements for student eligibility as provided in s.
 541 1009.40, except as otherwise provided in this section. Such
 542 grants shall be awarded for the amount of demonstrated unmet
 543 need for tuition and fees and may not exceed the maximum annual
 544 award an amount equal to the average prior academic year cost of
 545 ~~tuition and other registration fees for 30 credit hours at state~~
 546 ~~universities plus \$1,000 per academic year, or as~~ specified in
 547 the General Appropriations Act, ~~to any applicant~~. A demonstrated
 548 unmet need of less than \$200 shall render the applicant
 549 ineligible for a Florida postsecondary student assistance grant.
 550 Recipients of such grants must have been accepted at a
 551 postsecondary institution that is located in this ~~the~~ state and

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552 that is:

553 1. A private nursing diploma school approved by the Florida
 554 Board of Nursing; or

555 2. A college or university licensed by the Commission for
 556 Independent Education, excluding those institutions the students
 557 of which are eligible to receive a Florida private student
 558 assistance grant pursuant to s. 1009.51.

559

560 If funds are available, a student who received an award in the
 561 fall or spring term may receive a summer award. No student may
 562 receive an award for more than the equivalent of 9 semesters or
 563 14 quarters of full-time enrollment, except as otherwise
 564 provided in s. 1009.40(3).

565 (b) A student applying for a Florida postsecondary student
 566 assistance grant shall be required to apply for the Pell Grant.
 567 The Pell Grant entitlement shall be considered when conducting
 568 an assessment of the financial resources available to each
 569 student.

570 (c) Priority in the distribution of grant moneys shall be
 571 given to students with the lowest total family resources, in
 572 accordance with a nationally recognized system of need analysis.
 573 ~~Using the system of need analysis, the department shall~~
 574 ~~establish a maximum expected family contribution.~~ An institution
 575 may not make a grant from this program to a student whose
 576 expected family contribution exceeds one and one-half times the
 577 maximum Pell Grant-eligible family contribution level
 578 ~~established by the department~~. An institution may not impose
 579 additional criteria to determine a student's eligibility to
 580 receive a grant award.

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581 (d) Each participating institution shall report, to the
 582 department by the established date, the ~~eligible students~~
 583 eligible for the program for to whom grant moneys are disbursed
 584 each academic term. Each institution shall also report to the
 585 department necessary demographic and eligibility data for such
 586 students.

587 (3) Based on the unmet financial need of an eligible
 588 applicant, the amount of a Florida postsecondary student
 589 assistance grant must be between \$200 and ~~the average cost of~~
 590 tuition and other registration fees for 30 credit hours at state
 591 universities plus \$1,000 per academic year or the amount
 592 specified in the General Appropriations Act.

593 (4) (a) The funds appropriated for the Florida Postsecondary
 594 Student Assistance Grant shall be distributed to eligible
 595 institutions in accordance with a formula approved by the State
 596 Board of Education. The formula shall consider at least the
 597 prior year's distribution of funds, the number of ~~full-time~~
 598 eligible applicants who did not receive awards, the
 599 standardization of the expected family contribution, and
 600 provisions for unused funds. The formula shall account for
 601 changes in the number of eligible students across all student
 602 assistance grant programs established pursuant to this section
 603 and ss. 1009.50, 1009.505, and 1009.51.

604 (b) Payment of Florida postsecondary student assistance
 605 grants shall be transmitted to the president of the eligible
 606 institution, or to his or her representative, in advance of the
 607 registration period. Institutions shall notify students of the
 608 amount of their awards.

609 (c) The eligibility status of each student to receive a

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610 disbursement shall be determined by each institution as of the
 611 end of its regular registration period, inclusive of a drop-add
 612 period. Institutions shall not be required to reevaluate a
 613 student's eligibility status after this date for purposes of
 614 changing eligibility determinations previously made.

615 (d) Institutions shall certify to the department within 30
 616 days after the end of regular registration each term the amount
 617 of funds disbursed to each student and shall remit to the
 618 department any undisbursed advances within 60 days after the end
 619 of regular registration each spring term by June 1 of each year.
 620 An exception to the remittance deadline may be granted if the
 621 institution documents to the department how it plans to disburse
 622 awards to students for the subsequent summer term. An
 623 institution that uses funds for the summer term shall certify to
 624 the department the amount of funds disbursed to each student and
 625 shall remit to the department any undisbursed advances within 30
 626 days after the end of the summer term.

627 (e) Each institution that receives moneys through the
 628 Florida Postsecondary Student Assistance Grant Program shall
 629 prepare a biennial report that includes a financial audit,
 630 conducted by an independent certified public accountant, of the
 631 institution's administration of the program and a complete
 632 accounting of moneys ~~in the State Student Financial Assistance~~
 633 ~~Trust Fund allocated to the institution~~ for the program. Such
 634 report shall be submitted to the department by March 1 every
 635 other year. The department may conduct its own annual or
 636 biennial audit of an institution's administration of the program
 637 and its allocated funds in lieu of the required biennial report
 638 and financial audit report. The department may suspend or revoke

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639 an institution's eligibility to receive future moneys ~~from the~~
 640 ~~trust fund~~ for the program or request a refund of any moneys
 641 overpaid to the institution ~~through the trust fund~~ for the
 642 program if the department finds that an institution has not
 643 complied with ~~the provisions of~~ this section. Any refund
 644 requested pursuant to this paragraph shall be remitted within 60
 645 days after notification by the department.

646 (5) Any institution that was eligible to receive state
 647 student assistance grants on January 1, 1989, and that is not
 648 eligible to receive grants pursuant to s. 1009.51 is eligible to
 649 receive grants pursuant to this section.

650 (6) Funds appropriated by the Legislature for Florida
 651 postsecondary student assistance grants may be deposited in the
 652 State Student Financial Assistance Trust Fund. Notwithstanding
 653 ~~the provisions of~~ s. 216.301 and pursuant to s. 216.351, any
 654 balance in the trust fund at the end of any fiscal year which
 655 has been allocated to the Florida Postsecondary Student
 656 Assistance Grant Program shall remain therein and shall be
 657 available for carrying out the purposes of this section and as
 658 otherwise provided by law.

659 (7) The State Board of Education shall adopt rules
 660 necessary to implement this section.

661 Section 8. Subsections (2), (4), (5), and (6) of section
 662 1009.893, Florida Statutes, are amended to read:

663 1009.893 Benacquisto Scholarship Program.—

664 (2) The Benacquisto Scholarship Program is created to
 665 reward a high school graduate who receives recognition as a
 666 National Merit Scholar ~~or National Achievement Scholar~~ and who
 667 initially enrolls in the 2014-2015 academic year or, later, in a

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668 baccalaureate degree program at an eligible Florida public or
 669 independent postsecondary educational institution.

670 (4) In order to be eligible for an initial award under the
 671 scholarship program, a student must meet the requirements of
 672 paragraph (a) or paragraph (b).

673 (a) A student who is a resident of this state, as
 674 determined in s. 1009.40 and rules of the State Board of
 675 Education, must:

676 1. Earn a standard Florida high school diploma or its
 677 equivalent pursuant to s. 1002.3105, s. 1003.4281, s. 1003.4282,
 678 or s. 1003.435 unless:

679 a. The student completes a home education program according
 680 to s. 1002.41; or

681 b. The student earns a high school diploma from a non-
 682 Florida school while living with a parent who is on military or
 683 public service assignment out of this state;

684 2. Be accepted by and enroll in a Florida public or
 685 independent postsecondary educational institution that is
 686 regionally accredited; and

687 3. Be enrolled full-time in a baccalaureate degree program
 688 at an eligible regionally accredited Florida public or
 689 independent postsecondary educational institution during the
 690 fall academic term following high school graduation.

691 (b) A student who initially enrolls in a baccalaureate
 692 degree program in the 2018-2019 academic year or later and who
 693 is not a resident of this state, as determined in s. 1009.40 and
 694 rules of the State Board of Education, must:

695 1. Physically reside in this state on or near the campus of
 696 the postsecondary educational institution in which the student

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697 is enrolled;

698 2. Earn a high school diploma from a school outside Florida
699 which is comparable to a standard Florida high school diploma or
700 its equivalent pursuant to s. 1002.3105, s. 1003.4281, s.
701 1003.4282, or s. 1003.435 or must complete a home education
702 program in another state; and

703 3. Be accepted by and enrolled full-time in a baccalaureate
704 degree program at an eligible regionally accredited Florida
705 public or independent postsecondary educational institution
706 during the fall academic term following high school graduation.

707 (5) (a) 1. An eligible student who meets the requirements of
708 paragraph (4) (a), who is a National Merit Scholar ~~or National~~
709 ~~Achievement Scholar~~, and who attends a Florida public
710 postsecondary educational institution shall receive a
711 scholarship award equal to the institutional cost of attendance
712 minus the sum of the student's Florida Bright Futures
713 Scholarship and National Merit Scholarship ~~or National~~
714 ~~Achievement Scholarship~~.

715 2. An eligible student who meets the requirements of
716 paragraph (4) (b), who is a National Merit Scholar, and who
717 attends a Florida public postsecondary educational institution
718 shall receive a scholarship award equal to the institutional
719 cost of attendance for a resident of this state minus the
720 student's National Merit Scholarship. Such student is exempt
721 from the payment of out-of-state fees.

722 (b) An eligible student who is a National Merit Scholar ~~or~~
723 ~~National Achievement Scholar~~ and who attends a Florida
724 independent postsecondary educational institution shall receive
725 a scholarship award equal to the highest cost of attendance for

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726 a resident of this state enrolled at a Florida public
727 university, as reported by the Board of Governors of the State
728 University System, minus the sum of the student's Florida Bright
729 Futures Scholarship and National Merit Scholarship ~~or National~~
730 ~~Achievement Scholarship~~.

731 (6) (a) To be eligible for a renewal award, a student must
732 be enrolled full-time, earn all credits for which he or she was
733 enrolled, and maintain a 3.0 or higher grade point average. An
734 eligible Benacquisto Scholar who has fewer than 12 credits to
735 complete their first baccalaureate degree may receive funding
736 for one term in order to complete their degree.

737 (b) A student's renewal status is not affected by
738 subsequent changes in the residency status of the student or
739 residency status of the student's family.

740 (c) ~~(b)~~ A student may receive the scholarship award for a
741 maximum of 100 percent of the number of credit hours required to
742 complete a baccalaureate degree program, or until completion of
743 a baccalaureate degree program, whichever comes first.

744 (d) A student may receive an award for up to 5 years
745 following high school graduation and may not receive the award
746 for more than 10 semesters.

747 (e) A student who receives an award under this program and
748 fails to meet the renewal requirements due to a verifiable
749 illness or other documented emergency may be granted an
750 exception pursuant to s. 1009.40(1)(b)4.

751 Section 9. Section 1011.45, Florida Statutes, is amended to
752 read:

753 1011.45 End of year balance of funds.—Unexpended amounts in
754 any fund in a university current year operating budget shall be

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755 carried forward and included as the balance forward for that
756 fund in the approved operating budget for the following year.

757 (1) Each university shall maintain a minimum carry forward
758 balance of at least 7 percent of its state operating budget. If
759 a university fails to maintain a 7 percent balance in state
760 operating funds, the university shall submit a plan to the Board
761 of Governors to attain the 7 percent balance of state operating
762 funds within the next fiscal year.

763 (2) Each university that retains a state operating fund
764 carry forward balance in excess of the 7 percent minimum shall
765 submit a spending plan for its excess carry forward balance. The
766 spending plan shall be submitted to the university's board of
767 trustees for review, approval, or, if necessary, amendment by
768 September 30 ~~±~~, 2020, and each September 30 ~~±~~ thereafter. The
769 Board of Governors shall review, approve, and amend, if
770 necessary, each university's carry forward spending plan by
771 November 15 ~~October 1~~, 2020, and each November 15 ~~October 1~~
772 thereafter.

773 (3) A university's carry forward spending plan shall
774 include the estimated cost per planned expenditure and a
775 timeline for completion of the expenditure. Authorized
776 expenditures in a carry forward spending plan may include:

777 (a) Commitment of funds to a public education capital
778 outlay project for which an appropriation has previously been
779 provided that requires additional funds for completion and which
780 is included in the list required by s. 1001.706(12) (d);

781 (b) Completion of a renovation, repair, or maintenance
782 project that is consistent with ~~the provisions of~~ s. 1013.64(1),
783 up to \$5 million per project, and replacement of a minor

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784 facility that does not exceed 10,000 gross square feet in size
785 up to \$2 million;

786 (c) Completion of a remodeling or infrastructure project,
787 including a project for a development research school, up to \$10
788 million per project, if such project is survey recommended
789 pursuant to s. 1013.31;

790 (d) Completion of a repair or replacement project necessary
791 due to damage caused by a natural disaster for buildings
792 included in the inventory required pursuant to s. 1013.31;

793 (e) Operating expenditures that support the university
794 mission ~~and that are nonrecurring; and~~

795 (f) Any purpose specified by the board or in the General
796 Appropriations Act; and

797 (g) A commitment of funds to a contingency reserve to
798 assist in addressing unforeseen circumstances that may arise,
799 including natural disasters and other emergencies.

800 (4) Annually, by September 30, the chief financial officer
801 of each university shall certify the unexpended amount of funds
802 appropriated to the university from the General Revenue Fund,
803 the Educational Enhancement Trust Fund, and the
804 Education/General Student and Other Fees Trust Fund as of June
805 30 of the previous fiscal year.

806 (5) A university may spend the minimum carry forward
807 ~~carry forward~~ balance of 7 percent if a demonstrated emergency
808 exists and the plan is approved by the university's board of
809 trustees and the Board of Governors.

810 Section 10. Section 1013.841, Florida Statutes, is amended
811 to read:

812 1013.841 End of year balance of Florida College System

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813 institution funds.-

814 (1) Unexpended amounts in any fund in any Florida College
815 System institution current year state operating budget shall be
816 carried forward and included as the balance forward for that
817 fund in the approved operating budget for the following year.

818 (2) (a) Each Florida College System institution with a final
819 FTE less than 15,000 for the prior year shall maintain a minimum
820 carry forward balance of at least 5 percent of its state
821 operating budget. If a Florida College System institution fails
822 to maintain a 5 percent balance in state operating funds, the
823 president shall provide written notification to the State Board
824 of Education.

825 (b) Each Florida College System institution with a final
826 FTE less than 15,000 for the prior year that retains a state
827 operating fund carry forward balance in excess of the 5 percent
828 minimum shall submit a spending plan for its excess carry
829 forward balance. The spending plan shall include all excess
830 carry forward funds from state operating funds. The spending
831 plan shall be submitted to the Florida College System
832 institution's board of trustees for approval by September 30 †,
833 2020, and each September 30 † thereafter. The State Board of
834 Education shall review and publish each Florida College System
835 institution's carry forward spending plan by November 15 ~~October~~
836 †, 2020, and each November 15 ~~October 1~~ thereafter.

837 (3) (a) Each Florida College System institution with a final
838 FTE of 15,000 or greater for the prior year shall maintain a
839 minimum carry forward balance of at least 7 percent of its state
840 operating budget. If a Florida College System institution fails
841 to maintain a 7 percent balance in state operating funds, the

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842 institution shall submit a plan to the State Board of Education
843 to attain the minimum balance.

844 (b) Each Florida College System institution with a final
845 FTE of 15,000 or greater for the prior year that retains a state
846 operating fund carry forward balance in excess of the 7 percent
847 minimum shall submit a spending plan for its excess carry
848 forward balance. The spending plan shall include all excess
849 carry forward funds from state operating funds. The spending
850 plan shall be submitted to the Florida College System
851 institution's board of trustees for approval by September 30 †,
852 2020, and each September 30 † thereafter. The State Board of
853 Education shall review and publish each Florida College System
854 institution's carry forward spending plan by November 15 ~~October~~
855 †, 2020, and each November 15 ~~October 1~~ thereafter.

856 (4) A Florida College System institution identified in
857 paragraph (3) (a) must include in its carry forward spending plan
858 the estimated cost per planned expenditure and a timeline for
859 completion of the expenditure. Authorized expenditures in a
860 carry forward spending plan may include:

861 (a) Commitment of funds to a public education capital
862 outlay project for which an appropriation was previously
863 provided, which requires additional funds for completion, and
864 which is included in the list required by s. 1001.03(18) (d);

865 (b) Completion of a renovation, repair, or maintenance
866 project that is consistent with ~~the provisions of~~ s. 1013.64(1),
867 up to \$5 million per project;

868 (c) Completion of a remodeling or infrastructure project,
869 up to \$10 million per project, if such project is survey
870 recommended pursuant to s. 1013.31;

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871 (d) Completion of a repair or replacement project necessary
872 due to damage caused by a natural disaster for buildings
873 included in the inventory required pursuant to s. 1013.31;

874 (e) Operating expenditures that support the Florida College
875 System institution's mission ~~which are nonrecurring; and~~

876 (f) Any purpose approved by the state board or specified in
877 the General Appropriations Act; ~~and~~

878 (g) A commitment of funds to a contingency reserve to
879 assist in addressing unforeseen circumstances that may arise,
880 including natural disasters and other emergencies.

881 Section 11. Section 11 of chapter 2019-116, Laws of
882 Florida, is repealed.

883 Section 12. This act shall take effect July 1, 2020.

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 Appropriations

BILL: SJR 146

INTRODUCER: Senator Brandes

SUBJECT: Homestead Property Tax Assessments/Increased Portability Period

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------------|-----------|------------------|
| 1. | <u>Toman</u> | <u>Yeatman</u> | <u>CA</u> | Favorable |
| 2. | <u>Babin</u> | <u>Diez-Arguelles</u> | <u>FT</u> | Favorable |
| 3. | <u>Babin</u> | <u>Kynoch</u> | <u>AP</u> | Favorable |

I. Summary:

SJR 146 proposes an amendment to the Florida Constitution to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

The Revenue Estimating Conference has determined that, if adopted by the electors, the proposed amendment will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the "just value"² of property

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ on real estate or tangible personal property, and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹¹ The Save Our Homes assessment limitation limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹² The accumulated difference between the assessed value and the just value is the Save Our Homes benefit.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.¹³ The amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued Save Our Homes benefit to the new homestead. To transfer the Save Our Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art. VII, s. (4)(d)(8). The Florida Legislature implemented the portability amendment in s. 193.155(8), F.S.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Feb. 6, 2020).

benefit from a prior homestead property to a new homestead property. The joint resolution also deletes obsolete provisions pertaining to 2008 homestead property assessments.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election¹⁵ held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.¹⁶

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

¹⁵ Section 97.021(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

¹⁶ Section 101.161(1), F.S.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that, if adopted by the electors, the proposed amendment will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

The Division of Elections (Division) is required to advertise the full text of proposed constitutional amendments in English and Spanish¹⁷ twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.¹⁸

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be, at a minimum, \$63,378.26.¹⁹ Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.²⁰

According to the Florida Department of Revenue, if SJR 146 and the implementing language in SB 148 are approved, the department would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.²¹

¹⁷ The requirement to provide these publications in Spanish stems from Section 203 of the Federal Voting Rights Act.

¹⁸ E-mail from Brittany N. Dover, Legislative Affairs Director, Florida Department of State (Oct. 2, 2019) (on file with the Senate Committee on Finance and Tax).

¹⁹ *Id.*

²⁰ *Id.*

²¹ Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 13, 2019) (on file with the Senate Committee on Finance and Tax).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article VII, section 4 of the Florida Constitution.

This joint resolution creates a new section in Article XII of the Florida Constitution.

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.

By Senator Brandes

24-00217-20

2020146__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead, and to provide an effective date.

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

That the following amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general

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law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

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59 (5) Changes, additions, reductions, or improvements to
60 homestead property shall be assessed as provided for by general
61 law; provided, however, after the adjustment for any change,
62 addition, reduction, or improvement, the property shall be
63 assessed as provided in this subsection.

64 (6) In the event of a termination of homestead status, the
65 property shall be assessed as provided by general law.

66 (7) The provisions of this amendment are severable. If any
67 of the provisions of this amendment shall be held
68 unconstitutional by any court of competent jurisdiction, the
69 decision of such court shall not affect or impair any remaining
70 provisions of this amendment.

71 (8)a. A person who establishes a new homestead as of
72 January 1, ~~2009, or January 1 of any subsequent year~~ and who has
73 received a homestead exemption pursuant to Section 6 of this
74 Article as of January 1 of any either of the three two years
75 immediately preceding the establishment of the new homestead is
76 entitled to have the new homestead assessed at less than just
77 value. ~~If this revision is approved in January of 2008, a person
78 who establishes a new homestead as of January 1, 2008, is
79 entitled to have the new homestead assessed at less than just
80 value only if that person received a homestead exemption on
81 January 1, 2007.~~ The assessed value of the newly established
82 homestead shall be determined as follows:

83 1. If the just value of the new homestead is greater than
84 or equal to the just value of the prior homestead as of January
85 1 of the year in which the prior homestead was abandoned, the
86 assessed value of the new homestead shall be the just value of
87 the new homestead minus an amount equal to the lesser of

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88 \$500,000 or the difference between the just value and the
89 assessed value of the prior homestead as of January 1 of the
90 year in which the prior homestead was abandoned. Thereafter, the
91 homestead shall be assessed as provided in this subsection.

92 2. If the just value of the new homestead is less than the
93 just value of the prior homestead as of January 1 of the year in
94 which the prior homestead was abandoned, the assessed value of
95 the new homestead shall be equal to the just value of the new
96 homestead divided by the just value of the prior homestead and
97 multiplied by the assessed value of the prior homestead.
98 However, if the difference between the just value of the new
99 homestead and the assessed value of the new homestead calculated
100 pursuant to this sub-subparagraph is greater than \$500,000, the
101 assessed value of the new homestead shall be increased so that
102 the difference between the just value and the assessed value
103 equals \$500,000. Thereafter, the homestead shall be assessed as
104 provided in this subsection.

105 b. By general law and subject to conditions specified
106 therein, the legislature shall provide for application of this
107 paragraph to property owned by more than one person.

108 (e) The legislature may, by general law, for assessment
109 purposes and subject to the provisions of this subsection, allow
110 counties and municipalities to authorize by ordinance that
111 historic property may be assessed solely on the basis of
112 character or use. Such character or use assessment shall apply
113 only to the jurisdiction adopting the ordinance. The
114 requirements for eligible properties must be specified by
115 general law.

116 (f) A county may, in the manner prescribed by general law,

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117 provide for a reduction in the assessed value of homestead
 118 property to the extent of any increase in the assessed value of
 119 that property which results from the construction or
 120 reconstruction of the property for the purpose of providing
 121 living quarters for one or more natural or adoptive grandparents
 122 or parents of the owner of the property or of the owner's spouse
 123 if at least one of the grandparents or parents for whom the
 124 living quarters are provided is 62 years of age or older. Such a
 125 reduction may not exceed the lesser of the following:

126 (1) The increase in assessed value resulting from
 127 construction or reconstruction of the property.

128 (2) Twenty percent of the total assessed value of the
 129 property as improved.

130 (g) For all levies other than school district levies,
 131 assessments of residential real property, as defined by general
 132 law, which contains nine units or fewer and which is not subject
 133 to the assessment limitations set forth in subsections (a)
 134 through (d) shall change only as provided in this subsection.

135 (1) Assessments subject to this subsection shall be changed
 136 annually on the date of assessment provided by law; but those
 137 changes in assessments shall not exceed ten percent (10%) of the
 138 assessment for the prior year.

139 (2) No assessment shall exceed just value.

140 (3) After a change of ownership or control, as defined by
 141 general law, including any change of ownership of a legal entity
 142 that owns the property, such property shall be assessed at just
 143 value as of the next assessment date. Thereafter, such property
 144 shall be assessed as provided in this subsection.

145 (4) Changes, additions, reductions, or improvements to such

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146 property shall be assessed as provided for by general law;
 147 however, after the adjustment for any change, addition,
 148 reduction, or improvement, the property shall be assessed as
 149 provided in this subsection.

150 (h) For all levies other than school district levies,
 151 assessments of real property that is not subject to the
 152 assessment limitations set forth in subsections (a) through (d)
 153 and (g) shall change only as provided in this subsection.

154 (1) Assessments subject to this subsection shall be changed
 155 annually on the date of assessment provided by law; but those
 156 changes in assessments shall not exceed ten percent (10%) of the
 157 assessment for the prior year.

158 (2) No assessment shall exceed just value.

159 (3) The legislature must provide that such property shall
 160 be assessed at just value as of the next assessment date after a
 161 qualifying improvement, as defined by general law, is made to
 162 such property. Thereafter, such property shall be assessed as
 163 provided in this subsection.

164 (4) The legislature may provide that such property shall be
 165 assessed at just value as of the next assessment date after a
 166 change of ownership or control, as defined by general law,
 167 including any change of ownership of the legal entity that owns
 168 the property. Thereafter, such property shall be assessed as
 169 provided in this subsection.

170 (5) Changes, additions, reductions, or improvements to such
 171 property shall be assessed as provided for by general law;
 172 however, after the adjustment for any change, addition,
 173 reduction, or improvement, the property shall be assessed as
 174 provided in this subsection.

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175 (i) The legislature, by general law and subject to
 176 conditions specified therein, may prohibit the consideration of
 177 the following in the determination of the assessed value of real
 178 property:

179 (1) Any change or improvement to real property used for
 180 residential purposes made to improve the property's resistance
 181 to wind damage.

182 (2) The installation of a solar or renewable energy source
 183 device.

184 (j)(1) The assessment of the following working waterfront
 185 properties shall be based upon the current use of the property:
 186 a. Land used predominantly for commercial fishing purposes.
 187 b. Land that is accessible to the public and used for
 188 vessel launches into waters that are navigable.
 189 c. Marinas and drystacks that are open to the public.
 190 d. Water-dependent marine manufacturing facilities,
 191 commercial fishing facilities, and marine vessel construction
 192 and repair facilities and their support activities.

193 (2) The assessment benefit provided by this subsection is
 194 subject to conditions and limitations and reasonable definitions
 195 as specified by the legislature by general law.

ARTICLE XII

SCHEDULE

198 Transfer of the accrued benefit from specified limitations
 199 on homestead property tax assessments; increased portability
 200 period.—This section and the amendment to Section 4 of Article
 201 VII, which extends to three years the time period during which
 202 the accrued benefit from specified limitations on homestead
 203 property tax assessments may be transferred from a prior

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204 homestead to a new homestead, shall take effect January 1, 2021.

205 BE IT FURTHER RESOLVED that the following statement be
 206 placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

ARTICLE XII

210 LIMITATIONS ON HOMESTEAD PROPERTY TAX ASSESSMENTS;
 211 INCREASED PORTABILITY PERIOD TO TRANSFER ACCRUED BENEFIT.—
 212 Proposing an amendment to the State Constitution to increase,
 213 from 2 years to 3 years, the period of time during which accrued
 214 Save-Our-Homes benefits may be transferred from a prior
 215 homestead to a new homestead. This amendment takes effect
 216 January 1, 2021.

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The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **Senate Bill #146**, relating to **Homestead Property Tax Assessments**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2020

Meeting Date

146

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Riggins Rd

Phone 850-219-0220

Street

Tallahassee FL 32308

City

State

Zip

Email paafe@comcast.net

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n of Fla.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Appropriations

BILL: CS/SB 148

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Limitations on Homestead Assessments

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------------|-----------|------------------|
| 1. | <u>Toman</u> | <u>Yeatman</u> | <u>CA</u> | Fav/CS |
| 2. | <u>Babin</u> | <u>Diez-Arguelles</u> | <u>FT</u> | Favorable |
| 3. | <u>Babin</u> | <u>Kynoch</u> | <u>AP</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 148 is the implementing bill for SJR 146, which proposes an amendment to the Florida Constitution to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property.

The bill will take effect on the effective date of the amendment proposed by SJR 146 or a similar joint resolution having the substantially the same specific intent and purpose. If approved by the electors, the proposed amendment and CS/SB 148 first apply to the 2021 tax roll.

The Revenue Estimating Conference has determined that, if the proposed amendment is approved by 60 percent of the electors, the bill will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ on real estate or tangible personal property, and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Save our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save our Homes amendment to the Florida Constitution.¹¹ The Save our Homes assessment limitation limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹² The accumulated difference between the assessed value and the just value is the Save Our Homes benefit.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save our Homes assessment limitation.¹³ The amendment allows homestead property owners who relocate to a new homestead to transfer, or “port,” up to \$500,000 of the accrued Save our Homes benefit to the new homestead. To transfer the Save Our

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art VII, s. (4)(d)(8). The Florida Legislature implemented the portability amendment in s. 193.155(8), F.S.

Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 193.155, F.S., to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property. The section also removes obsolete provisions pertaining to the 2008 homestead property assessments.

Section 2 provides that the act applies beginning with the 2021 tax roll.

Section 3 provides that the act shall take effect on the effective date of the amendment to the Florida Constitution proposed by SJR 146 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election¹⁵ held in November 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the Constitution, do not apply to bills that implement constitutional amendments.

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.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Feb. 6, 2020).

¹⁵ Section 97.021(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

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

The Revenue Estimating Conference has determined that, if the amendment proposed by SJR 146 is adopted by the electors, the bill will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

According to the Florida Department of Revenue, if the proposed amendment and the implementing language in the bill are approved, the department would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 193.155 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 Community Affairs on November 4, 2019:

The committee substitute made a technical amendment to reference SJR 146.

B. Amendments:

None.

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

¹⁶ Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 8, 2019) (on file with the Senate Committee on Finance and Tax).

By the Committee on Community Affairs; and Senator Brandes

578-01159-20

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1 A bill to be entitled
 2 An act relating to limitations on homestead
 3 assessments; amending s. 193.155, F.S.; revising the
 4 timeframe during which the accrued benefit from
 5 specified limitations on homestead property tax
 6 assessments may be transferred from a prior homestead
 7 to a new homestead; deleting obsolete provisions;
 8 revising the timeframe during which an owner of
 9 homestead property significantly damaged or destroyed
 10 by a named tropical storm or hurricane must establish
 11 a new homestead to make a certain election; providing
 12 applicability; providing a contingent effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Subsection (8) of section 193.155, Florida
 17 Statutes, is amended to read:
 18 193.155 Homestead assessments.—Homestead property shall be
 19 assessed at just value as of January 1, 1994. Property receiving
 20 the homestead exemption after January 1, 1994, shall be assessed
 21 at just value as of January 1 of the year in which the property
 22 receives the exemption unless the provisions of subsection (8)
 23 apply.
 24 (8) Property assessed under this section shall be assessed
 25 at less than just value when the person who establishes a new
 26 homestead has received a homestead exemption as of January 1 of
 27 any either of the 3 2 immediately preceding years. ~~A person who~~
 28 ~~establishes a new homestead as of January 1, 2008, is entitled~~
 29 ~~to have the new homestead assessed at less than just value only~~

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30 ~~if that person received a homestead exemption on January 1,~~
 31 ~~2007, and only if this subsection applies retroactive to January~~
 32 ~~1, 2008.~~ For purposes of this subsection, a husband and wife who
 33 owned and both permanently resided on a previous homestead shall
 34 each be considered to have received the homestead exemption even
 35 though only the husband or the wife applied for the homestead
 36 exemption on the previous homestead. The assessed value of the
 37 newly established homestead shall be determined as provided in
 38 this subsection.
 39 (a) If the just value of the new homestead as of January 1
 40 is greater than or equal to the just value of the immediate
 41 prior homestead as of January 1 of the year in which the
 42 immediate prior homestead was abandoned, the assessed value of
 43 the new homestead shall be the just value of the new homestead
 44 minus an amount equal to the lesser of \$500,000 or the
 45 difference between the just value and the assessed value of the
 46 immediate prior homestead as of January 1 of the year in which
 47 the prior homestead was abandoned. Thereafter, the homestead
 48 shall be assessed as provided in this section.
 49 (b) If the just value of the new homestead as of January 1
 50 is less than the just value of the immediate prior homestead as
 51 of January 1 of the year in which the immediate prior homestead
 52 was abandoned, the assessed value of the new homestead shall be
 53 equal to the just value of the new homestead divided by the just
 54 value of the immediate prior homestead and multiplied by the
 55 assessed value of the immediate prior homestead. However, if the
 56 difference between the just value of the new homestead and the
 57 assessed value of the new homestead calculated pursuant to this
 58 paragraph is greater than \$500,000, the assessed value of the

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59 new homestead shall be increased so that the difference between
60 the just value and the assessed value equals \$500,000.
61 Thereafter, the homestead shall be assessed as provided in this
62 section.

63 (c) If two or more persons who have each received a
64 homestead exemption as of January 1 of any ~~either~~ of the 3 ~~2~~
65 immediately preceding years and who would otherwise be eligible
66 to have a new homestead property assessed under this subsection
67 establish a single new homestead, the reduction from just value
68 is limited to the higher of the difference between the just
69 value and the assessed value of either of the prior eligible
70 homesteads as of January 1 of the year in which either of the
71 eligible prior homesteads was abandoned, but may not exceed
72 \$500,000.

73 (d) If two or more persons abandon jointly owned and
74 jointly titled property that received a homestead exemption as
75 of January 1 of any ~~either~~ of the 3 ~~2~~ immediately preceding
76 years, and one or more such persons who were entitled to and
77 received a homestead exemption on the abandoned property
78 establish a new homestead that would otherwise be eligible for
79 assessment under this subsection, each such person establishing
80 a new homestead is entitled to a reduction from just value for
81 the new homestead equal to the just value of the prior homestead
82 minus the assessed value of the prior homestead divided by the
83 number of owners of the prior homestead who received a homestead
84 exemption, unless the title of the property contains specific
85 ownership shares, in which case the share of reduction from just
86 value shall be proportionate to the ownership share. In the case
87 of a husband and wife abandoning jointly titled property, the

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88 husband and wife may designate the ownership share to be
89 attributed to each spouse by following the procedure in
90 paragraph (f). To qualify to make such a designation, the
91 husband and wife must be married on the date that the jointly
92 owned property is abandoned. In calculating the assessment
93 reduction to be transferred from a prior homestead that has an
94 assessment reduction for living quarters of parents or
95 grandparents pursuant to s. 193.703, the value calculated
96 pursuant to s. 193.703(6) must first be added back to the
97 assessed value of the prior homestead. The total reduction from
98 just value for all new homesteads established under this
99 paragraph may not exceed \$500,000. There shall be no reduction
100 from just value of any new homestead unless the prior homestead
101 is reassessed at just value or is reassessed under this
102 subsection as of January 1 after the abandonment occurs.

103 (e) If one or more persons who previously owned a single
104 homestead and each received the homestead exemption qualify for
105 a new homestead where all persons who qualify for homestead
106 exemption in the new homestead also qualified for homestead
107 exemption in the previous homestead without an additional person
108 qualifying for homestead exemption in the new homestead, the
109 reduction in just value shall be calculated pursuant to
110 paragraph (a) or paragraph (b), without application of paragraph
111 (c) or paragraph (d).

112 (f) A husband and wife abandoning jointly titled property
113 who wish to designate the ownership share to be attributed to
114 each person for purposes of paragraph (d) must file a form
115 provided by the department with the property appraiser in the
116 county where such property is located. The form must include a

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117 sworn statement by each person designating the ownership share
 118 to be attributed to each person for purposes of paragraph (d)
 119 and must be filed prior to either person filing the form
 120 required under paragraph (h) to have a parcel of property
 121 assessed under this subsection. Such a designation, once filed
 122 with the property appraiser, is irrevocable.

123 (g) For purposes of receiving an assessment reduction
 124 pursuant to this subsection, a person entitled to assessment
 125 under this section may abandon his or her homestead even though
 126 it remains his or her primary residence by notifying the
 127 property appraiser of the county where the homestead is located.
 128 This notification must be in writing and delivered at the same
 129 time as or before timely filing a new application for homestead
 130 exemption on the property.

131 (h) In order to have his or her homestead property assessed
 132 under this subsection, a person must file a form provided by the
 133 department as an attachment to the application for homestead
 134 exemption, including a copy of the form required to be filed
 135 under paragraph (f), if applicable. The form, which must include
 136 a sworn statement attesting to the applicant's entitlement to
 137 assessment under this subsection, shall be considered sufficient
 138 documentation for applying for assessment under this subsection.
 139 The department shall require by rule that the required form be
 140 submitted with the application for homestead exemption under the
 141 timeframes and processes set forth in chapter 196 to the extent
 142 practicable.

143 (i)1. If the previous homestead was located in a different
 144 county than the new homestead, the property appraiser in the
 145 county where the new homestead is located must transmit a copy

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146 of the completed form together with a completed application for
 147 homestead exemption to the property appraiser in the county
 148 where the previous homestead was located. If the previous
 149 homesteads of applicants for transfer were in more than one
 150 county, each applicant from a different county must submit a
 151 separate form.

152 2. The property appraiser in the county where the previous
 153 homestead was located must return information to the property
 154 appraiser in the county where the new homestead is located by
 155 April 1 or within 2 weeks after receipt of the completed
 156 application from that property appraiser, whichever is later. As
 157 part of the information returned, the property appraiser in the
 158 county where the previous homestead was located must provide
 159 sufficient information concerning the previous homestead to
 160 allow the property appraiser in the county where the new
 161 homestead is located to calculate the amount of the assessment
 162 limitation difference which may be transferred and must certify
 163 whether the previous homestead was abandoned and has been or
 164 will be reassessed at just value or reassessed according to the
 165 provisions of this subsection as of the January 1 following its
 166 abandonment.

167 3. Based on the information provided on the form from the
 168 property appraiser in the county where the previous homestead
 169 was located, the property appraiser in the county where the new
 170 homestead is located shall calculate the amount of the
 171 assessment limitation difference which may be transferred and
 172 apply the difference to the January 1 assessment of the new
 173 homestead.

174 4. All property appraisers having information-sharing

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175 agreements with the department are authorized to share
 176 confidential tax information with each other pursuant to s.
 177 195.084, including social security numbers and linked
 178 information on the forms provided pursuant to this section.

179 5. The transfer of any limitation is not final until any
 180 values on the assessment roll on which the transfer is based are
 181 final. If such values are final after tax notice bills have been
 182 sent, the property appraiser shall make appropriate corrections
 183 and a corrected tax notice bill shall be sent. Any values that
 184 are under administrative or judicial review shall be noticed to
 185 the tribunal or court for accelerated hearing and resolution so
 186 that the intent of this subsection may be carried out.

187 6. If the property appraiser in the county where the
 188 previous homestead was located has not provided information
 189 sufficient to identify the previous homestead and the assessment
 190 limitation difference is transferable, the taxpayer may file an
 191 action in circuit court in that county seeking to establish that
 192 the property appraiser must provide such information.

193 7. If the information from the property appraiser in the
 194 county where the previous homestead was located is provided
 195 after the procedures in this section are exercised, the property
 196 appraiser in the county where the new homestead is located shall
 197 make appropriate corrections and a corrected tax notice and tax
 198 bill shall be sent.

199 8. This subsection does not authorize the consideration or
 200 adjustment of the just, assessed, or taxable value of the
 201 previous homestead property.

202 9. The property appraiser in the county where the new
 203 homestead is located shall promptly notify a taxpayer if the

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204 information received, or available, is insufficient to identify
 205 the previous homestead and the amount of the assessment
 206 limitation difference which is transferable. Such notification
 207 shall be sent on or before July 1 as specified in s. 196.151.

208 10. The taxpayer may correspond with the property appraiser
 209 in the county where the previous homestead was located to
 210 further seek to identify the homestead and the amount of the
 211 assessment limitation difference which is transferable.

212 11. If the property appraiser in the county where the
 213 previous homestead was located supplies sufficient information
 214 to the property appraiser in the county where the new homestead
 215 is located, such information shall be considered timely if
 216 provided in time for inclusion on the notice of proposed
 217 property taxes sent pursuant to ss. 194.011 and 200.065(1).

218 12. If the property appraiser has not received information
 219 sufficient to identify the previous homestead and the amount of
 220 the assessment limitation difference which is transferable
 221 before mailing the notice of proposed property taxes, the
 222 taxpayer may file a petition with the value adjustment board in
 223 the county where the new homestead is located.

224 (j) Any person who is qualified to have his or her property
 225 assessed under this subsection and who fails to file an
 226 application by March 1 may file an application for assessment
 227 under this subsection and may, pursuant to s. 194.011(3), file a
 228 petition with the value adjustment board requesting that an
 229 assessment under this subsection be granted. Such petition may
 230 be filed at any time during the taxable year on or before the
 231 25th day following the mailing of the notice by the property
 232 appraiser as provided in s. 194.011(1). Notwithstanding s.

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

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233 194.013, such person must pay a nonrefundable fee of \$15 upon
 234 filing the petition. Upon reviewing the petition, if the person
 235 is qualified to receive the assessment under this subsection and
 236 demonstrates particular extenuating circumstances judged by the
 237 property appraiser or the value adjustment board to warrant
 238 granting the assessment, the property appraiser or the value
 239 adjustment board may grant an assessment under this subsection.
 240 ~~For the 2008 assessments, all petitioners for assessment under~~
 241 ~~this subsection shall be considered to have demonstrated~~
 242 ~~particular extenuating circumstances.~~

243 (k) Any person who is qualified to have his or her property
 244 assessed under this subsection and who fails to timely file an
 245 application for his or her new homestead in the first year
 246 following eligibility may file in a subsequent year. The
 247 assessment reduction shall be applied to assessed value in the
 248 year the transfer is first approved, and refunds of tax may not
 249 be made for previous years.

250 (l) The property appraisers of the state shall, as soon as
 251 practicable after March 1 of each year and on or before July 1
 252 of that year, carefully consider all applications for assessment
 253 under this subsection which have been filed in their respective
 254 offices on or before March 1 of that year. If, upon
 255 investigation, the property appraiser finds that the applicant
 256 is entitled to assessment under this subsection, the property
 257 appraiser shall make such entries upon the tax rolls of the
 258 county as are necessary to allow the assessment. If, after due
 259 consideration, the property appraiser finds that the applicant
 260 is not entitled to the assessment under this subsection, the
 261 property appraiser shall immediately prepare a notice of such

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262 disapproval, giving his or her reasons therefor, and a copy of
 263 the notice must be served upon the applicant by the property
 264 appraiser by personal delivery or by registered mail to the post
 265 office address given by the applicant. The applicant may appeal
 266 the decision of the property appraiser refusing to allow the
 267 assessment under this subsection to the value adjustment board,
 268 and the board shall review the application and evidence
 269 presented to the property appraiser upon which the applicant
 270 based the claim and hear the applicant in person or by agent on
 271 behalf of his or her right to such assessment. Such appeal shall
 272 be heard by an attorney special magistrate if the value
 273 adjustment board uses special magistrates. The value adjustment
 274 board shall reverse the decision of the property appraiser in
 275 the cause and grant assessment under this subsection to the
 276 applicant if, in its judgment, the applicant is entitled to the
 277 assessment or shall affirm the decision of the property
 278 appraiser. The action of the board is final in the cause unless
 279 the applicant, within 60 days following the date of refusal of
 280 the application by the board, files in the circuit court of the
 281 county in which the homestead is located a proceeding against
 282 the property appraiser for a declaratory judgment as is provided
 283 under chapter 86 or other appropriate proceeding. The failure of
 284 the taxpayer to appear before the property appraiser or value
 285 adjustment board or to file any paper other than the application
 286 as provided in this subsection does not constitute a bar to or
 287 defense in the proceedings.

288 (m) For purposes of receiving an assessment reduction
 289 pursuant to this subsection, an owner of a homestead property
 290 that was significantly damaged or destroyed as a result of a

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2020148c1

291 named tropical storm or hurricane may elect, in the calendar
292 year following the named tropical storm or hurricane, to have
293 the significantly damaged or destroyed homestead deemed to have
294 been abandoned as of the date of the named tropical storm or
295 hurricane even though the owner received a homestead exemption
296 on the property as of January 1 of the year immediately
297 following the named tropical storm or hurricane. The election
298 provided for in this paragraph is available only if the owner
299 establishes a new homestead as of January 1 of the third ~~second~~
300 year immediately following the storm or hurricane. This
301 paragraph shall apply to homestead property damaged or destroyed
302 on or after January 1, 2017.

303 Section 2. This act applies beginning with the 2021 tax
304 roll.

305 Section 3. This act shall take effect on the effective date
306 of the amendment to the State Constitution proposed by SJR 146
307 or a similar joint resolution having substantially the same
308 specific intent and purpose, if such amendment to the State
309 Constitution is approved at the general election held in
310 November 2020 or at an earlier special election specifically
311 authorized by law for that purpose.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **Senate Bill #148**, relating to **Limitations on Homestead Assessments**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

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 Appropriations

BILL: PCS/CS/SB 156 (432396)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Perry, Stewart, and Diaz

SUBJECT: Early Childhood Music Education Incentive Pilot Program

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|----------------|------------|--------------------------|
| 1. | <u>Dew</u> | <u>Sikes</u> | <u>ED</u> | <u>Fav/CS</u> |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 156 extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program from June 30, 2020, to June 30, 2022. The bill also modifies the eligibility requirements for the pilot program by changing the requirement from each elementary school in the district having a comprehensive music education program to specified elementary schools in the district having a comprehensive music education program.

The bill has no impact on state revenues or expenditures. The pilot program is contingent upon legislative appropriation.

This bill takes effect July 1, 2020.

II. Present Situation:

The Legislature established the Early Childhood Music Education Incentive Pilot Program (pilot program) in 2017¹ for three years to assist certain school districts in implementing comprehensive music education programs in kindergarten through grade 2, beginning with the 2017-2018 school year.²

¹ Section 69, ch. 2017-116, L.O.F.

² Section 1003.481(1), F.S.

For a school district to be eligible for participation in the pilot program, the district school superintendent must certify to the Commissioner of Education (commissioner) that each elementary school within the district has established a comprehensive music education program that:³

- Includes all students enrolled at the school in kindergarten through grade 2;
- Is staffed by certified music educators;
- Provides music instruction for at least 30 consecutive minutes two days a week;
- Complies with class size requirements under the law;⁴ and
- Complies with the Department of Education's standards for early childhood music education programs for students in kindergarten through grade 2.

The commissioner must select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district's proximity to the University of Florida and needs-based criteria established by the State Board of Education.⁵ Selected school districts must annually receive \$150 per full-time equivalent student in kindergarten through grade 2 who is enrolled in a comprehensive music education program.⁶

The University of Florida's College of Education is required to evaluate the effectiveness of the pilot program.⁷ The State Board of Education may adopt rules to administer the pilot program.⁸

The pilot program is scheduled to expire on June 30, 2020.⁹

The pilot program has not been implemented by the Department of Education.¹⁰

III. Effect of Proposed Changes:

The bill extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program from June 30, 2020, to June 30, 2022. The bill also modifies the eligibility requirements for the pilot program by changing the requirement from each elementary school in the district having a comprehensive music education program to specified elementary schools in the district having a comprehensive music education program.

The bill directs the University of Florida's College of Education to collaborate with Florida International University's School of Music in evaluating the effectiveness of the pilot program.

This bill takes effect July 1, 2020.

³ Section 1003.481(2)(a)-(e), F.S.

⁴ The maximum number of students assigned to each teacher who is teaching core-curriculum courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students. Section 1003.03(1)(a), F.S.

⁵ Section 1003.481(3)(a), F.S.

⁶ *Id.*

⁷ Section 1003.481(4), F.S.

⁸ Section 1003.481(5), F.S.

⁹ Section 1003.481(6), F.S.

¹⁰ Telephone Interview with staff, Florida Department of Education (Jan 28, 2019). In 2017, the Legislature appropriated \$250,000 for the Early Childhood Music Education Incentive Pilot Program, which was vetoed by the Governor. Specific Appropriation 108, s. 2, ch. 2017-70, L.O.F. In 2018, the Legislature appropriated \$300,000 for the Early Childhood Music Education Incentive Pilot Program, which was vetoed by the Governor. Specific Appropriation 108, s. 2, ch. 2018-9, L.O.F.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. The pilot program is contingent upon legislative appropriation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.481 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.)

Recommended CS/CS by Appropriation Subcommittee on Education on February 13, 2020:

The committee substitute makes the following changes to the bill:

- Specifies that the requirements to maintain eligibility only pertains to specified schools within the district, not all schools within the district.
- States that the University of Florida’s College of Education must collaborate with Florida International University’s School of Music in evaluating the effectiveness of the pilot program.

CS by Education on November 12, 2019:

The committee substitute changes eligibility requirement for the Early Childhood Music Education Incentive Program from each elementary school in the district having a comprehensive music education program to specified elementary schools in the district having a comprehensive music education program.

- B. **Amendments:**

None.



747166

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete line 63
and insert:
education programs. The results of the evaluation must be shared with the Florida Center for Partnerships in Arts-Integrated Teaching upon completion of the evaluation.

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

And the title is amended as follows:



747166

11 Between lines 9 and 10
12 insert:
13 requiring that the evaluation be shared with the
14 Florida Center for Partnerships in Arts-Integrated
15 Teaching;



432396

576-03581A-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to the Early Childhood Music Education
Incentive Pilot Program; amending s. 1003.481, F.S.;
extending the scheduled expiration of the pilot
program; revising an eligibility requirement;
conforming a provision to changes made by the act;
requiring the University of Florida's College of
Education to collaborate with Florida International
University for evaluation of the pilot program;
providing an effective date.

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

Section 1. Section 1003.481, Florida Statutes, is amended
to read:

1003.481 Early Childhood Music Education Incentive Pilot
Program.—

(1) ~~Beginning with the 2017-2018 school year,~~ The Early
Childhood Music Education Incentive Pilot Program is created
within the Department of Education ~~for a period of 3 school~~
~~years.~~ The purpose of the pilot program is to assist selected
school districts in implementing comprehensive music education
programs for students in kindergarten through grade 2.

(2) ~~In order for~~ A school district ~~is to be~~ eligible for
participation in the pilot program ~~if,~~ the superintendent
~~certifies must certify~~ to the Commissioner of Education, in a
format prescribed by the department, that specified elementary



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~~schools each elementary school~~ within the district ~~have~~ has
established a comprehensive music education program that:

(a) Includes all students at the school enrolled in
kindergarten through grade 2.

(b) Is staffed by certified music educators.

(c) Provides music instruction for at least 30 consecutive
minutes 2 days a week.

(d) Complies with class size requirements under s. 1003.03.

(e) Complies with the department's standards for early
childhood music education programs for students in kindergarten
through grade 2.

(3) (a) The commissioner shall select school districts for
participation in the pilot program, subject to legislative
appropriation, based on the school district's proximity to the
University of Florida and needs-based criteria established by
the State Board of Education. Selected school districts shall
annually receive \$150 per full-time equivalent student in
kindergarten through grade 2 who is enrolled in a comprehensive
music education program.

(b) To maintain eligibility for participation in the pilot
program, a selected school district must annually certify to the
commissioner, in a format prescribed by the department, that
each specified elementary school within the district provides a
comprehensive music education program that meets the
requirements of subsection (2). If a selected school district
fails to provide the annual certification for a fiscal year, the
school district must return all funds received through the pilot
program for that fiscal year.

(4) The University of Florida's College of Education, in



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576-03581A-20

57 collaboration with Florida International University's School of
58 Music, shall evaluate the effectiveness of the pilot program by
59 measuring student academic performance and the success of the
60 program. The evaluation must include, but is not limited to, a
61 quantitative analysis of student achievement and a qualitative
62 evaluation of students enrolled in the comprehensive music
63 education programs.

64 (5) The State Board of Education may adopt rules to
65 administer this section.

66 (6) This section expires June 30, 2022 ~~2020~~.

67 Section 2. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 156

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Perry, Stewart, and Diaz

SUBJECT: Early Childhood Music Education Incentive Pilot Program

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|----------------|------------|--------------------------|
| 1. | <u>Dew</u> | <u>Sikes</u> | <u>ED</u> | <u>Fav/CS</u> |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 156 extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program from June 30, 2020, to June 30, 2022. The bill also modifies the eligibility requirements for the pilot program by changing the requirement from each elementary school in the district having a comprehensive music education program to specified elementary schools in the district having a comprehensive music education program.

The bill has no impact on state revenues or expenditures. The pilot program is contingent upon legislative appropriation.

This bill takes effect July 1, 2020.

II. Present Situation:

The Legislature established the Early Childhood Music Education Incentive Pilot Program (pilot program) in 2017¹ for three years to assist certain school districts in implementing comprehensive music education programs in kindergarten through grade 2, beginning with the 2017-2018 school year.²

¹ Section 69, ch. 2017-116, L.O.F.

² Section 1003.481(1), F.S.

For a school district to be eligible for participation in the pilot program, the district school superintendent must certify to the Commissioner of Education (commissioner) that each elementary school within the district has established a comprehensive music education program that:³

- Includes all students enrolled at the school in kindergarten through grade 2;
- Is staffed by certified music educators;
- Provides music instruction for at least 30 consecutive minutes two days a week;
- Complies with class size requirements under the law;⁴ and
- Complies with the Department of Education’s standards for early childhood music education programs for students in kindergarten through grade 2.

The commissioner must select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district’s proximity to the University of Florida and needs-based criteria established by the State Board of Education.⁵ Selected school districts must annually receive \$150 per full-time equivalent student in kindergarten through grade 2 who is enrolled in a comprehensive music education program.⁶

The University of Florida’s College of Education is required to evaluate the effectiveness of the pilot program.⁷ The State Board of Education may adopt rules to administer the pilot program.⁸

The pilot program is scheduled to expire on June 30, 2020.⁹

The pilot program has not been implemented by the Department of Education.¹⁰

III. Effect of Proposed Changes:

The bill extends the scheduled expiration of the Early Childhood Music Education Incentive Pilot Program from June 30, 2020, to June 30, 2022. The bill also modifies the eligibility requirements for the pilot program by changing the requirement from each elementary school in the district having a comprehensive music education program to specified elementary schools in the district having a comprehensive music education program.

The bill directs the University of Florida’s College of Education to collaborate with Florida International University’s School of Music in evaluating the effectiveness of the pilot program. Upon completion, the results of the evaluation must be shared with the Florida Center for Partnerships in Arts-Integrated Teaching.

³ Section 1003.481(2)(a)-(e), F.S.

⁴ The maximum number of students assigned to each teacher who is teaching core-curriculum courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students. Section 1003.03(1)(a), F.S.

⁵ Section 1003.481(3)(a), F.S.

⁶ *Id.*

⁷ Section 1003.481(4), F.S.

⁸ Section 1003.481(5), F.S.

⁹ Section 1003.481(6), F.S.

¹⁰ Telephone Interview with staff, Florida Department of Education (Jan 28, 2019). In 2017, the Legislature appropriated \$250,000 for the Early Childhood Music Education Incentive Pilot Program, which was vetoed by the Governor. Specific Appropriation 108, s. 2, ch. 2017-70, L.O.F. In 2018, the Legislature appropriated \$300,000 for the Early Childhood Music Education Incentive Pilot Program, which was vetoed by the Governor. Specific Appropriation 108, s. 2, ch. 2018-9, L.O.F.

This bill takes effect July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. The pilot program is contingent upon legislative appropriation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.481 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/CS by Appropriations on March 3, 2020:

The committee substitute makes the following changes to the bill:

- Specifies that the requirements to maintain eligibility only pertains to specified schools within the district, not all schools within the district.
- States that the University of Florida’s College of Education must collaborate with Florida International University’s School of Music in evaluating the effectiveness of the pilot program.
- Requires the results of the evaluation be shared with the Florida Center for Partnerships in Arts-Integrated Teaching.

CS by Education on November 12, 2019:

The committee substitute changes eligibility requirement for the Early Childhood Music Education Incentive Program from each elementary school in the district having a comprehensive music education program to specified elementary schools in the district having a comprehensive music education program.

- B. **Amendments:**

None.

By the Committee on Education; and Senator Perry

581-01391-20

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A bill to be entitled

An act relating to the Early Childhood Music Education Incentive Pilot Program; amending s. 1003.481, F.S.; extending the scheduled expiration of the pilot program; revising an eligibility requirement; providing an effective date.

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

Section 1. Section 1003.481, Florida Statutes, is amended to read:

1003.481 Early Childhood Music Education Incentive Pilot Program.—

(1) ~~Beginning with the 2017-2018 school year,~~ The Early Childhood Music Education Incentive Pilot Program is created within the Department of Education ~~for a period of 3 school years.~~ The purpose of the pilot program is to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2.

(2) ~~In order for~~ A school district ~~is to be~~ eligible for participation in the pilot program ~~if,~~ the superintendent ~~certifies must certify~~ to the Commissioner of Education, in a format prescribed by the department, that specified elementary schools ~~each elementary school~~ within the district have ~~has~~ established a comprehensive music education program that:

(a) Includes all students at the school enrolled in kindergarten through grade 2.

(b) Is staffed by certified music educators.

(c) Provides music instruction for at least 30 consecutive

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

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minutes 2 days a week.

(d) Complies with class size requirements under s. 1003.03.

(e) Complies with the department's standards for early childhood music education programs for students in kindergarten through grade 2.

(3) (a) The commissioner shall select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district's proximity to the University of Florida and needs-based criteria established by the State Board of Education. Selected school districts shall annually receive \$150 per full-time equivalent student in kindergarten through grade 2 who is enrolled in a comprehensive music education program.

(b) To maintain eligibility for participation in the pilot program, a selected school district must annually certify to the commissioner, in a format prescribed by the department, that each elementary school within the district provides a comprehensive music education program that meets the requirements of subsection (2). If a selected school district fails to provide the annual certification for a fiscal year, the school district must return all funds received through the pilot program for that fiscal year.

(4) The University of Florida's College of Education shall evaluate the effectiveness of the pilot program by measuring student academic performance and the success of the program. The evaluation must include, but is not limited to, a quantitative analysis of student achievement and a qualitative evaluation of students enrolled in the comprehensive music education programs.

(5) The State Board of Education may adopt rules to

Page 2 of 3

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

581-01391-20

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59 administer this section.

60 (6) This section expires June 30, 2022 ~~2020~~.

61 Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 17, 2020

I respectfully request that **Senate Bill #156**, relating to Early Childhood Music Education Incentive Pilot Program, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2020

Meeting Date

SB 156

Bill Number (if applicable)

Topic Early Childhood Music Education

Amendment Barcode (if applicable)

Name Khanh-hien ("Con Lynn") Banko

Job Title Resolutions Chair

Address 1747 Orlando Central Pkwy

Phone (407)

Street

Orlando

FL

State

32809

Zip

Email resolutions@floridapta.org

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.

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 Appropriations

BILL: CS/CS/SB 190

INTRODUCER: Appropriations Committee; Health Policy Committee; and Senators Montford, Harrell, Berman, and others

SUBJECT: Health Care for Children

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|------------------|
| 1. | <u>Brick</u> | <u>Sikes</u> | <u>ED</u> | Favorable |
| 2. | <u>Kibbey</u> | <u>Brown</u> | <u>HP</u> | Fav/CS |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 190 requires the Department of Health (DOH) to create an electronic pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and vision disorders. The pamphlet must be provided to new parents by hospitals providing birthing services, birth centers, and by the healthcare practitioner attending an out-of-hospital birth.

The bill authorizes school districts to certify for reimbursement eligible school-based health services provided to any student enrolled in Medicaid, regardless of whether that student qualifies for Part B or H of the Individuals with Disabilities Education Act, the exceptional student education program, or has an individualized education plan. The bill aligns Florida law with updated federal guidance that authorizes the federal reimbursement of Medicaid-eligible, school-based health services for all students enrolled in Medicaid.

The bill has an insignificant fiscal impact to the DOH that can be absorbed within existing state resources and an indeterminate fiscal impact on state and local governments. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Infant and Childhood Eye Disorders and Screenings

There are many eye conditions and diseases that can affect a child's vision. According to the American Academy of Ophthalmology (AAO), early diagnosis and treatment are critical to maintaining your child's eye health.¹ The AAO states that it is essential to check children's vision when they are first born and again during infancy, preschool and school years. Screening can be performed by a pediatrician, family physician or other properly trained health care provider. It is also often offered at schools, community health centers or community events.²

The AAO recommends that for each newborn an ophthalmologist, pediatrician, family doctor or other trained health professional should examine a newborn baby's eyes and perform a red reflex test (a basic indicator that the eyes are normal). An ophthalmologist should perform a comprehensive exam if the baby is premature or at high risk for medical problems for other reasons, has signs of abnormalities, or has a family history of serious vision disorders in childhood.³

Amblyopia

Amblyopia is when vision in one or both eyes does not develop properly during childhood. It is sometimes called lazy eye. Amblyopia is a common problem in babies and young children. A child's vision develops in the first few years of life. It is important to diagnose and treat amblyopia as early as possible. Otherwise, a child with amblyopia will not develop normal, healthy vision.⁴

Retinoblastoma

Retinoblastoma is a rare type of eye cancer that usually develops in early childhood, typically before the age of five. This form of cancer develops in the retina, which is the specialized light-sensitive tissue at the back of the eye that detects light and color.

In children with retinoblastoma, the disease often affects only one eye. However, one out of three children with retinoblastoma develops cancer in both eyes. The most common first sign of retinoblastoma is a visible whiteness in the pupil called "cat's eye reflex" or leukocoria. This unusual whiteness is particularly noticeable in dim light or in photographs taken with a flash or strobe. Other signs and symptoms of retinoblastoma include crossed eyes or eyes that do not point in the same direction (strabismus), which can cause squinting; a change in the color of the colored part of the eye (iris); redness, soreness, or swelling of the eyelids; and blindness or poor vision in the affected eye or eyes.

Retinoblastoma is often curable when it is diagnosed early. However, if it is not treated promptly, this cancer can spread beyond the eye to other parts of the body. This advanced form

¹ See <https://www.aao.org/eye-health/tips-prevention/common-childhood-diseases-conditions> (last visited Feb. 7, 2020).

² See <https://www.aao.org/eye-health/tips-prevention/children-eye-screening> (last visited Feb. 7, 2020).

³ *Id.*

⁴ See <https://www.aao.org/eye-health/diseases/amblyopia-lazy-eye> (last visited Feb. 7, 2020).

of retinoblastoma can be life-threatening.⁵ The incidence of retinoblastoma in the United States in children ages 0-14 years is about one in every 250,000 nationwide,⁶ or about 15 of the 3,791,712 births in the U.S. in 2018, as estimated by the National Center for Health Statistics.

The Medicaid Program

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid program is a partnership of federal and state governments established to provide coverage for health services for eligible persons. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.⁷

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.⁸ In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives them the flexibility to cover other population groups (optional eligibility groups).⁹ States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes.

Eligibility for Medicaid is based on a person's income relative to the federal poverty level (FPL). Medicaid provides coverage to infants from birth to age 1 who are at or below 200 percent of the FPL and children ages 1 through age 18 who are at or below 133 percent of the FPL.¹⁰ Federal Medicaid spending grew three percent to \$597.4 billion in 2018.¹¹ According to the most recently published estimates, approximately 3.8 million Floridians are currently enrolled in Medicaid, of which approximately 2.1 million are children,¹² and the program's projected expenditures for Fiscal Year 2020-2021 are \$29.2 billion.¹³

⁵ See <https://ghr.nlm.nih.gov/condition/retinoblastoma> (last visited Feb. 7, 2020).

⁶ See <https://cancerstatisticscenter.cancer.org/#!/data-analysis/module/t2sTupFC?type=barGraph> (last visited Feb. 7, 2020).

⁷ Section 20.42, F.S.

⁸ Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

⁹ *Id.*

¹⁰ Florida Healthy Kids, *Florida KidCare Health and Dental Insurance 2019 General Annual Income Guidelines*, (effective April 2019) available at https://www.healthykids.org/kidcare/eligibility/Florida_KidCare_Income_Guidelines.pdf (last visited Feb. 9, 2020).

¹¹ U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *NHE Fact Sheet*, (last modified December 5, 2019) available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NHE-Fact-Sheet> (last visited Feb. 7, 2020).

¹² Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, https://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml, follow hyperlink "December" (2019) (last visited Feb. 7, 2020).

¹³ Social Services Estimating Conference, Medicaid Caseloads and Expenditures, December 20, 2019, and January 7, 2020, respectively, available at <http://edr.state.fl.us/Content/conferences/medicaid/index.cfm> (last visited Jan. 22, 2020).

Florida Medicaid Certified School Match Program

The Florida Medicaid Certified School Match Program (Certified School Match Program) governs the Medicaid reimbursement process for school districts.¹⁴ Each school district is authorized to provide students with a category of required Medicaid services termed “school-based services,” which are reimbursable under the federal Medicaid program.¹⁵ Medicaid recipients who receive services through the Certified School Match Program must be Medicaid-eligible on date of service and be under the age of 21. Students Health services provided must be both educationally relevant and medically necessary and tailored to meet the recipient’s individual needs.¹⁶

The Certified School Match Program is reimbursed through the fee-for-service delivery system.¹⁷ Statewide Medicaid Managed Care health plans do not administer this benefit, although students enrolled in Medicaid health plans can receive services from schools through the program. To prevent duplication of services and enhanced coordination of care, the AHCA requires health plans to enter into memoranda of agreement with enrolled schools and school districts to coordinate care.¹⁸

Certified Public Expenditures

To qualify for reimbursement, school districts must provide a certified public expenditure to the AHCA. The certified public expenditure certifies that state or local funds were expended for eligible school-based services.¹⁹ Medicaid then reimburses school districts at the federal Medicaid matching percentage rate, which is 61.84 percent for the 2020-2021 fiscal year.²⁰

In addition to providing the federal match portion for health services, the Certified School Match Program also reimburses the federal share for administrative work associated with delivering care to recipients. Examples of this work includes making a referral to a medical service.²¹

Eligible Services

Florida law requires any state or local funds certified by school districts to be expended for children with specified disabilities who are eligible for Medicaid and either part B²² or part H²³ of the Individuals with Disabilities Education Act (IDEA),²⁴ the exceptional student education program, or an individualized educational plan (IEP).²⁵

¹⁴ Rule 59G-4.035, F.A.C.

¹⁵ Section 1011.70, F.S.

¹⁶ *Supra* note 8.

¹⁷ Rule 59G-4.002, F.A.C.

¹⁸ *Supra* note 8.

¹⁹ *Supra* note 15.

²⁰ Social Services Estimating Conference, Federal Medical Assistance Percentage (FMAP), December 20, 2019, available at <http://edr.state.fl.us/Content/conferences/fmap/fmap.pdf> (last visited Feb. 21, 2020).

²¹ *Supra* note 8.

²² 20 U.S.C. s. 1411, et seq. Part B applies to children of the ages three through 21 with disabilities.

²³ 20 U.S.C. s. 1431, et seq. Part H applies to infants and toddlers under the age of three with disabilities.

²⁴ 20 U.S.C. s. 1400, et seq.

²⁵ The individualized education plan is the primary vehicle for communicating the school district’s commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, *Developing Quality Individual*

Eligible services include physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, administrative outreach for the purpose of determining eligibility for exceptional student education, and any other such services.²⁶ Eligible services do not include family planning, immunizations, or prenatal care.²⁷

All 67 school districts participate in the Certified School Match Program.²⁸ The Legislature appropriated approximately \$98 million to school districts from the Medical Care Trust Fund for Fiscal Year 2019-2020.²⁹

Centers for Medicare and Medicaid Services Policy

The federal Centers for Medicare and Medicaid Services (CMS) historically had a policy that precluded school districts from seeking payment for services not detailed on an IEP or an individualized family support plan (IFSP).³⁰ In December 2014, the federal CMS updated its policy. The updated policy clarified that a school-based health service delivered to any student enrolled in Medicaid is eligible for reimbursement.³¹

In response to this updated federal CMS guidance, the AHCA received federal approval for a state plan amendment in October 2016 that authorizes reimbursement for eligible school-based services provided to any Medicaid recipients, regardless of whether the recipient has an IEP or IFSP.³²

Private and Charter School Providers

In 2016, the Florida Legislature created s. 409.9072, F.S., to authorize the AHCA to reimburse private and charter schools for providing Medicaid school-based services identical to those offered under the Certified School Match Program and under the same eligibility criteria as children eligible for services under that program.³³ This reimbursement is subject to a specific appropriation by the Legislature.³⁴ Unlike school districts, however, private and charter schools do not use certified public expenditures or other local funds as a match to draw down federal Medicaid funding. Instead, the Legislature has appropriated state general revenue to serve as

Education Plans (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9 (last visited Feb. 21, 2020).

²⁶ *Supra* note 15.

²⁷ *Id.*

²⁸ *Supra* note 8.

²⁹ Specific Appropriation 216, ch. 2019-115, s. 3, Laws of Fla.

³⁰ *Supra* note 8.

³¹ U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Letter from Cindy Mann to State Medicaid Directors regarding "Medicaid payment for services provided without charge (free care)"* (Dec. 2014), available at <https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/smd-medicaid-payment-for-services-provided-without-charge-free-care.pdf> (last visited Feb. 20, 2020).

³² *Supra* note 8.

³³ Florida House of Representatives, Health Care Appropriations Subcommittee, *Final Bill Analysis: HB 5101* (March 23, 2016), available at <http://www.flsenate.gov/Session/Bill/2016/5101/Analyses/h5101z.HCAS.PDF> (last visited Jan. 31, 2020).

³⁴ Section 409.9072(1), F.S.

matching funds.³⁵ Currently, one charter school is enrolled and delivering services in the Florida Medicaid program.³⁶

The Legislature appropriated \$10.3 million for Fiscal Year 2019-2020, of which \$4 million is general revenue funding for the state match and \$6.3 million is federal match, for eligible school-based services provided by private or charter schools that are not participating in the school district's certified match program.³⁷

III. Effect of Proposed Changes:

Section 1 amends s. 383.14, F.S., to require the DOH to create and make available electronically an informational pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and visions disorders including, but not limited to, retinoblastoma and amblyopia.

Sections 2 through 4 amends ss. 383.318 and 395.1053, F.S., and creates s. 456.0496, F.S., to require that birth centers, hospitals providing birthing services, and health care practitioners attending out-of-hospital births, respectively, provide the informational pamphlet to each parent after a birth.

Section 5 amends s. 409.9071, F.S., to authorize school districts to certify for reimbursement eligible health services provided to any student enrolled in Medicaid, regardless of whether the student qualifies for Part B or H of the IDEA or has an IEP. The bill also deletes the requirement for school districts to develop and maintain student records relating to IEPs, updates a statutory citation, and deletes an obsolete provision.

Section 6 amends s. 409.908, F.S., to update the name of the federal agency authorized to waive qualifications for Medicaid providers as the U.S. Department of Health and Human Services.

Section 7 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁵ Chapter 2016-65, s. 18, Laws of Fla.

³⁶ *Supra* note 8.

³⁷ *Supra* note 29.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Individuals who are providing or who will seek to provide covered services in a private or charter school under the program will be relieved of the duty to enroll in Florida Medicaid as providers.

C. Government Sector Impact:

The bill requires the DOH to create an electronic pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and vision disorders. The pamphlet must be provided to new parents by hospitals providing birthing services, birth centers, and by the healthcare practitioner attending an out-of-hospital birth. The DOH estimates that existing resources and budget authority are adequate to absorb the bill's requirements.³⁸

The bill enables all children who are eligible for Medicaid to receive certain school-based services. It is likely that more children will begin to receive school based-services in public schools.

Under the bill and in certain cases, funding that has already been appropriated for providing certain health-related services to students enrolled in public schools could be leveraged to draw down matching federal funding. This would be the case only if:

- The school district has enrolled as a Medicaid provider pursuant to s. 409.9071, F.S.;
- The child receiving services is eligible for Medicaid; and
- The funding was appropriated for a service that is an eligible school-based service.

For example, under the "Marjory Stoneman Douglas High School Public Safety Act" enacted by the Legislature in 2018, a recurring Mental Health Assistance Allocation is required to be annually allocated in the General Appropriations Act or in another law.³⁹ This funding is allocated to school districts for the purpose of assisting schools in establishing or expanding school-based mental health care. Certain behavioral and mental

³⁸ Email from the Department of Health (February 13, 2020) (on file with the Senate Committee on Appropriations).

³⁹ Chapter 2018-03, ss. 29 and 36, Laws of Fla.

health services are considered to be eligible school-based services. The eligible school-based services provided to children enrolled in Medicaid could, under the bill, be leveraged to draw down federal funding. This would stretch the value of money already appropriated by the state and school districts.

Funding used for services that are already provided in public schools would be eligible to draw down federal funding. Inversely, it is likely that more children will receive school based-services, which may require additional funding (public expenditures and local funds for school districts) in order to leverage additional federal funding. For these reasons, the bill has an indeterminate fiscal impact on state and local governments.

This bill will have a minor operational impact to the AHCA as it finalizes changes to a proposed rule relating to the Medicaid Certified School Match Coverage Policy. The AHCA can complete this task with existing resources.⁴⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.14, 383.318, 395.1053, 409.9071, and 409.908.

The bill creates section 456.0496 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/CS by Appropriations on March 3, 2020:

The committee substitute:

- Requires the DOH to create an informational pamphlet with information on preventable infant and childhood eye and visions disorders. The bill requires the pamphlet to be provided to new parents by birth centers, hospitals providing birthing services, and by the healthcare practitioner attending an out-of-hospital birth.
- Removes the ability of private and charter schools to certify reimbursement for school-based health services for all students enrolled in Medicaid, regardless of whether that student qualifies for Part B or H of the Individuals with Disabilities Education Act (IDEA), the exception student education program, or has an individualized education plan (IEP).

⁴⁰ Supra note 8.

- Maintains the current-law requirement for health care practitioners who are employed by or contracted with a private or charter school under s. 409.9072, F.S., to independently enroll in Florida Medicaid as credentialed providers to deliver Medicaid-covered, school-based services.

CS by Health Policy on February 11, 2020:

The CS removes the current-law requirement for health care practitioners who are employed by or contracted with a private or charter school under s. 409.9072, F.S., to independently enroll in Florida Medicaid as credentialed providers to deliver Medicaid-covered, school-based services.

B. Amendments:

None.



903224

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete lines 60 - 90.

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

And the title is amended as follows:

Delete lines 10 - 16

and insert:

obsolete provision; amending s. 409.908, F.S.;

specifying the



728786

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Before line 22
insert:

Section 1. Paragraph (i) is added to subsection (3) of section 383.14, Florida Statutes, to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the



728786

11 provisions of this section and shall:

12 (i) Create and make available electronically a pamphlet
13 with information on screening for, and the treatment of,
14 preventable infant and childhood eye and vision disorders,
15 including, but not limited to, retinoblastoma and amblyopia.

16

17 All provisions of this subsection must be coordinated with the
18 provisions and plans established under this chapter, chapter
19 411, and Pub. L. No. 99-457.

20 Section 2. Paragraph (i) is added to subsection (3) of
21 section 383.318, Florida Statutes, to read:

22 383.318 Postpartum care for birth center clients and
23 infants.—

24 (3) The birth center shall provide a postpartum evaluation
25 and followup care that includes all of the following:

26 (i) Provision of the informational pamphlet on infant and
27 childhood eye and vision disorders created by the department
28 pursuant to s. 383.14(3) (i).

29 Section 3. Section 395.1053, Florida Statutes, is amended
30 to read:

31 395.1053 Postpartum education.—A hospital that provides
32 birthing services shall incorporate information on safe sleep
33 practices and the possible causes of Sudden Unexpected Infant
34 Death into the hospital's postpartum instruction on the care of
35 newborns and provide to each parent the informational pamphlet
36 on infant and childhood eye and vision disorders created by the
37 department pursuant to s. 383.14(3) (i).

38 Section 4. Section 456.0496, Florida Statutes, is created
39 to read:



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40 456.0496 Provision of information to parents during planned
41 out-of-hospital births.—A health care practitioner who attends
42 an out-of-hospital birth must ensure that the informational
43 pamphlet on infant and childhood eye and vision disorders
44 created by the department pursuant to s. 383.14(3)(i) is
45 provided to each parent after such a birth.
46

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

48 And the title is amended as follows:

49 Delete line 2

50 and insert:

51 An act relating to health care for children; amending
52 s. 383.14, F.S.; requiring the Department of Health to
53 create and make available electronically a pamphlet
54 with specified information; amending s. 383.318, F.S.;
55 requiring birth centers to provide the informational
56 pamphlet to clients during postpartum care; amending
57 s. 395.1053, F.S.; requiring hospitals that provide
58 birthing services to provide the informational
59 pamphlet to parents during postpartum education;
60 creating s. 456.0496, F.S.; requiring certain health
61 care practitioners to ensure that the pamphlet is
62 provided to parents after a planned out-of-hospital
63 birth;

By the Committee on Health Policy; and Senators Montford,
Harrell, Berman, and Cruz

588-03478-20

2020190c1

A bill to be entitled

An act relating to Medicaid school-based services; amending s. 409.9071, F.S.; revising applicable provisions for the reimbursement of school-based services by the Agency for Health Care Administration to certain school districts; deleting a requirement specifying the use of certified state and local education funds for school-based services; conforming a provision to changes made by the act; deleting an obsolete provision; amending s. 409.9072, F.S.; revising a requirement for the agency's reimbursement of school-based services to certain charter and private schools; revising qualifications for health care practitioners engaged by schools to provide services; conforming a provision to changes made by the act; amending s. 409.908, F.S.; specifying the federal agency that may waive certain school-based provider qualifications; providing an effective date.

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

Section 1. Subsection (1), paragraph (b) of subsection (2), and subsection (6) of section 409.9071, Florida Statutes, are amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) The agency shall reimburse school-based services as provided in ss. 409.908(21) and 1011.70 ~~former s. 236.0812~~ pursuant to the rehabilitative services option provided under 42

Page 1 of 5

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

588-03478-20

2020190c1

U.S.C. s. 1396d(a)(13). For purposes of this section, billing agent consulting services are ~~shall be~~ considered billing agent services, as that term is used in s. 409.913(10), and, as such, payments to such persons may ~~shall~~ not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program. This provision may ~~shall~~ not restrict privatization of Medicaid school-based services. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures and shall allow for certification of state and local education funds that ~~which~~ have been provided for school-based services as specified in s. 1011.70 and authorized by a physician's order where required by federal Medicaid law. ~~Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for both Medicaid and part B or part H of the Individuals with Disabilities Education Act (IDEA), or the exceptional student education program, or who have an individualized educational plan.~~

(2) School districts that wish to enroll as Medicaid providers and that certify state match in order to receive federal Medicaid reimbursements for services, pursuant to subsection (1), shall agree to:

(b) Develop and maintain the financial and other student individual education plan records needed to document the appropriate use of state and federal Medicaid funds.

~~(6) Retroactive reimbursements for services as specified in former s. 236.0812 as of July 1, 1996, including reimbursement for the 1995-1996 and 1996-1997 school years, are subject to~~

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

588-03478-20

2020190c1

59 ~~federal approval.~~

60 Section 2. Subsections (1) and (5) and paragraph (b) of
61 subsection (2) of section 409.9072, Florida Statutes, are
62 amended to read:

63 409.9072 Medicaid provider agreements for charter schools
64 and private schools.—

65 (1) Subject to a specific appropriation by the Legislature,
66 the agency shall reimburse private schools as defined in s.
67 1002.01 and schools designated as charter schools under s.
68 1002.33 which are Medicaid providers for school-based services
69 pursuant to the rehabilitative services option provided under 42
70 U.S.C. s. 1396d(a)(13) to children younger than 21 years of age
71 ~~with specified disabilities who are eligible for both Medicaid~~
72 ~~and part B or part H of the Individuals with Disabilities~~
73 ~~Education Act (IDEA) or the exceptional student education~~
74 ~~program, or who have an individualized educational plan.~~

75 (2) Schools that wish to enroll as Medicaid providers and
76 receive Medicaid reimbursement under this section must apply to
77 the agency for a provider agreement and must agree to:

78 (b) Develop and maintain the financial and student
79 ~~individual education plan~~ records needed to document the
80 appropriate use of state and federal Medicaid funds.

81 (5) For reimbursements to private schools and charter
82 schools under this section, the agency shall apply the
83 reimbursement schedule developed under s. 409.9071(5). Health
84 care practitioners engaged by a school to provide services under
85 this section must ~~be enrolled as Medicaid providers and~~ meet the
86 qualifications specified under 42 C.F.R. s. 440.110, as
87 applicable. Each school's continued participation in providing

Page 3 of 5

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

588-03478-20

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88 Medicaid services under this section is contingent upon the
89 school providing to the agency an annual accounting of how the
90 Medicaid reimbursements are used.

91 Section 3. Subsection (21) of section 409.908, Florida
92 Statutes, is amended to read:

93 409.908 Reimbursement of Medicaid providers.—Subject to
94 specific appropriations, the agency shall reimburse Medicaid
95 providers, in accordance with state and federal law, according
96 to methodologies set forth in the rules of the agency and in
97 policy manuals and handbooks incorporated by reference therein.
98 These methodologies may include fee schedules, reimbursement
99 methods based on cost reporting, negotiated fees, competitive
100 bidding pursuant to s. 287.057, and other mechanisms the agency
101 considers efficient and effective for purchasing services or
102 goods on behalf of recipients. If a provider is reimbursed based
103 on cost reporting and submits a cost report late and that cost
104 report would have been used to set a lower reimbursement rate
105 for a rate semester, then the provider's rate for that semester
106 shall be retroactively calculated using the new cost report, and
107 full payment at the recalculated rate shall be effected
108 retroactively. Medicare-granted extensions for filing cost
109 reports, if applicable, shall also apply to Medicaid cost
110 reports. Payment for Medicaid compensable services made on
111 behalf of Medicaid eligible persons is subject to the
112 availability of moneys and any limitations or directions
113 provided for in the General Appropriations Act or chapter 216.
114 Further, nothing in this section shall be construed to prevent
115 or limit the agency from adjusting fees, reimbursement rates,
116 lengths of stay, number of visits, or number of services, or

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588-03478-20

2020190c1

117 making any other adjustments necessary to comply with the
118 availability of moneys and any limitations or directions
119 provided for in the General Appropriations Act, provided the
120 adjustment is consistent with legislative intent.

121 (21) The agency shall reimburse school districts ~~that which~~
122 certify the state match pursuant to ss. 409.9071 and 1011.70 for
123 the federal portion of the school district's allowable costs to
124 deliver the services, based on the reimbursement schedule. The
125 school district shall determine the costs for delivering
126 services as authorized in ss. 409.9071 and 1011.70 for which the
127 state match will be certified. Reimbursement of school-based
128 providers is contingent on such providers being enrolled as
129 Medicaid providers and meeting the qualifications contained in
130 42 C.F.R. s. 440.110, unless otherwise waived by the United
131 States Department of Health and Human Services ~~federal Health~~
132 ~~Care Financing Administration~~. Speech therapy providers who are
133 certified through the Department of Education pursuant to rule
134 6A-4.0176, Florida Administrative Code, are eligible for
135 reimbursement for services that are provided on school premises.
136 Any employee of the school district who has been fingerprinted
137 and has received a criminal background check in accordance with
138 Department of Education rules and guidelines ~~is shall be~~ exempt
139 from any agency requirements relating to criminal background
140 checks.

141 Section 4. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Education, *Vice Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Education
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR BILL MONTFORD

Minority Leader Pro Tempore
3rd District

February 11, 2020

Senator Rob Bradley, Chair
Senate Appropriations Committee
414 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Chair Bradley,

I respectfully request that the following bills be placed on the next Appropriations Committee Agenda.

SB 190 – A bill relating to Medicaid School-based Services.

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William J. Montford III

WJM:rm

REPLY TO:

- 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-2020

Meeting Date

0190

Bill Number (if applicable)

Topic Medical School-based Services

Amendment Barcode (if applicable)

Name Rick OWEN

Job Title PRESIDENT

Address 307 E. 7TH AVE

Phone 850-488-8276

Street

TALLAHASSEE

City

FL

State

32303

Zip

Email Rick@UWofF.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 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)

190

Meeting Date

Bill Number (if applicable)

Topic Medicaid School Health Services

Amendment Barcode (if applicable)

Name Beth Labasky

Job Title Consultant

Address 1700 Ulage Sq

Phone 850.322.7335

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Tallahassee Fla 32312

Email bethlabasky@acel.com

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA IMPACT

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-2020

Meeting Date

190

Bill Number (if applicable)

Topic Medicaid School Based Services

Amendment Barcode (if applicable)

Name Matt Guse (Goozie)

Job Title CEO

Address 1126 Lee Avenue

Phone 850-577-3199

Street

Tallahassee

FL

32303

Email mguse@floridacsc.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Children's Council

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.

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)

3/3/2020
Meeting Date

CS/SB 190
Bill Number (if applicable)

Topic Medicaid School Based Services

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fctep@yahoo.com

Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

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)

3/3/20

Meeting Date

190

Bill Number (if applicable)

Topic medicaid school-based services

Amendment Barcode (if applicable)

Name Jordan Reed

Job Title Legislative Intern

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 National Association of Social Workers - 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

SB190
Bill Number (if applicable)

Topic MEICARD SCHOOL HEALTH

Amendment Barcode (if applicable)

Name Rev. Dr. Robert Gibbs

Job Title _____

Address 6340 DUCK CALL CT
Street

Phone 850-329-2658

TALLAHASSEE, FL 32309
City State Zip

Email bdg3849@gmail.com

Speaking: For Against Information

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

Representing UNITED METHODIST CHURCH

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2020

Meeting Date

SB 190

Bill Number (if applicable)

Topic Medicaid School-based Services

Amendment Barcode (if applicable)

Name Amanda Fraser

Job Title _____

Address 205 S. Adams St

Phone 850-556-1401

Street

Tallahassee

City

State

Zip

Email _____

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20 Meeting Date

190 Bill Number (if applicable)

Topic Medicaid School-Based Services

Amendment Barcode (if applicable)

Name Heather Davidson

Job Title Director, Public Policy

Address 1300 S. Andrews Ave. Street

Phone 954 308 9277

City State Zip 33316

Email

Speaking: [X] For [] Against [] Information

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

Representing United Way of Broward County

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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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)

3/3/2020
Meeting Date

SB 190
Bill Number (if applicable)

Topic Medicaid School-Based Services

Amendment Barcode (if applicable)

Name Khanh-Lien ("Con hynn") Banko

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway

Phone

Street

Orlando

FL

State

32809

Zip

Email resolutionse@floridapta.org

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.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 220 (118046)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Governmental Oversight and Accountability Committee; and Senators Cruz, Gibson, Rouson, and others

SUBJECT: Abandoned Cemeteries

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|------------|--------------------------|
| 1. | <u>Ponder</u> | <u>McVaney</u> | <u>GO</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 220 creates a ten-member Task Force on Abandoned African-American Cemeteries. The stated purpose of the task force is to study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and to develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased. The task force is required to review the findings and recommendations made by the Task Force on Abandoned and Neglected Cemeteries created pursuant to chapter 98-268, Laws of Florida, and to make recommendations regarding the creation, placement, and maintenance of memorials at sites of the former cemeteries. The Department of State (DOS) must provide administrative and staff support relating to the functions of the task force. The task force must submit a report by March 1, 2021, that details its findings and recommendations. The bill provides for the termination of the task force on July 1, 2021.

The bill also requires the DOS, upon receiving consent of the property owners at the former Zion Cemetery site in Tampa, to partner with the University of South Florida, the Florida Agricultural and Mechanical University, and the Zion Cemetery Archaeological Committee formed under the auspices of the Tampa Housing Authority, to initiate an investigation to determine how many graves remain at the site. The DOS is to contract with the University of South Florida and the Florida Agricultural and Mechanical University for the identification and location of eligible

next of kin. The universities are required to provide the DOS, no later than January 1, 2021, with a list of possible descendants of those buried at the site and, to the extent possible, their contact information.

The Division of Historical Resources of the DOS must ensure that any abandoned African-American Cemetery identified by the task force is listed in the Florida Master Site File and seek placement of an Official Florida Historical Marker at a site with the approval of the land owner.

Subject to specific appropriation, the bill requires the DOS to create, place, and maintain a memorial at the site of the former Zion Cemetery in Tampa and at the site of the former Ridgewood Cemetery at C. Leon High School in Tampa. SB 2500, the Senate's General Appropriations Bill for Fiscal Year 2020-2021, appropriates a total of \$100,000 for this same purpose. See Section VII.

The bill takes effect July 1, 2020.

II. Present Situation:

Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8), F.S., defines "task force" to mean an "advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem." This provision specifies that the existence of the task force terminates upon the completion of its assignment. Further, members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation and are authorized to receive only per diem and reimbursement for travel expenses.¹

Florida Law Related to Historic and Abandoned Cemeteries, and to Unmarked Human Remains

Cemetery Regulation

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act, generally regulates funeral and cemetery services.² The act authorizes the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services (DFS) to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.³

Section 497.005(13), F.S., defines the term "cemetery" to mean:

...a place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a

¹ Section 20.052(4)(d), F.S.

² See s. 497.001, F.S.

³ Sections 497.101, F.S., and 497.103, F.S.

columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places.

The act allows for the moving of graves – disinterment and reinterment.⁴ Disinterment and reinterment must be made in the physical presence of a licensed funeral director, unless reinterment occurs in the same cemetery.⁵ Further, the funeral director is to obtain written authorization from a legally authorized person or court of competent jurisdiction prior to any disinterment and reinterment. Section 497.005(43), F.S., defines the term “legally authorized person” by providing a priority listing which begins with the decedent (when written inter vivos authorizations and directions are provided by the decedent) and includes relatives of the decedent.⁶ Additionally, the definition provides for other persons who may qualify– such as a public health officer, medical examiner, or county commission – should a family member not exist or be available.⁷ Thus, if a legally authorized person is not available, a court of competent jurisdiction may provide the written authorization prior to the disinterment and reinterment of a dead human body.⁸

There is a large number of abandoned cemeteries in Florida.⁹ Section 497.284, F.S., governs abandoned cemeteries and authorizes counties and municipalities, upon notice to the DFS, to maintain and secure an abandoned cemetery or one that has not been maintained for more than six months. The solicitation of private funds and the expenditure of public funds are authorized for such maintenance and security.¹⁰ These efforts of maintenance and security are statutorily exempt from civil liabilities or penalties for damages to property at the cemetery.¹¹ Additionally, the county or municipality is permitted to maintain an action against the cemetery owner to recover costs for maintenance or security.¹²

Criminal Offenses Concerning Dead Bodies and Graves under Chapter 872, F.S.

In Florida, criminal offenses concerning dead bodies and graves are governed by ch. 872, F.S.¹³ Pursuant to s. 872.02(1), F.S., it is a third degree felony¹⁴ to willfully and knowingly destroy, mutilate, deface, injure, or remove any tomb containing human skeletal remains, any memorials, or anything protecting or ornamenting a tomb, including fences associated with a monument

⁴ See Section 497.384, F.S.

⁵ Section 497.384(1), F.S.

⁶ Section 497.005(43), F.S.

⁷ *Id.*

⁸ Section 497.384(3), F.S.

⁹ See Department of State, Division of Historical Resources, *What are the applicable laws and regulations?*, available at <https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/what-are-the-applicable-laws-and-regulations/> (last visited February 21, 2020).

¹⁰ *Id.*

¹¹ Section 497.284(2), F.S.

¹² Section 497.284(3), F.S.

¹³ Chapter 872, F.S., is entitled “Offenses Concerning Dead Bodies and Graves.”

¹⁴ A third degree felony is punishable by up to 5 years imprisonment and up to a \$5,000 fine. Sections 775.082 and 775.083, F.S.

containing human skeletal remains.¹⁵ It is a second degree felony¹⁶ to willfully and knowingly disturb the contents of a grave or tomb.¹⁷ Section 872.02, F.S., specifies that the offenses described above do not apply to any:

- Person acting under the direction or authority of the Division of Historical Resources of the DOS;¹⁸
- Cemetery operating under ch. 497, F.S.;
- Cemetery removing or relocating the contents of a grave or tomb as a response to a natural disaster; or
- Person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents.

A “tomb” includes any mausoleum,¹⁹ columbarium,²⁰ or belowground crypt.²¹

The 1998 Task Force on Abandoned and Neglected Cemeteries

In 1998, prompted by the many neglected and abandoned cemeteries throughout Florida, the Legislature enacted the Cemetery Preservation and Consumer Protection Act (CPCPA).²² The CPCPA mandated and funded the creation of an 11-member Task Force on Abandoned and Neglected Cemeteries (the “1998 Task Force”) within the Department of Banking and Finance.²³ The CPCPA directed the 1998 Task Force to review and report on the status of neglected and abandoned cemeteries and, if necessary, propose legislation to counter this problem.²⁴

The 1998 Task Force submitted its final report on January 15, 1999.²⁵ The Task Force determined that the abandonment and neglect of cemeteries was “sufficiently widespread to warrant government intervention.”²⁶ Specifically, the 1998 Task Force found that:

- The data collected on some 3,580 cemeteries suggested 40 percent to 50 percent of the cemeteries in Florida are abandoned or neglected.
- Lack of funding appears to be a significant factor contributing to the neglect by private, unlicensed cemeteries.

¹⁵ Section 872.02(1), F.S.

¹⁶ A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹⁷ Section 872.02(2), F.S.

¹⁸ The powers and duties of the Division of Historical Resources of the Department of State are set forth in s. 267.031, F.S. Subject to some limitations, a State Archaeologist, as employed by the Division, may assume jurisdiction over an unmarked human burial site in order to initiate efforts for the proper protection of the burial and the human skeletal remains and associated burial artifacts. See s. 872.05(4), (5), and (6), F.S.

¹⁹ Section 497.005(46), F.S., defines a “mausoleum” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the entombment of human remains.”

²⁰ Section 497.005(18), F.S., defines a “columbarium” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the inurnment of cremated remains.”

²¹ Section 872.02(4), F.S. Section 497.005(4), F.S., defines “belowground crypt” as consisting of “interment space in preplaced chambers, either side by side or multiple depth, covered by earth and sod.”

²² See ch. 98-268, L.O.F.

²³ *Id.* at s. 13.

²⁴ *Id.*

²⁵ *Final Report of Task Force on Abandoned and Neglected Cemeteries*, available at <https://www.coj.net/city-council/docs/brcemeteries-1999-statetaskforce-finalreport.aspx> (last visited February 21, 2020).

²⁶ *Id.* at p. 3.

- City and county representatives on the 1998 Task Force verified that neglected cemeteries create problems for citizens and local governments and burden governmental resources.
- Older neglected cemeteries may represent a loss of historic or archeological values.
- Legislation is needed to establish guidelines, definitions, methods of establishing care for neglected and abandoned cemeteries, which agencies will be responsible, the funding mechanism for such projects, as well as a permanent structure to continue the location, identification, protection, preservation, and care of such cemeteries.
- A grants-in-aid type program using matching funds would help ameliorate the problems created by abandoned and neglected cemeteries.
- Funding to address the problems and recommendations in the proposed legislation may be derived from: (1) a one-time appropriation by the legislature; (2) a fee on death certificates; (3) enabling legislation to permit cities and counties to include in their budgets funds for this purpose; and (4) the establishment of a nonprofit corporation within the Department of Banking and Finance to obtain donations.
- It is imperative to stop the proliferation of neglected and abandoned cemeteries.
- The legislature had already established in ch. 872, F.S., protection for all human burial sites and all human remains regardless of whether or not the site is abandoned.²⁷

The 1998 Task Force recommended that it be allowed to continue by either (i) “continu[ing] in its present form for a finite time” to more thoroughly examine the extent of the problems; or (ii) the nonprofit corporation suggested as part of proposed legislation “should continue these functions on a permanent basis.”²⁸ The 1998 Task Force also recommended to:

- Establish that local governments – combined with a statewide approach via the designated agency and nonprofit – are the best way to manage issues created by abandoned and neglected cemeteries.
- Establish that owners of unlicensed cemeteries have a duty to care for their cemeteries in such a manner as to avoid neglect.
- Proscribe abandonment and neglect of cemeteries.
- Establish that a copy of all burial transit permits be filed with the Clerk of Court in the county of burial.
- Establish an easement or right of entry to enter and inspect private cemeteries for officially designated persons other than the next of kin.
- Establish that unlicensed cemeteries be required to post a sign providing notice of the existence of a cemetery at the posted location.
- Prohibit the creation of new cemeteries except under the provisions of Part I of ch. 497, F.S., thereby insuring that a care and maintenance fund is established for each new cemetery.²⁹

The specific findings and recommendations of the 1998 Task Force have not been addressed by subsequent legislation.

²⁷ *Id.* at 7-8.

²⁸ *Id.* at 8.

²⁹ *Id.* at 8-9.

Zion Cemetery

Zion Cemetery, established in 1901, is believed to be Tampa's first cemetery for African-Americans with room for some 800 graves.³⁰ Zion Cemetery disappeared from public view and city maps by 1929.³¹ In 1951, the Tampa Housing Authority started construction on the Robles Park Apartments on land that includes part of the Zion Cemetery site, and construction crews found several unmarked graves and three caskets.³²

The Robles Park Village housing (still owned by the Tampa Housing Authority) and two other commercial businesses owned by two private sector individuals now stand on the land that once was the site of the African-American cemetery. Upon learning that the Zion Cemetery might still lie beneath at least a portion of its Robles Park Village Apartments, the Tampa Housing Authority organized a consultation committee and hired archaeologists to survey its property.³³ In late August 2019, archeologists used a ground-penetrating radar and discovered what they believe to be 126 caskets beneath the Tampa Housing Authority land.³⁴ As of January 2020, archaeologists have identified 314 graves in the 2.5 acre area of the Zion Cemetery: 144 under five buildings in the Robles Park Village; 55 under a wrecking company's tow lot; and 155 under warehouse property. More sites could be identified, as the ground-penetrating radar cannot detect every grave and cannot scan beneath buildings.³⁵

Other Rediscovered Abandoned Cemeteries in the Tampa Area

Due to the rediscovery of several abandoned cemeteries in the area, the Hillsborough County Commission is funding a forensic anthropologist at the University of South Florida to conduct deeper research into where other cemeteries may have been lost over time. The research will include review of historical records, maps, development records, and interviews with residents in the community. The nature of the difficulty with the search includes that some possible sites may be documented in less formal ways than official property records and may not have been evident on the landscape at the time.³⁶

³⁰ Paul Guzzo, *A community, not just Zion Cemetery, disappeared to build homes for whites*, TAMPA BAY TIMES, Nov. 4, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/11/04/a-community-not-just-zion-cemetery-disappeared-to-build-homes-for-whites/#talk-wrapper> (last visited February 21, 2020).

³¹ *Id.*

³² Paul Guzzo, *Key dates in the history of Tampa's forgotten Zion Cemetery*, TAMPA BAY TIMES, Jun. 19, 2019 (Updated Aug. 28, 2019), available at <https://www.tampabay.com/florida/2019/06/23/key-dates-in-the-history-of-tampas-forgotten-zion-cemetery> (last visited February 21, 2020).

³³ Paul Guzzo, *Richard Gonzmart believes no coffins will be found on his Zion Cemetery land*, TAMPA BAY TIMES, Sep. 24, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/09/24/richard-gonzmart-believes-no-coffins-will-be-found-on-his-zion-cemetery-land/> (last visited February 21, 2020).

³⁴ *Id.*

³⁵ Paul Guzzo, *115 caskets found on Zion Cemetery land owned by Richard Gonzmart*, TAMPA BAY TIMES, Jan. 7, 2020 (updated Jan. 13, 2020), available at <https://www.tampabay.com/news/hillsborough/2020/01/07/115-caskets-found-on-zion-cemetery-land-owned-by-richard-gonzmart/> (last visited February 21, 2020).

³⁶ Emerald Morrow, *Hillsborough County gets serious about search for lost graves*, WTSP CHANNEL 10 NEWS, January 23, 2020, available at <https://www.wtsp.com/article/news/special-reports/erased/hillsborough-county-gets-serious-about-search-for-lost-graves/67-cc0cdc11-886f-4b05-93b8-c2b4aa6a280e>; and Lauren Rozyla, *USF researchers to help Hillsborough County search for forgotten gravesites*, WFTS TAMPA BAY, January 23, 2020, available at <https://www.abcactionnews.com/news/region-hillsborough/usf-researchers-to-help-hillsborough-county-search-for-forgotten-gravesites> (both sites last visited February 21, 2020).

Searches have recently begun on property within the MacDill Air Force Base for the Port Tampa Cemetery³⁷ and research on the existence and location of the Matri/Colón Cemetery is underway.³⁸

Ridgewood Cemetery

In October 2019, the Hillsborough County School District (HCSD) learned the old Ridgewood Cemetery may have been located at the southeast corner of the King High School campus, which is now occupied by a small building and open land used for the agricultural program.³⁹ Ridgewood was designated as a pauper's cemetery and at least 280 people – mostly African Americans – were interred between 1942 and 1954.⁴⁰

On October 28, the HCSD created an advisory committee, the Historical Response Committee, to determine how to handle the search for unmarked graves at King High School and what to do if they were found. The HCSD hired a geotechnical firm, Geoview, to conduct a survey on the south end of King High School campus using a ground-penetrating radar to look for any signs of the lost Richwood Cemetery on the campus.⁴¹ On November 20, 2019, the HCSD released the data of the ground-penetrating radar survey. The survey of the southern edge of the King High School campus showed evidence of burials, approximately 145 suspected graves. The scan performed on the northeast corner of the campus showed no evidence of burials or graves.⁴²

Historical records generally indicate that there were between 250 and 268 burials at Ridgewood Cemetery. Possible reasons why the radar survey only revealed a total of approximately 145 possible graves include:

- The radar may have more difficulty locating smaller coffins of infants and children.
- Some coffins may have decayed underground preventing detection by scan some 75 years later.
- Some graves may be under the agricultural workshop building.

³⁷ Stephanie Colombini, *Dogs Search For Lost African American Cemetery On MacDill Air Force Base*, WUSF PUBLIC MEDIA, February 18 2020, available at <https://wusfnews.wusf.usf.edu/post/dogs-search-lost-african-american-cemetery-macdill-air-force-base>; and Paul Guzzo, *Records show a black cemetery might lie beneath MacDill Air Force Base*, TAMPA BAY TIMES, Nov. 20, 2019, available at <https://www.tampabay.com/news/hillsborough/2020/01/07/115-caskets-found-on-zion-cemetery-land-owned-by-richard-gonzmart/> (both sites last visited February 21, 2020).

³⁸ Paul Guzzo, *It's called Dead Man's Field. Were bodies ever moved from West Tampa site?*, TAMPA BAY TIMES, Feb. 5, 2020, available at <https://www.tampabay.com/news/tampa/2020/02/05/its-called-deadmans-field-were-bodies-ever-moved-from-west-tampa-site/> (last visited February 21, 2020).

³⁹ Paul Guzzo, *Records show King High gym may have been built atop paupers cemetery*, TAMPA BAY TIMES, Oct. 22, 2019 (updated Oct. 23, 2019), available at <https://www.tampabay.com/news/education/2019/10/22/map-shows-king-high-gym-may-have-been-built-atop-paupers-cemetery> (last visited February 21, 2020).

⁴⁰ Lori Rozsa, *Lost lives, fresh heartache as a black cemetery is found buried under a high school*, WASHINGTON POST, November 24, 2019, available at https://www.washingtonpost.com/national/lost-lives-fresh-heartache-as-a-black-cemetery-is-found-buried-under-a-high-school/2019/11/24/5e755e4a-0ed4-11ea-bf62-eadd5d11f559_story.html (last visited February 21, 2020).

⁴¹ Jordan, Dave, *Forgotten Cemetery under King High School? District Awaits Answers*, SPECTRUM NEWS 9, Oct. 28, 2019, available at <https://www.baynews9.com/fl/tampa/news/2019/10/28/forgotten-cemetery-under-king-high-school--district-awaits-answers> (last visited February 21, 2020).

⁴² Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited February 21, 2020).

- Some graves may have been moved to another cemetery.
- Limitations of radar technology.⁴³

The November press release indicates that HCSD will deliver Geoview’s findings to the “county medical examiner and the state archeologist” with the expectation that they will take the thirty days to review the findings.⁴⁴ HCSD indicates that if possession of the land is “turned back over to the school district,” it will work with members of the Historical Response Committee to “discuss proper ways to memorialize the individuals, how best to care for the space and learning opportunities for students at King High School and other schools.”⁴⁵

Fort Brooke Estuary Cemetery

Archeologists, in September 2018, uncovered three grave shafts with human remains during the development of the 50-plus acre Water Street Tampa project. The grave shafts were believed to be of an old military burial ground from the Seminole War era, known as Estuary Cemetery.⁴⁶ The archeologists’ July 2019 report announced that the three grave shafts had human remains, but it did not identify the ancestry and indicated that work could resume on the development site. However, not much more is known about the findings or what may have been discovered due to it being a private site.

III. Effect of Proposed Changes:

Section 1 creates the Task Force on Abandoned African-American Cemeteries to study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased.

The task force is to be chaired by the Secretary of State, or his or her designee, and is composed of:

- A representative of the Bureau of Archaeological Research of the Division of Historical Resources, appointed by the Secretary of State;
- One person nominated by the President of the Florida State Conference of the National Association for the Advancement of Colored People and appointed by the Secretary of State;
- One representative of the Florida Council of Churches, nominated by the executive director of the council and appointed by the Secretary of State;
- One representative of the Florida African American Heritage Preservation Network, nominated by the executive director of the network and appointed by the Secretary of State;
- One representative of the Florida Public Archaeology Network, appointed by the Secretary of State;
- One representative of the cemetery industry, appointed by the Secretary of State;

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Paul Guzzo, *More lost cemeteries will be found, historians say*, TAMPA BAY TIMES, Oct. 28, 2019 (Updated Jan. 13, 2020), available at <https://www.tampabay.com/news/tampa/2019/10/28/more-lost-cemeteries-will-be-found-historians-say> (last visited February 21, 2020).

- One member of the Senate, appointed by the President of the Senate;
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives; and
- One elected official from a local government, appointed by the Secretary of State.

The task force is required to hold its first meeting by August 1, 2020, and meet as many times as it deems necessary to complete its duties. The task force is required to:

- Review the findings and recommendations made by the 1998 Task Force and any legislative or administrative action that was taken in response to the task force's findings and recommendations;
- Examine the adequacy of current practices regarding the preservation of unmarked and abandoned African-American cemeteries and burial grounds and identify any challenges unique to African-American cemeteries and burial grounds;
- Identify locations of unmarked and abandoned African-American cemeteries and burial grounds throughout the state and propose strategies, including any proposed legislation, for the preservation and evaluation of such sites; and
- Make recommendations regarding standards for the creation, placement, and maintenance of memorials at any identified locations of unmarked and abandoned African-American cemetery or burial ground throughout the state.

The task force is required to submit a report by March 1, 2021, detailing its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

This section expires on July 1, 2021.

Section 2 requires the DOS, upon receiving consent of the property owners at the former Zion Cemetery site in Tampa, to partner with the University of South Florida (USF), the Florida Agricultural and Mechanical University (FAMU), and the Zion Cemetery Archaeological Committee formed under the auspices of the Tampa Housing Authority to continue an investigation to determine how many graves remain at the site. Any historical resource, record, archive, artifact, public research, or medical record recovered through the course of the investigation by USF or FAMU shall remain in the custody of either university for archiving and preservation until the DOS requests custody of such resource, record, archive, artifact, public research, or medical record.

This section requires the DOS is to contract with USF and FAMU for the identification and location of eligible next of kin of those buried at the site.

By January 1, 2021, the universities must provide the DOS with a list of possible descendants of those buried at the site and, to the extent possible, their contact information. For any identification of next of kin occurring on or after January 1, 2021, the universities must provide contact information of the next of kin to the DOS.

Section 3 provides that the Division of Historical Resources (Division) of the DOS must ensure that any abandoned African-American cemetery identified by the task force is listed on the Florida Master Site File. Upon such a cemetery's listing in the Florida Master Site, the division is required to – in lieu of the normal application process – seek placement of an Official Florida Historical Marker at a site with approval of the property owner. The bill permits a person or organization affiliated with an abandoned cemetery to assist the division in researching the history of such a site in the preparation of a historical marker's creation and placement. The costs for the creation and placement of a historical marker are to be borne by the division.

Section 4 requires the DOS, subject to appropriation, to create, place, and maintain a memorial at the site of the former Zion Cemetery in Tampa and at the site of the former Ridgewood Cemetery at C. Leon High School in Tampa.

Section 5 provides that the bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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:**Task Force**

Because the bill is silent as to compensation and travel expense, s. 20.052(4)(d), F.S., governs and the task force members will not be entitled to additional compensation but are authorized to receive per diem and reimbursement for travel expenses as provided in s. 112.061, F.S. These costs will be borne by the DOS as the appointing authority of the task force members.

The DOS will incur an indeterminate amount of administrative expenses as the agency providing administrative and technical support for the task force.

Cemeteries – Memorials and Placement of Florida Historical Markers

SB 2500, the Senate General Appropriations Bill, includes specific appropriations for the memorials at the Zion Cemetery and the Ridgewood Cemetery of \$50,000 of nonrecurring funds from the General Revenue Fund for each memorial.⁴⁷

The DOS will incur costs each time it is required to place an Official Florida Historical Marker at a site of a cemetery identified by the task force. Currently, the cost of a Florida Historical Marker is determined by the amount of text. For a marker with the same text on both sides of the marker, the cost is \$2,010. For a double-sided marker with different text appearing on both sides of the marker, the cost is \$2,330.⁴⁸

USF, FAMU, and the Zion Cemetery Archaeological Committee may incur an indeterminate amount of administrative expenses in partnering with the DOS to determine how many graves remain at the site of the former Zion Cemetery and the identification and location of decedents.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Based on the statements made in the HCSD November press release regarding notification to the medical examiner and state archeologist and the possible return of jurisdiction of the property to HCSD, it appears HCSD is treating the burials found on the King High School campus as “unmarked human burials” pursuant to s. 872.05, F.S. The term “unmarked human burial” is defined to mean:

⁴⁷ Specific Appropriation 3153A, proviso (*Fighting for the Forgotten: Zion Cemetery Memorial – Tampa (Senate Form 2574)* and *Fighting for the Forgotten: Ridgewood Cemetery Memorial – Tampa (Senate Form 2576)*), s. 6, SB 2500 (2020).

⁴⁸ See DOS, Division of Historical Resources, *Historical Markers FAQ*, available at <https://dos.myflorida.com/historical/about/division-faqs/marker/> (last visited February 21, 2020).

...any human skeletal remains or associated burial artifacts or any location, including any burial mound or earthen or shell monument, where human skeletal remains or associated burial artifacts are discovered or believed to exist on the basis of archaeological or historical evidence, excluding any burial marked or previously marked by a tomb, monument, gravestone, or other structure or thing placed or designed as a memorial of the dead.⁴⁹

When an unmarked human burial is discovered – other than during an authorized archaeological excavation⁵⁰ – all disturbing activity of the burial must cease and the district medical examiner must be notified. Activity may not resume until authorized by the district medical examiner or the State Archaeologist.⁵¹ If the district medical examiner determines the unmarked human burial “may be involved in a legal investigation or represents the burial of an individual who has been dead less than 75 years,” he or she must “assume jurisdiction over and responsibility for the location of the burials.”⁵² The examiner is given 30 days after notification of the burial to determine whether he or she will maintain jurisdiction or refer the matter to the State Archaeologist.⁵³

If the district medical examiner finds the human burial is “not involved in a legal investigation and represents the burial of an individual who has been dead 75 years or more,” he or she must notify the State Archaeologist, and the Division of Historical Resources of the Department of State may assume jurisdiction over and responsibility for the burial.⁵⁴

The division is authorized to assume jurisdiction over and responsibility for an unmarked human burial in order to initiate efforts for the proper protection of the burial and the human remains and associated burial artifacts.⁵⁵ Upon assuming jurisdiction, the State Archaeologist must determine whether the burial is historically, archaeologically, or scientifically significant. If it is deemed to be significant, reinterment may not occur until the remains have been examined by a human skeletal analyst designated by the State Archaeologist.⁵⁶ Additionally, the State Archaeologist must make reasonable efforts to identify and locate a person who can establish kinship, tribal, community, or ethnic relationships with the remains which constitute the burial.⁵⁷ If unable to establish such relationships, he or she shall consult with persons with relevant experience.⁵⁸

⁴⁹ Section 872.05(2)(f), F.S.

⁵⁰ Section 872.05(5), F.S., provides for a similar process if an unmarked human burial is discovered during an authorized archeological excavation.

⁵¹ Section 872.05(4), F.S.

⁵² Section 872.05(4)(a), F.S.

⁵³ *Id.*

⁵⁴ Section 872.05(4)(c), F.S.

⁵⁵ Section 872.05(6), F.S.

⁵⁶ Section 872.05(6)(a), F.S.

⁵⁷ Section 872.05(6)(b), F.S.

⁵⁸ Section 872.05(6)(c), F.S.

The November press release states that HCSD provided notice to the medical examiner and State Archeologist on the same day as the release – November 21, 2019.⁵⁹ Thus, the medical examiner had 30 days (until December 23, 2019) to make a determination regarding jurisdiction and referral to the State Archeologist.⁶⁰ On December 20, 2019, the Hillsborough County Medical Examiner turned the matter over to the State Archeologist.⁶¹

VIII. Statutes Affected:

This bill does not amend 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.)

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 25, 2020:

The committee substitute:

- Increases the number of members of the task force from seven to ten.
- Requires the task force to make recommendations for standards for the creation, placement, and maintenance of a memorial at any identified locations of unmarked and abandoned African-American cemetery or burial ground throughout the state, instead of for memorials at specific locations.
- Removes the \$50,000 appropriation for the former Zion Cemetery in Tampa and \$50,000 appropriation for the former Ridgewood Cemetery at C. Leon King High School in Tampa, and instead requires the DOS to create such memorials subject to specific appropriation.

CS by Governmental Oversight and Accountability on December 9, 2019:

The committee substitute:

- Provides that the task force make a recommendation on the creation, placement, and maintenance of a memorial at the site of the former Ridgewood Cemetery in Tampa.
- Eliminates any reference to exhumation of remains.
- Requires the DOS to partner with FAMU and Zion Cemetery Archaeological Committee as well as USF to determine the number of graves that remain at the site.
- Requires any historical resource recovered by USF or FAMU must remain in the custody of either university until DOS takes custody.
- Requires DOS to contract with USF and FAMU for the identification and location of eligible next of kin.

⁵⁹ Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited February 21, 2020).

⁶⁰ Section 872.05(4)(a), F.S.

⁶¹ Hillsborough County, *Hillsborough County Medical Examiner Refers Ridgewood Cemetery Conclusions to State Archaeologist*, Dec. 20, 2019, available at <https://www.hillsboroughcounty.org/en/media-center/press-releases/2019/12/20/medical-examiner-refers-ridgewood-cemetery-conclusions-to-state-archaeologist> (last visited February 21, 2020).

- Requires the DOS to list in the Florida Master Site File any abandoned African-American Cemeteries identified by the task force. Upon such listing, the DOS must seek placement of an Official Florida Historical Marker at a site with the costs of the historical marker's creation and placement being borne by DOS.
- Appropriates \$100,000, with \$50,000 allocated for a memorial at the site of the former Zion Cemetery and \$50,000 allocated for a memorial at the site of the former Ridgewood Cemetery.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to abandoned cemeteries; creating the
Task Force on Abandoned African-American Cemeteries;
specifying the purpose of the task force; requiring
the Department of State to provide administrative and
staff support; specifying the composition of the task
force; providing meeting requirements; prescribing
duties of the task force; requiring the task force to
submit a report to the Governor and the Legislature by
a specified date; providing for expiration of the task
force; requiring the department to partner with
specified entities to undertake an investigation of
the former Zion Cemetery site; specifying custody of
certain historical resources, records, archives,
artifacts, research, and medical records; requiring
the department to contract with the University of
South Florida and the Florida Agricultural and
Mechanical University for the identification and
location of eligible next of kin; requiring the
universities to provide certain information regarding
descendants to the department by a specified date;
directing the Division of Historical Resources of the
department to ensure the listing of certain cemeteries
in the Florida Master Site File; requiring the
division to seek placement of historical markers at
certain abandoned cemeteries, subject to certain



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limitations; authorizing certain persons and
organizations to assist the division in researching
the history of such cemeteries; specifying that costs
associated with the creation and placement of such
historical markers be borne by the division; requiring
the department to create, place, and maintain
memorials at certain sites, subject to legislative
appropriation; providing an effective date.

WHEREAS, until the conclusion of the Civil War, millions of
African Americans in the United States, including Florida, were
enslaved, and

WHEREAS, following the end of slavery, African Americans
continued to be subject to various discriminatory practices,
including restrictions on burying the dead which resulted in
segregated cemeteries and burial grounds, and

WHEREAS, unlike predominantly white cemeteries and burial
grounds, African-American cemeteries and burial grounds were not
subject to regulations and recordkeeping necessary to protect
the dignity of the deceased, and

WHEREAS, as a result, many abandoned African-American
cemeteries and burial grounds have been inadvertently discovered
following years of disrepair and neglect when land is being
redeveloped or has been sold, and

WHEREAS, to this day, abandoned African-American cemeteries
throughout this state continue to be uncovered, as evidenced by
recent reports regarding the former Zion Cemetery site in the
Tampa Heights neighborhood and the former Ridgewood Cemetery on
the grounds of C. Leon King High School, both in the City of



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56 Tampa, and

57 WHEREAS, the State of Florida recognizes its obligation to
58 identify and properly record abandoned African-American
59 cemeteries and burial grounds in order to preserve history,
60 better inform development decisions, and ensure dignity and
61 respect for the deceased, NOW, THEREFORE,

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. (1) The Task Force on Abandoned African-American
66 Cemeteries, a task force as defined in s. 20.03(8), Florida
67 Statutes, is created adjunct to the Department of State for the
68 express purpose of studying the extent to which unmarked or
69 abandoned African-American cemeteries and burial grounds exist
70 throughout the state and developing and recommending strategies
71 for identifying and recording cemeteries and burial grounds
72 while also preserving local history and ensuring dignity and
73 respect for the deceased. Except as otherwise provided in this
74 section, the task force shall operate in a manner consistent
75 with s. 20.052, Florida Statutes. The department shall provide
76 administrative and staff support relating to the functions of
77 the task force.

78 (2) The task force is composed of the following members:

79 (a) The Secretary of State, or his or her designee, who
80 shall serve as chair.

81 (b) A representative of the Bureau of Archaeological
82 Research of the Division of Historical Resources, appointed by
83 the Secretary of State.

84 (c) One person nominated by the President of the Florida



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85 State Conference of the National Association for the Advancement
86 of Colored People and appointed by the Secretary of State.

87 (d) One representative of the Florida Council of Churches,
88 nominated by the executive director of the council and appointed
89 by the Secretary of State.

90 (e) One representative of the Florida African American
91 Heritage Preservation Network, nominated by the executive
92 director of the network and appointed by the Secretary of State.

93 (f) One representative of the Florida Public Archaeology
94 Network, appointed by the Secretary of State.

95 (g) One representative of the cemetery industry, appointed
96 by the Secretary of State.

97 (h) One member of the Senate, appointed by the President of
98 the Senate.

99 (i) One member of the House of Representatives, appointed
100 by the Speaker of the House of Representatives.

101 (j) One elected official from a local government, appointed
102 by the Secretary of State.

103 (3) The task force shall hold its first meeting by August
104 1, 2020. The task force may meet as many times as it deems
105 necessary to complete the duties prescribed in this section.

106 (4) The task force shall:

107 (a) Review the findings and recommendations made by the
108 Task Force on Abandoned and Neglected Cemeteries created
109 pursuant to chapter 98-268, Laws of Florida, and any legislative
110 or administrative action that was taken in response to the task
111 force's findings and recommendations.

112 (b) Examine the adequacy of current practices regarding the
113 preservation of unmarked and abandoned African-American



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114 cemeteries and burial grounds and identify any challenges unique
115 to African-American cemeteries and burial grounds.

116 (c) Identify locations of unmarked and abandoned African-
117 American cemeteries and burial grounds throughout the state and
118 propose strategies, including any proposed legislation, for the
119 preservation and evaluation of such sites.

120 (d) Make recommendations regarding standards for the
121 creation, placement, and maintenance of a memorial at any
122 identified locations of unmarked and abandoned African-American
123 cemetery or burial ground throughout the state.

124 (5) By March 1, 2021, the task force shall submit a report
125 detailing its findings and recommendations to the Governor, the
126 President of the Senate, the Speaker of the House of
127 Representatives, the Minority Leader of the Senate, and the
128 Minority Leader of the House of Representatives.

129 (6) This section expires July 1, 2021.

130 Section 2. (1) (a) Upon receiving consent of the property
131 owners at the former Zion Cemetery site in Tampa, the Department
132 of State shall partner with the University of South Florida, the
133 Florida Agricultural and Mechanical University, and the Zion
134 Cemetery Archaeological Committee formed under the auspices of
135 the Tampa Housing Authority, to continue an investigation to
136 determine how many graves remain at the site.

137 (b) Any historical resource, record, archive, artifact,
138 public research, or medical record that is recovered through the
139 course of the investigation by the University of South Florida
140 or the Florida Agricultural and Mechanical University shall
141 remain in the custody of either university for archiving and
142 preservation until the Department of State requests custody of



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143 such resource, record, archive, artifact, public research, or
144 medical record.

145 (2) (a) The Department of State shall contract with the
146 University of South Florida and the Florida Agricultural and
147 Mechanical University for the identification and location of
148 eligible next of kin of those buried at the site.

149 (b) No later than January 1, 2021, the universities shall
150 provide the Department of State with a list of possible
151 descendants of those buried at the site and, to the extent
152 possible, their contact information.

153 (c) For any identification of next of kin occurring on or
154 after January 1, 2021, the universities must provide contact
155 information of the next of kin to the Department of State.

156 Section 3. The Division of Historical Resources of the
157 Department of State shall ensure that any abandoned African-
158 American cemetery identified by the Task Force on Abandoned
159 African-American Cemeteries is listed in the Florida Master Site
160 File. Upon such a cemetery's listing in the Florida Master Site
161 File and in lieu of the normal application process for
162 historical markers, the division must seek placement of an
163 Official Florida Historical Marker at a site so long as the
164 approval of the owner of the property where the marker will be
165 placed has been obtained. A person or an organization affiliated
166 with an abandoned cemetery may assist the division in
167 researching the history of such a site in the preparation of a
168 historical marker's creation and placement. The costs for the
169 creation and placement of a historical marker authorized
170 pursuant to this section shall be borne by the division.

171 Section 4. Subject to specific appropriation, the



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172 Department of State shall create, place, and maintain a memorial
173 at the site of the former Zion Cemetery in Tampa and at the site
174 of the former Ridgewood Cemetery at C. Leon King High School in
175 Tampa.

176 Section 5. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 220

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Governmental Oversight and Accountability Committee; and Senators Cruz, Gibson, Rouson, and others

SUBJECT: Abandoned Cemeteries

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|------------|--------------------------|
| 1. | <u>Ponder</u> | <u>McVaney</u> | <u>GO</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 220 creates a ten-member Task Force on Abandoned African-American Cemeteries. The stated purpose of the task force is to study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and to develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased. The task force is required to review the findings and recommendations made by the Task Force on Abandoned and Neglected Cemeteries created pursuant to chapter 98-268, Laws of Florida, and to make recommendations regarding the creation, placement, and maintenance of memorials at sites of the former cemeteries. The Department of State (DOS) must provide administrative and staff support relating to the functions of the task force. The task force must submit a report by March 1, 2021, that details its findings and recommendations. The bill provides for the termination of the task force on July 1, 2021.

The bill also requires the DOS, upon receiving consent of the property owners at the former Zion Cemetery site in Tampa, to partner with the University of South Florida, the Florida Agricultural and Mechanical University, and the Zion Cemetery Archaeological Committee formed under the auspices of the Tampa Housing Authority, to initiate an investigation to determine how many graves remain at the site. The DOS is to contract with the University of South Florida and the Florida Agricultural and Mechanical University for the identification and location of eligible

next of kin. The universities are required to provide the DOS, no later than January 1, 2021, with a list of possible descendants of those buried at the site and, to the extent possible, their contact information.

The Division of Historical Resources of the DOS must ensure that any abandoned African-American Cemetery identified by the task force is listed in the Florida Master Site File and seek placement of an Official Florida Historical Marker at a site with the approval of the land owner.

Subject to specific appropriation, the bill requires the DOS to create, place, and maintain a memorial at the site of the former Zion Cemetery in Tampa and at the site of the former Ridgewood Cemetery at C. Leon High School in Tampa. SB 2500, the Senate's General Appropriations Bill for Fiscal Year 2020-2021, appropriates a total of \$100,000 for this same purpose. See Section VII.

The bill takes effect July 1, 2020.

II. Present Situation:

Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8), F.S., defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of the task force terminates upon the completion of its assignment. Further, members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation and are authorized to receive only per diem and reimbursement for travel expenses.¹

Florida Law Related to Historic and Abandoned Cemeteries, and to Unmarked Human Remains

Cemetery Regulation

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act, generally regulates funeral and cemetery services.² The act authorizes the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services (DFS) to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.³

Section 497.005(13), F.S., defines the term “cemetery” to mean:

...a place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a

¹ Section 20.052(4)(d), F.S.

² See s. 497.001, F.S.

³ Sections 497.101, F.S., and 497.103, F.S.

columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places.

The act allows for the moving of graves – disinterment and reinterment.⁴ Disinterment and reinterment must be made in the physical presence of a licensed funeral director, unless reinterment occurs in the same cemetery.⁵ Further, the funeral director is to obtain written authorization from a legally authorized person or court of competent jurisdiction prior to any disinterment and reinterment. Section 497.005(43), F.S., defines the term “legally authorized person” by providing a priority listing which begins with the decedent (when written inter vivos authorizations and directions are provided by the decedent) and includes relatives of the decedent.⁶ Additionally, the definition provides for other persons who may qualify– such as a public health officer, medical examiner, or county commission – should a family member not exist or be available.⁷ Thus, if a legally authorized person is not available, a court of competent jurisdiction may provide the written authorization prior to the disinterment and reinterment of a dead human body.⁸

There is a large number of abandoned cemeteries in Florida.⁹ Section 497.284, F.S., governs abandoned cemeteries and authorizes counties and municipalities, upon notice to the DFS, to maintain and secure an abandoned cemetery or one that has not been maintained for more than six months. The solicitation of private funds and the expenditure of public funds are authorized for such maintenance and security.¹⁰ These efforts of maintenance and security are statutorily exempt from civil liabilities or penalties for damages to property at the cemetery.¹¹ Additionally, the county or municipality is permitted to maintain an action against the cemetery owner to recover costs for maintenance or security.¹²

Criminal Offenses Concerning Dead Bodies and Graves under Chapter 872, F.S.

In Florida, criminal offenses concerning dead bodies and graves are governed by ch. 872, F.S.¹³ Pursuant to s. 872.02(1), F.S., it is a third degree felony¹⁴ to willfully and knowingly destroy, mutilate, deface, injure, or remove any tomb containing human skeletal remains, any memorials, or anything protecting or ornamenting a tomb, including fences associated with a monument

⁴ See Section 497.384, F.S.

⁵ Section 497.384(1), F.S.

⁶ Section 497.005(43), F.S.

⁷ *Id.*

⁸ Section 497.384(3), F.S.

⁹ See Department of State, Division of Historical Resources, *What are the applicable laws and regulations?*, available at <https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/what-are-the-applicable-laws-and-regulations/> (last visited February 21, 2020).

¹⁰ *Id.*

¹¹ Section 497.284(2), F.S.

¹² Section 497.284(3), F.S.

¹³ Chapter 872, F.S., is entitled “Offenses Concerning Dead Bodies and Graves.”

¹⁴ A third degree felony is punishable by up to 5 years imprisonment and up to a \$5,000 fine. Sections 775.082 and 775.083, F.S.

containing human skeletal remains.¹⁵ It is a second degree felony¹⁶ to willfully and knowingly disturb the contents of a grave or tomb.¹⁷ Section 872.02, F.S., specifies that the offenses described above do not apply to any:

- Person acting under the direction or authority of the Division of Historical Resources of the DOS;¹⁸
- Cemetery operating under ch. 497, F.S.;
- Cemetery removing or relocating the contents of a grave or tomb as a response to a natural disaster; or
- Person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents.

A “tomb” includes any mausoleum,¹⁹ columbarium,²⁰ or belowground crypt.²¹

The 1998 Task Force on Abandoned and Neglected Cemeteries

In 1998, prompted by the many neglected and abandoned cemeteries throughout Florida, the Legislature enacted the Cemetery Preservation and Consumer Protection Act (CPCPA).²² The CPCPA mandated and funded the creation of an 11-member Task Force on Abandoned and Neglected Cemeteries (the “1998 Task Force”) within the Department of Banking and Finance.²³ The CPCPA directed the 1998 Task Force to review and report on the status of neglected and abandoned cemeteries and, if necessary, propose legislation to counter this problem.²⁴

The 1998 Task Force submitted its final report on January 15, 1999.²⁵ The Task Force determined that the abandonment and neglect of cemeteries was “sufficiently widespread to warrant government intervention.”²⁶ Specifically, the 1998 Task Force found that:

- The data collected on some 3,580 cemeteries suggested 40 percent to 50 percent of the cemeteries in Florida are abandoned or neglected.
- Lack of funding appears to be a significant factor contributing to the neglect by private, unlicensed cemeteries.

¹⁵ Section 872.02(1), F.S.

¹⁶ A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹⁷ Section 872.02(2), F.S.

¹⁸ The powers and duties of the Division of Historical Resources of the Department of State are set forth in s. 267.031, F.S. Subject to some limitations, a State Archaeologist, as employed by the Division, may assume jurisdiction over an unmarked human burial site in order to initiate efforts for the proper protection of the burial and the human skeletal remains and associated burial artifacts. See s. 872.05(4), (5), and (6), F.S.

¹⁹ Section 497.005(46), F.S., defines a “mausoleum” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the entombment of human remains.”

²⁰ Section 497.005(18), F.S., defines a “columbarium” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the inurnment of cremated remains.”

²¹ Section 872.02(4), F.S. Section 497.005(4), F.S., defines “belowground crypt” as consisting of “interment space in preplaced chambers, either side by side or multiple depth, covered by earth and sod.”

²² See ch. 98-268, L.O.F.

²³ *Id.* at s. 13.

²⁴ *Id.*

²⁵ *Final Report of Task Force on Abandoned and Neglected Cemeteries*, available at <https://www.coj.net/city-council/docs/brcemeteries-1999-statetaskforce-finalreport.aspx> (last visited February 21, 2020).

²⁶ *Id.* at p. 3.

- City and county representatives on the 1998 Task Force verified that neglected cemeteries create problems for citizens and local governments and burden governmental resources.
- Older neglected cemeteries may represent a loss of historic or archeological values.
- Legislation is needed to establish guidelines, definitions, methods of establishing care for neglected and abandoned cemeteries, which agencies will be responsible, the funding mechanism for such projects, as well as a permanent structure to continue the location, identification, protection, preservation, and care of such cemeteries.
- A grants-in-aid type program using matching funds would help ameliorate the problems created by abandoned and neglected cemeteries.
- Funding to address the problems and recommendations in the proposed legislation may be derived from: (1) a one-time appropriation by the legislature; (2) a fee on death certificates; (3) enabling legislation to permit cities and counties to include in their budgets funds for this purpose; and (4) the establishment of a nonprofit corporation within the Department of Banking and Finance to obtain donations.
- It is imperative to stop the proliferation of neglected and abandoned cemeteries.
- The legislature had already established in ch. 872, F.S., protection for all human burial sites and all human remains regardless of whether or not the site is abandoned.²⁷

The 1998 Task Force recommended that it be allowed to continue by either (i) “continu[ing] in its present form for a finite time” to more thoroughly examine the extent of the problems; or (ii) the nonprofit corporation suggested as part of proposed legislation “should continue these functions on a permanent basis.”²⁸ The 1998 Task Force also recommended to:

- Establish that local governments – combined with a statewide approach via the designated agency and nonprofit – are the best way to manage issues created by abandoned and neglected cemeteries.
- Establish that owners of unlicensed cemeteries have a duty to care for their cemeteries in such a manner as to avoid neglect.
- Proscribe abandonment and neglect of cemeteries.
- Establish that a copy of all burial transit permits be filed with the Clerk of Court in the county of burial.
- Establish an easement or right of entry to enter and inspect private cemeteries for officially designated persons other than the next of kin.
- Establish that unlicensed cemeteries be required to post a sign providing notice of the existence of a cemetery at the posted location.
- Prohibit the creation of new cemeteries except under the provisions of Part I of ch. 497, F.S., thereby insuring that a care and maintenance fund is established for each new cemetery.²⁹

The specific findings and recommendations of the 1998 Task Force have not been addressed by subsequent legislation.

²⁷ *Id.* at 7-8.

²⁸ *Id.* at 8.

²⁹ *Id.* at 8-9.

Zion Cemetery

Zion Cemetery, established in 1901, is believed to be Tampa's first cemetery for African-Americans with room for some 800 graves.³⁰ Zion Cemetery disappeared from public view and city maps by 1929.³¹ In 1951, the Tampa Housing Authority started construction on the Robles Park Apartments on land that includes part of the Zion Cemetery site, and construction crews found several unmarked graves and three caskets.³²

The Robles Park Village housing (still owned by the Tampa Housing Authority) and two other commercial businesses owned by two private sector individuals now stand on the land that once was the site of the African-American cemetery. Upon learning that the Zion Cemetery might still lie beneath at least a portion of its Robles Park Village Apartments, the Tampa Housing Authority organized a consultation committee and hired archaeologists to survey its property.³³ In late August 2019, archeologists used a ground-penetrating radar and discovered what they believe to be 126 caskets beneath the Tampa Housing Authority land.³⁴ As of January 2020, archaeologists have identified 314 graves in the 2.5 acre area of the Zion Cemetery: 144 under five buildings in the Robles Park Village; 55 under a wrecking company's tow lot; and 155 under warehouse property. More sites could be identified, as the ground-penetrating radar cannot detect every grave and cannot scan beneath buildings.³⁵

Other Rediscovered Abandoned Cemeteries in the Tampa Area

Due to the rediscovery of several abandoned cemeteries in the area, the Hillsborough County Commission is funding a forensic anthropologist at the University of South Florida to conduct deeper research into where other cemeteries may have been lost over time. The research will include review of historical records, maps, development records, and interviews with residents in the community. The nature of the difficulty with the search includes that some possible sites may be documented in less formal ways than official property records and may not have been evident on the landscape at the time.³⁶

³⁰ Paul Guzzo, *A community, not just Zion Cemetery, disappeared to build homes for whites*, TAMPA BAY TIMES, Nov. 4, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/11/04/a-community-not-just-zion-cemetery-disappeared-to-build-homes-for-whites/#talk-wrapper> (last visited February 21, 2020).

³¹ *Id.*

³² Paul Guzzo, *Key dates in the history of Tampa's forgotten Zion Cemetery*, TAMPA BAY TIMES, Jun. 19, 2019 (Updated Aug. 28, 2019), available at <https://www.tampabay.com/florida/2019/06/23/key-dates-in-the-history-of-tampas-forgotten-zion-cemetery> (last visited February 21, 2020).

³³ Paul Guzzo, *Richard Gonzmart believes no coffins will be found on his Zion Cemetery land*, TAMPA BAY TIMES, Sep. 24, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/09/24/richard-gonzmart-believes-no-coffins-will-be-found-on-his-zion-cemetery-land/> last visited February 21, 2020).

³⁴ *Id.*

³⁵ Paul Guzzo, *115 caskets found on Zion Cemetery land owned by Richard Gonzmart*, TAMPA BAY TIMES, Jan. 7, 2020 (updated Jan. 13, 2020), available at <https://www.tampabay.com/news/hillsborough/2020/01/07/115-caskets-found-on-zion-cemetery-land-owned-by-richard-gonzmart/> (last visited February 21, 2020).

³⁶ Emerald Morrow, *Hillsborough County gets serious about search for lost graves*, WTSP CHANNEL 10 NEWS, January 23, 2020, available at <https://www.wtsp.com/article/news/special-reports/erased/hillsborough-county-gets-serious-about-search-for-lost-graves/67-cc0cdc11-886f-4b05-93b8-c2b4aa6a280e>; and Lauren Rozyla, *USF researchers to help Hillsborough County search for forgotten gravesites*, WFTS TAMPA BAY, January 23, 2020, available at <https://www.abcactionnews.com/news/region-hillsborough/usf-researchers-to-help-hillsborough-county-search-for-forgotten-gravesites> (both sites last visited February 21, 2020).

Searches have recently begun on property within the MacDill Air Force Base for the Port Tampa Cemetery³⁷ and research on the existence and location of the Matri/Colón Cemetery is underway.³⁸

Ridgewood Cemetery

In October 2019, the Hillsborough County School District (HCSD) learned the old Ridgewood Cemetery might have been located at the southeast corner of the King High School campus, which is now occupied by a small building and open land used for the agricultural program.³⁹ Ridgewood was designated as a pauper's cemetery and at least 280 people – mostly African Americans – were interred between 1942 and 1954.⁴⁰

On October 28, the HCSD created an advisory committee, the Historical Response Committee, to determine how to handle the search for unmarked graves at King High School and what to do if they were found. The HCSD hired a geotechnical firm, Geoview, to conduct a survey on the south end of King High School campus using a ground-penetrating radar to look for any signs of the lost Richwood Cemetery on the campus.⁴¹ On November 20, 2019, the HCSD released the data of the ground-penetrating radar survey. The survey of the southern edge of the King High School campus showed evidence of burials, approximately 145 suspected graves. The scan performed on the northeast corner of the campus showed no evidence of burials or graves.⁴²

Historical records generally indicate that there were between 250 and 268 burials at Ridgewood Cemetery. Possible reasons why the radar survey only revealed a total of approximately 145 possible graves include:

- The radar may have more difficulty locating smaller coffins of infants and children.
- Some coffins may have decayed underground preventing detection by scan some 75 years later.
- Some graves may be under the agricultural workshop building.

³⁷ Stephanie Colombini, *Dogs Search For Lost African American Cemetery On MacDill Air Force Base*, WUSF PUBLIC MEDIA, February 18 2020, available at <https://wusfnews.wusf.usf.edu/post/dogs-search-lost-african-american-cemetery-macdill-air-force-base>; and Paul Guzzo, *Records show a black cemetery might lie beneath MacDill Air Force Base*, TAMPA BAY TIMES, Nov. 20, 2019, available at <https://www.tampabay.com/news/hillsborough/2020/01/07/115-caskets-found-on-zion-cemetery-land-owned-by-richard-gonzmart/> (both sites last visited February 21, 2020).

³⁸ Paul Guzzo, *It's called Dead Man's Field. Were bodies ever moved from West Tampa site?*, TAMPA BAY TIMES, Feb. 5, 2020, available at <https://www.tampabay.com/news/tampa/2020/02/05/its-called-deadmans-field-were-bodies-ever-moved-from-west-tampa-site/> (last visited February 21, 2020).

³⁹ Paul Guzzo, *Records show King High gym may have been built atop paupers cemetery*, TAMPA BAY TIMES, Oct. 22, 2019 (updated Oct. 23, 2019), available at <https://www.tampabay.com/news/education/2019/10/22/map-shows-king-high-gym-may-have-been-built-atop-paupers-cemetery> (last visited February 21, 2020).

⁴⁰ Lori Rozsa, *Lost lives, fresh heartache as a black cemetery is found buried under a high school*, WASHINGTON POST, November 24, 2019, available at https://www.washingtonpost.com/national/lost-lives-fresh-heartache-as-a-black-cemetery-is-found-buried-under-a-high-school/2019/11/24/5e755e4a-0ed4-11ea-bf62-eadd5d11f559_story.html (last visited February 21, 2020).

⁴¹ Jordan, Dave, *Forgotten Cemetery under King High School? District Awaits Answers*, SPECTRUM NEWS 9, Oct. 28, 2019, available at <https://www.baynews9.com/fl/tampa/news/2019/10/28/forgotten-cemetery-under-king-high-school--district-awaits-answers> (last visited February 21, 2020).

⁴² Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited February 21, 2020).

- Some graves may have been moved to another cemetery.
- Limitations of radar technology.⁴³

The November press release indicates that HCSD will deliver Geoview’s findings to the “county medical examiner and the state archeologist” with the expectation that they will take the thirty days to review the findings.⁴⁴ HCSD indicates that if possession of the land is “turned back over to the school district,” it will work with members of the Historical Response Committee to “discuss proper ways to memorialize the individuals, how best to care for the space and learning opportunities for students at King High School and other schools.”⁴⁵

Fort Brooke Estuary Cemetery

Archeologists, in September 2018, uncovered three grave shafts with human remains during the development of the 50-plus acre Water Street Tampa project. The grave shafts were believed to be of an old military burial ground from the Seminole War era, known as Estuary Cemetery.⁴⁶ The archeologists’ July 2019 report announced that the three grave shafts had human remains, but it did not identify the ancestry and indicated that work could resume on the development site. However, not much more is known about the findings or what may have been discovered due to it being a private site.

III. Effect of Proposed Changes:

Section 1 creates the Task Force on Abandoned African-American Cemeteries to study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased.

The task force is to be chaired by the Secretary of State, or his or her designee, and is composed of:

- A representative of the Bureau of Archaeological Research of the Division of Historical Resources, appointed by the Secretary of State;
- One person nominated by the President of the Florida State Conference of the National Association for the Advancement of Colored People and appointed by the Secretary of State;
- One representative of the Florida Council of Churches, nominated by the executive director of the council and appointed by the Secretary of State;
- One representative of the Florida African American Heritage Preservation Network, nominated by the executive director of the network and appointed by the Secretary of State;
- One representative of the Florida Public Archaeology Network, appointed by the Secretary of State;
- One representative of the cemetery industry, appointed by the Secretary of State;

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Paul Guzzo, *More lost cemeteries will be found, historians say*, TAMPA BAY TIMES, Oct. 28, 2019 (Updated Jan. 13, 2020), available at <https://www.tampabay.com/news/tampa/2019/10/28/more-lost-cemeteries-will-be-found-historians-say> (last visited February 21, 2020).

- One member of the Senate, appointed by the President of the Senate;
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives; and
- One elected official from a local government, appointed by the Secretary of State.

The task force is required to hold its first meeting by August 1, 2020, and meet as many times as it deems necessary to complete its duties. The task force is required to:

- Review the findings and recommendations made by the 1998 Task Force and any legislative or administrative action that was taken in response to the task force's findings and recommendations;
- Examine the adequacy of current practices regarding the preservation of unmarked and abandoned African-American cemeteries and burial grounds and identify any challenges unique to African-American cemeteries and burial grounds;
- Identify locations of unmarked and abandoned African-American cemeteries and burial grounds throughout the state and propose strategies, including any proposed legislation, for the preservation and evaluation of such sites; and
- Make recommendations regarding standards for the creation, placement, and maintenance of memorials at any identified locations of unmarked and abandoned African-American cemetery or burial ground throughout the state.

The task force is required to submit a report by March 1, 2021, detailing its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

This section expires on July 1, 2021.

Section 2 requires the DOS, upon receiving consent of the property owners at the former Zion Cemetery site in Tampa, to partner with the University of South Florida (USF), the Florida Agricultural and Mechanical University (FAMU), and the Zion Cemetery Archaeological Committee formed under the auspices of the Tampa Housing Authority to continue an investigation to determine how many graves remain at the site. Any historical resource, record, archive, artifact, public research, or medical record recovered through the course of the investigation by USF or FAMU shall remain in the custody of either university for archiving and preservation until the DOS requests custody of such resource, record, archive, artifact, public research, or medical record.

This section requires the DOS is to contract with USF and FAMU for the identification and location of eligible next of kin of those buried at the site.

By January 1, 2021, the universities must provide the DOS with a list of possible descendants of those buried at the site and, to the extent possible, their contact information. For any identification of next of kin occurring on or after January 1, 2021, the universities must provide contact information of the next of kin to the DOS.

Section 3 provides that the Division of Historical Resources (Division) of the DOS must ensure that any abandoned African-American cemetery identified by the task force is listed on the Florida Master Site File. Upon such a cemetery's listing in the Florida Master Site, the division is required to – in lieu of the normal application process – seek placement of an Official Florida Historical Marker at a site with approval of the property owner. The bill permits a person or organization affiliated with an abandoned cemetery to assist the division in researching the history of such a site in the preparation of a historical marker's creation and placement. The costs for the creation and placement of a historical marker are to be borne by the division.

Section 4 requires the DOS, subject to appropriation, to create, place, and maintain a memorial at the site of the former Zion Cemetery in Tampa and at the site of the former Ridgewood Cemetery at C. Leon High School in Tampa.

Section 5 provides that the bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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:**Task Force**

Because the bill is silent as to compensation and travel expense, s. 20.052(4)(d), F.S., governs and the task force members will not be entitled to additional compensation but are authorized to receive per diem and reimbursement for travel expenses as provided in s. 112.061, F.S. These costs will be borne by the DOS as the appointing authority of the task force members.

The DOS will incur an indeterminate amount of administrative expenses as the agency providing administrative and technical support for the task force.

Cemeteries – Memorials and Placement of Florida Historical Markers

SB 2500, the Senate General Appropriations Bill, includes specific appropriations for the memorials at the Zion Cemetery and the Ridgewood Cemetery of \$50,000 of nonrecurring funds from the General Revenue Fund for each memorial.⁴⁷

The DOS will incur costs each time it is required to place an Official Florida Historical Marker at a site of a cemetery identified by the task force. Currently, the cost of a Florida Historical Marker is determined by the amount of text. For a marker with the same text on both sides of the marker, the cost is \$2,010. For a double-sided marker with different text appearing on both sides of the marker, the cost is \$2,330.⁴⁸

USF, FAMU, and the Zion Cemetery Archaeological Committee may incur an indeterminate amount of administrative expenses in partnering with the DOS to determine how many graves remain at the site of the former Zion Cemetery and the identification and location of decedents.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Based on the statements made in the HCSD November press release regarding notification to the medical examiner and state archeologist and the possible return of jurisdiction of the property to HCSD, it appears HCSD is treating the burials found on the King High School campus as “unmarked human burials” pursuant to s. 872.05, F.S. The term “unmarked human burial” is defined to mean:

⁴⁷ Specific Appropriation 3153A, proviso (*Fighting for the Forgotten: Zion Cemetery Memorial – Tampa (Senate Form 2574)* and *Fighting for the Forgotten: Ridgewood Cemetery Memorial – Tampa (Senate Form 2576)*), s. 6, SB 2500 (2020).

⁴⁸ See DOS, Division of Historical Resources, *Historical Markers FAQ*, available at <https://dos.myflorida.com/historical/about/division-faqs/marker/> (last visited February 21, 2020).

...any human skeletal remains or associated burial artifacts or any location, including any burial mound or earthen or shell monument, where human skeletal remains or associated burial artifacts are discovered or believed to exist on the basis of archaeological or historical evidence, excluding any burial marked or previously marked by a tomb, monument, gravestone, or other structure or thing placed or designed as a memorial of the dead.⁴⁹

When an unmarked human burial is discovered – other than during an authorized archaeological excavation⁵⁰ – all disturbing activity of the burial must cease and the district medical examiner must be notified. Activity may not resume until authorized by the district medical examiner or the State Archaeologist.⁵¹ If the district medical examiner determines the unmarked human burial “may be involved in a legal investigation or represents the burial of an individual who has been dead less than 75 years,” he or she must “assume jurisdiction over and responsibility for the location of the burials.”⁵² The examiner is given 30 days after notification of the burial to determine whether he or she will maintain jurisdiction or refer the matter to the State Archaeologist.⁵³

If the district medical examiner finds the human burial is “not involved in a legal investigation and represents the burial of an individual who has been dead 75 years or more,” he or she must notify the State Archaeologist, and the Division of Historical Resources of the Department of State may assume jurisdiction over and responsibility for the burial.⁵⁴

The division is authorized to assume jurisdiction over and responsibility for an unmarked human burial in order to initiate efforts for the proper protection of the burial and the human remains and associated burial artifacts.⁵⁵ Upon assuming jurisdiction, the State Archaeologist must determine whether the burial is historically, archaeologically, or scientifically significant. If it is deemed to be significant, reinterment may not occur until the remains have been examined by a human skeletal analyst designated by the State Archaeologist.⁵⁶ Additionally, the State Archaeologist must make reasonable efforts to identify and locate a person who can establish kinship, tribal, community, or ethnic relationships with the remains that constitute the burial.⁵⁷ If unable to establish such relationships, he or she shall consult with persons with relevant experience.⁵⁸

⁴⁹ Section 872.05(2)(f), F.S.

⁵⁰ Section 872.05(5), F.S., provides for a similar process if an unmarked human burial is discovered during an authorized archeological excavation.

⁵¹ Section 872.05(4), F.S.

⁵² Section 872.05(4)(a), F.S.

⁵³ *Id.*

⁵⁴ Section 872.05(4)(c), F.S.

⁵⁵ Section 872.05(6), F.S.

⁵⁶ Section 872.05(6)(a), F.S.

⁵⁷ Section 872.05(6)(b), F.S.

⁵⁸ Section 872.05(6)(c), F.S.

The November press release states that HCSD provided notice to the medical examiner and State Archeologist on the same day as the release – November 21, 2019.⁵⁹ Thus, the medical examiner had 30 days (until December 23, 2019) to make a determination regarding jurisdiction and referral to the State Archeologist.⁶⁰ On December 20, 2019, the Hillsborough County Medical Examiner turned the matter over to the State Archeologist.⁶¹

VIII. Statutes Affected:

This bill does not amend 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/CS by Appropriations on March 3, 2020:

The committee substitute:

- Increases the number of members of the task force from seven to ten.
- Requires the task force to make recommendations for standards for the creation, placement, and maintenance of a memorial at any identified locations of unmarked and abandoned African-American cemetery or burial ground throughout the state, instead of for memorials at specific locations.
- Removes the \$50,000 appropriation for the former Zion Cemetery in Tampa and \$50,000 appropriation for the former Ridgewood Cemetery at C. Leon King High School in Tampa, and instead requires the DOS to create such memorials subject to specific appropriation.

CS by Governmental Oversight and Accountability on December 9, 2019:

The committee substitute:

- Provides that the task force make a recommendation on the creation, placement, and maintenance of a memorial at the site of the former Ridgewood Cemetery in Tampa.
- Eliminates any reference to exhumation of remains.
- Requires the DOS to partner with FAMU and Zion Cemetery Archaeological Committee as well as USF to determine the number of graves that remain at the site.
- Requires any historical resource recovered by USF or FAMU must remain in the custody of either university until DOS takes custody.
- Requires DOS to contract with USF and FAMU for the identification and location of eligible next of kin.
- Requires the DOS to list in the Florida Master Site File any abandoned African-American Cemeteries identified by the task force. Upon such listing, the DOS must

⁵⁹ Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited February 21, 2020).

⁶⁰ Section 872.05(4)(a), F.S.

⁶¹ Hillsborough County, *Hillsborough County Medical Examiner Refers Ridgewood Cemetery Conclusions to State Archaeologist*, Dec. 20, 2019, available at <https://www.hillsboroughcounty.org/en/media-center/press-releases/2019/12/20/medical-examiner-refers-ridgewood-cemetery-conclusions-to-state-archaeologist> (last visited February 21, 2020).

seek placement of an Official Florida Historical Marker at a site with the costs of the historical marker's creation and placement being borne by DOS.

- Appropriates \$100,000, with \$50,000 allocated for a memorial at the site of the former Zion Cemetery and \$50,000 allocated for a memorial at the site of the former Ridgewood Cemetery.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability;
and Senators Cruz, Gibson, and Rouson

585-02004-20

2020220c1

1 A bill to be entitled
2 An act relating to abandoned cemeteries; creating the
3 Task Force on Abandoned African-American Cemeteries;
4 specifying the purpose of the task force; requiring
5 the Department of State to provide administrative and
6 staff support; specifying the composition of the task
7 force; providing meeting requirements; prescribing
8 duties of the task force; requiring the task force to
9 submit a report to the Governor and the Legislature by
10 a specified date; providing for expiration of the task
11 force; requiring the department to partner with
12 specified entities to undertake an investigation of
13 the former Zion Cemetery site; specifying custody of
14 certain historical resources, records, archives,
15 artifacts, research, and medical records; requiring
16 the department to contract with the University of
17 South Florida and the Florida Agricultural and
18 Mechanical University for the identification and
19 location of eligible next of kin; requiring the
20 universities to provide certain information regarding
21 descendants to the department by a specified date;
22 directing the Division of Historical Resources of the
23 department to ensure the listing of certain cemeteries
24 in the Florida Master Site File; requiring the
25 division to seek placement of historical markers at
26 certain abandoned cemeteries, subject to certain
27 limitations; authorizing certain persons and
28 organizations to assist the division in researching
29 the history of such cemeteries; specifying that costs

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30 associated with the creation and placement of such
31 historical markers be borne by the division; providing
32 appropriations; providing an effective date.
33

34 WHEREAS, until the conclusion of the Civil War, millions of
35 African Americans in the United States, including Florida, were
36 enslaved, and

37 WHEREAS, following the end of slavery, African Americans
38 continued to be subject to various discriminatory practices,
39 including restrictions on burying the dead which resulted in
40 segregated cemeteries and burial grounds, and

41 WHEREAS, unlike predominantly white cemeteries and burial
42 grounds, African-American cemeteries and burial grounds were not
43 subject to regulations and recordkeeping necessary to protect
44 the dignity of the deceased, and

45 WHEREAS, as a result, many abandoned African-American
46 cemeteries and burial grounds have been inadvertently discovered
47 following years of disrepair and neglect when land is being
48 redeveloped or has been sold, and

49 WHEREAS, to this day, abandoned African-American cemeteries
50 throughout this state continue to be uncovered, as evidenced by
51 recent reports regarding the former Zion Cemetery site in the
52 Tampa Heights neighborhood and the former Ridgewood Cemetery on
53 the grounds of C. Leon King High School, both in the City of
54 Tampa, and

55 WHEREAS, the State of Florida recognizes its obligation to
56 identify and properly record abandoned African-American
57 cemeteries and burial grounds in order to preserve history,
58 better inform development decisions, and ensure dignity and

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59 respect for the deceased, NOW, THEREFORE,

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. (1) The Task Force on Abandoned African-American
64 Cemeteries, a task force as defined in s. 20.03(8), Florida
65 Statutes, is created adjunct to the Department of State for the
66 express purpose of studying the extent to which unmarked or
67 abandoned African-American cemeteries and burial grounds exist
68 throughout the state and developing and recommending strategies
69 for identifying and recording cemeteries and burial grounds
70 while also preserving local history and ensuring dignity and
71 respect for the deceased. Except as otherwise provided in this
72 section, the task force shall operate in a manner consistent
73 with s. 20.052, Florida Statutes. The department shall provide
74 administrative and staff support relating to the functions of
75 the task force.

76 (2) The task force is composed of the following members:

77 (a) The Secretary of State, or his or her designee, who
78 shall serve as chair.

79 (b) A representative of the Bureau of Archaeological
80 Research of the Division of Historical Resources, appointed by
81 the Secretary of State.

82 (c) One person nominated by the President of the Florida
83 State Conference of the National Association for the Advancement
84 of Colored People and appointed by the Secretary of State.

85 (d) One representative of the Florida Council of Churches,
86 nominated by the executive director of the council and appointed
87 by the Secretary of State.

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88 (e) One representative of the Florida African American
89 Heritage Preservation Network, nominated by the executive
90 director of the network and appointed by the Secretary of State.

91 (f) One representative of the Florida Public Archaeology
92 Network, appointed by the Secretary of State.

93 (g) One representative of the cemetery industry, appointed
94 by the Secretary of State.

95 (3) The task force shall hold its first meeting by August
96 1, 2020. The task force may meet as many times as it deems
97 necessary to complete the duties prescribed in this section.

98 (4) The task force shall:

99 (a) Review the findings and recommendations made by the
100 Task Force on Abandoned and Neglected Cemeteries created
101 pursuant to chapter 98-268, Laws of Florida, and any legislative
102 or administrative action that was taken in response to the task
103 force's findings and recommendations.

104 (b) Examine the adequacy of current practices regarding the
105 preservation of unmarked and abandoned African-American
106 cemeteries and burial grounds and identify any challenges unique
107 to African-American cemeteries and burial grounds.

108 (c) Identify locations of unmarked and abandoned African-
109 American cemeteries and burial grounds throughout the state and
110 propose strategies, including any proposed legislation, for the
111 preservation and evaluation of such sites.

112 (d) Make recommendations regarding the creation, placement,
113 and maintenance of a memorial at the sites of the former Zion
114 Cemetery and the former Ridgewood Cemetery in Tampa.

115 (5) By March 1, 2021, the task force shall submit a report
116 detailing its findings and recommendations to the Governor, the

Page 4 of 6

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

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117 President of the Senate, the Speaker of the House of
 118 Representatives, the Minority Leader of the Senate, and the
 119 Minority Leader of the House of Representatives.

120 (6) This section expires July 1, 2021.

121 Section 2. (1) (a) Upon receiving consent of the property
 122 owners at the former Zion Cemetery site in Tampa, the Department
 123 of State shall partner with the University of South Florida, the
 124 Florida Agricultural and Mechanical University, and the Zion
 125 Cemetery Archaeological Committee formed under the auspices of
 126 the Tampa Housing Authority, to continue an investigation to
 127 determine how many graves remain at the site.

128 (b) Any historical resource, record, archive, artifact,
 129 public research, or medical record that is recovered through the
 130 course of the investigation by the University of South Florida
 131 or the Florida Agricultural and Mechanical University shall
 132 remain in the custody of either university for archiving and
 133 preservation until the Department of State requests custody of
 134 such resource, record, archive, artifact, public research, or
 135 medical record.

136 (2) (a) The Department of State shall contract with the
 137 University of South Florida and the Florida Agricultural and
 138 Mechanical University for the identification and location of
 139 eligible next of kin of those buried at the site.

140 (b) No later than January 1, 2021, the universities shall
 141 provide the Department of State with a list of possible
 142 descendants of those buried at the site and, to the extent
 143 possible, their contact information.

144 (c) For any identification of next of kin occurring on or
 145 after January 1, 2021, the universities must provide contact

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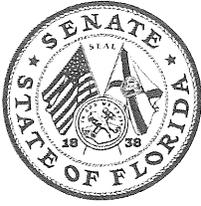
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146 information of the next of kin to the Department of State.

147 Section 3. The Division of Historical Resources of the
 148 Department of State shall ensure that any abandoned African-
 149 American cemetery identified by the Task Force on Abandoned
 150 African-American Cemeteries is listed in the Florida Master Site
 151 File. Upon such a cemetery's listing in the Florida Master Site
 152 File and in lieu of the normal application process for
 153 historical markers, the division must seek placement of an
 154 Official Florida Historical Marker at a site so long as the
 155 approval of the owner of the property where the marker will be
 156 placed has been obtained. A person or an organization affiliated
 157 with an abandoned cemetery may assist the division in
 158 researching the history of such a site in the preparation of a
 159 historical marker's creation and placement. The costs for the
 160 creation and placement of a historical marker authorized
 161 pursuant to this section shall be borne by the division.

162 Section 4. For the 2020-2021 fiscal year, the sum of
 163 \$100,000 in nonrecurring funds is appropriated from the General
 164 Revenue Fund to the Department of State for the purpose of
 165 implementing this act. Of such sum, \$50,000 shall be allocated
 166 for the creation, placement, and maintenance of a memorial at
 167 the site of the former Zion Cemetery in Tampa, and \$50,000 shall
 168 be allocated for the creation, placement, and maintenance of a
 169 memorial at the site of the former Ridgewood Cemetery at C. Leon
 170 King High School in Tampa.

171 Section 5. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

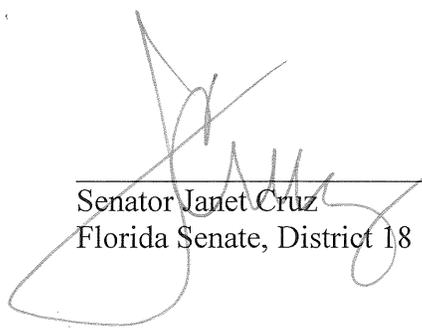
To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2020

I respectfully request that **Senate Bill #220**, relating to Abandoned Cemeteries, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda, if received.



Senator Janet Cruz
Florida Senate, District 18

Thank you!

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 Appropriations

BILL: PCS/CS/SB 402 (831164)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Harrell

SUBJECT: Assisted Living Facilities

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Looke</u> | <u>Brown</u> | <u>HP</u> | <u>Fav/CS</u> |
| 2. | <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 402 amends various statutes related to the regulation of an assisted living facility (ALF). The bill:

- Allows the use of certain physical restraints in ALFs, including any device the resident chooses to use and is able to remove or avoid independently.
- Requires ALFs to submit a preliminary adverse incident report and final report through the Agency for Health Care Administration's (AHCA) online portal, or by electronic mail if the portal is offline.
- Revises adverse incident reporting notifications for the AHCA and requirements for ALFs.
- Authorizes unlicensed ALF staff to change the bandages of residents for minor cuts and abrasions.
- Authorizes a resident or his or her representative, designee, surrogate, guardian, or attorney, as applicable, to contract for services with a third party and provides requirements for third-party communication with the facility and requires an ALF to document that it received such communication.
- Removes the requirement for ALF staff assisting with the self-administration of medication to read the label of the medication to the resident. Instead, the bill requires staff to, in the presence of the resident, confirm the medication is correct and advise the resident of the medication name and dosage. The bill also allows the resident to sign a waiver to opt-out of being orally advised and provides the waiver that must be immediately updated each time the resident's medications and dosage change.

- Allows ALFs to admit residents that require 24-hour nursing care, residents that are receiving hospice services, or residents who are bedridden that meet specific criteria.
- Clarifies the requirements for a resident to be admitted to and retained in an ALF.
- Requires each resident to have a medical examination performed no longer than 60 days prior to or up to 30 days after admission to the ALF and requires the AHCA to adopt a form in rule that may be used by the health care practitioner performing the medical examination.
- Amends the Resident Bill of Rights to allow the State Long-Term Care Ombudsman Program to provide assistance to a resident who needs to be relocated due to the closure of a facility.
- Requires an ALF to notify a resident's representative or designee of the need for health care services and assist in making appointments if an underlying condition of dementia or cognitive impairment is determined to exist. If the resident does not have a representative or designee or the ALF cannot reach their representative or designee, the ALF must arrange for the necessary care and services to treat the condition with an appropriate health care provider.
- Amends the AHCA's rulemaking authority to account for technological advances in the provision of care, safety, and security.
- Clarifies who may approve an ALF's comprehensive emergency management plan and allows an ALF to submit the plan up to 30 days after receiving a license.
- Requires the AHCA to conduct a full inspection instead of an abbreviated biennial licensure inspection to review the key quality-of-care standards for a facility that has a class I, class II, or uncorrected class III violation resulting from a complaint referred by the State Long-Term Care Ombudsman Program.
- Consolidates provisions related to firesafety into its own section of law rather than being intermingled with the AHCA's rulemaking authority.
- Amends several provisions related to the ALF administrator core competency curriculum and examination to clarify that the AHCA must adopt an outline and learning objectives for such curriculum.

The bill does not have a fiscal impact on state revenues or expenditures.

The bill takes effect July 1, 2020.

II. Present Situation:

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.¹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.³

¹ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

² Section 429.02(17), F.S.

³ Section 429.02(1), F.S.

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁴ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.⁵ If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.⁶

There are 3,069 licensed ALFs in Florida having a total of 107,144 beds.⁷ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow an ALF to provide additional care. These specialty licenses include limited nursing services,⁸ limited mental health,⁹ and extended congregate care.¹⁰

ALF Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established in rule by the AHCA,¹¹ that are intended to assist ALFs in appropriately responding to the needs of residents, maintaining resident care and facility standards, and meeting licensure requirements.¹²

The current ALF core training requirements established by the AHCA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within three months after becoming an ALF administrator or manager. The minimum passing score for the competency test is 75 percent.¹³

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every two years.¹⁴ A newly-hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager, who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.¹⁵

⁴ See Rule 59A-36.007, F.A.C., for specific minimum standards.

⁵ Section 429.26, F.S., and Rule 59A-36.006, F.A.C.

⁶ Section 429.28, F.S.

⁷ Agency for Health Care Administration, Health Care Finder. See

<http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited October 30, 2019).

⁸ Section 429.07(3)(c), F.S.

⁹ Section 429.075, F.S.

¹⁰ Section 429.07(3)(b), F.S.

¹¹ Rule 59A-36.011, F.A.C.

¹² Section 429.52(1), F.S.

¹³ Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.

¹⁴ Rule 59A-36.011, F.A.C.

¹⁵ *Id.*

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for six hours of in-service training for facility staff who provide direct care to residents.¹⁶ Staff training requirements must generally be met within 30 days after staff begin employment at the facility; however, staff must have at least one hour of infection control training before providing direct care to residents. Nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard six hours of in-service training, staff must complete one hour of elopement training and one hour of training on “do not resuscitate” orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer’s disease, if applicable.

Inspections and Surveys

The AHCA is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license;
- Prior to biennial renewal of a license;
- When there is a change of ownership;
- To monitor ALFs licensed to provide limited nursing services or extended congregate care services;
- To monitor ALFs cited in the previous year for a class I or class II violation or for four or more uncorrected class III violations;
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;
- If the AHCA has reason to believe an ALF is violating a provision of part III of ch. 429, F.S., relating to adult day care centers or an administrative rule;
- To determine if cited deficiencies have been corrected; or
- To determine if an ALF is operating without a license.¹⁷

An applicant for licensure renewal is eligible for an abbreviated biennial survey by the AHCA if the applicant does not have any:

- Class I, class II, or uncorrected class III violations;
- Confirmed complaints from the long-term care ombudsman council¹⁸ which were reported to the AHCA by the council; or
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.¹⁹

¹⁶ *Id.*

¹⁷ Section 429.34, F.S.

¹⁸ Florida’s Long-Term Care Ombudsman Program was founded in 1975 as a result of the federal Older Americans Act, which grants a special set of residents’ rights to individuals who live in long-term care facilities such as nursing homes, assisted living facilities and adult family care homes. Volunteer ombudsmen seek to ensure the health, safety, welfare and rights of these residents throughout Florida. See <http://ombudsman.myflorida.com/AboutUs.php> (last visited on October 30, 2019).

¹⁹ Rule 59A-36.023, F.A.C.

III. Effect of Proposed Changes:

The bill amends various sections in ch. 429, F.S., related to the regulation of ALFs. In addition to technical and conforming changes:

Section 1 amends s. 429.02, F.S., to define “assistive device” to mean any device designed or adapted to help a resident perform an action, a task, an activity of daily living, or a transfer; prevent a fall; or recover from a fall. The term does not include a total body lift or a motorized sit-to-stand lift, with the exception of a chair lift or recliner lift that a resident is able to operate independently. Additionally, the bill amends the definition of “extended congregate care” to make conforming and technical changes and “physical restraint” to eliminate specific examples of what qualifies as a physical restraint and to specify that a device the resident chooses to use and is able to remove does not qualify as a physical restraint.

Section 2 amends s. 429.07, F.S., to specify that required written progress reports maintained on the services offered by extended congregate care and limited nursing services must cover only those services offered by the ALF, not those offered by third parties.

Section 3 amends s. 429.11, F.S., to specify that a county or municipality may not issue a business tax receipt, rather than an occupational license, to an ALF without first determining that the ALF is licensed by the AHCA. This is a technical change in terminology.

Section 4 amends s. 429.176, F.S., to specify that when an ALF changes administrators, the owner of the ALF must provide the AHCA with documentation that the new administrator meets educational requirements (in addition to core training requirements that are already required) within 90 days of the change.

Section 5 amends s. 429.23, F.S., to require ALFs to submit the adverse incident preliminary report and final report through AHCA’s online portal, or by electronic mail if the portal is offline, instead of by facsimile or United States Mail. The bill also adds language to prevent an ALF from being fined for failing to submit a final report until three days after AHCA notifies the ALF that the final report is due if the incident is determined to, in fact, not be an adverse incident. The bill also eliminates the requirement that each ALF file a monthly report with the AHCA that includes any liability claim filed against it.

Section 6 amends s. 429.255, F.S., to authorize unlicensed ALF staff to change the bandages of residents for minor cuts and abrasions. The bill also authorizes a resident or his or her representative, designee, surrogate, guardian, or attorney, as applicable, to contract for services with a third party, provided the resident meets the criteria for residency and continued residency. The third-party is required to communicate with the facility regarding the resident’s condition and the services being provided in accordance with the facility’s policies. The ALF is required to document that it received such communication.

Section 7 amends s. 429.256, F.S., to include transdermal patches in the list of medications that unlicensed ALF staff may assist a resident in self-administering. The bill also clarifies that assistance with the self-administration of medication includes:

- A staff member confirming that the medication is intended for the resident and orally advising the resident of the medication's name and dosage.²⁰ The resident may sign a written waiver to opt-out of being orally advised the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of the medications, and must immediately be updated each time the resident's medications or dosages change; and
- A staff member assisting with the self-administration of a medication that is prescribed "as needed" if the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.²¹

Section 8 amends s. 429.26, F.S., to require that each resident receive a medical examination by a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse within 60 days before admission to the facility or within 30 days after admission to the facility. The practitioner performing the examination must fill out and sign a form that reflects the resident's condition on the date the examination is performed. The bill specifies that the medical examination form required for admittance to an ALF does not guarantee admission to, continued residency in, or the delivery of services at the facility and must be used only as an informative tool to assist in the determination of the appropriateness of the resident's admission or continued residency. The form used may be the practitioner's own form or a form adopted by the AHCA in rule, both of which must include the following information on the resident:

- Height, weight, and known allergies.
- Significant medical history and diagnoses.
- Physical or sensory limitations, including the need for fall precautions or recommended use of assistive devices.
- Cognitive or behavioral status and a brief description of any behavioral issues known or ascertained by the examining practitioner, including any known history of wandering or elopement.
- Nursing, treatment, or therapy service requirements.
- Whether assistance is needed for ambulating, eating, or transferring.
- Special dietary instructions.
- Whether the resident has any communicable diseases, including necessary precautions that are necessary due to such diseases.
- Whether the resident is bedridden and the presence of any pressure sores.
- Whether the resident needs 24-hour nursing supervision or psychiatric care.
- A list of current prescribed medications as known or ascertained by the examining practitioner and whether the resident can self-administer medications, needs assistance, or needs medication administration.

The bill establishes criteria that for a resident's appropriateness for admission or continued residency, including:

- A facility may admit or retain a resident who receives a health care service or treatment that is designed to be provided within a private residential setting if all requirements for providing that service or treatment are met by the facility or a third party.

²⁰ Current law requires the staff member read the label on the medication. It is unclear whether the label must be read to the resident, however.

²¹ Current law requires the resident to be competent.

- A facility may admit or retain a resident who requires the use of assistive devices.²²
- A facility may admit or retain an individual receiving hospice services if the arrangement is agreed to by the facility and the resident, additional care is provided by a licensed hospice, and the resident is under the care of a physician who agrees that the physical needs of the resident can be met at the facility. The resident must have a plan of care that delineates how the facility and the hospice will meet the scheduled and unscheduled needs of the resident, including, if applicable, staffing for nursing care.
- A facility may not retain a resident who requires 24-hour nursing supervision, except for a resident who is enrolled in hospice services pursuant to part IV of chapter 400.
- A facility may not admit or retain a resident who is bedridden²³ except that:
 - A bedridden resident may be admitted or retained if he or she is receiving hospice services if the arrangement is agreed to by the facility and the resident, additional care is provided by a licensed hospice, and the resident is under the care of a physician who agrees that the physical needs of the resident can be met at the facility.
 - A facility may retain a bedridden resident if the resident is bedridden for no more than seven days or up to 14 days if the facility is licensed to provide extended congregate care.

Additionally, the bill amends the requirement that an ALF must arrange for the necessary care and services to treat a resident who has developed dementia or cognitive impairment to instead require the ALF to notify the resident's designee or representative of the need for such health care services and to assist in making appointments for the resident. If the resident's designee or representative cannot be located or is unresponsive, the ALF retains the requirement to arrange the necessary care for the resident.

Section 9 amends s. 429.28, F.S., to require that a document stating the reasons for relocation of a resident be provided to the resident or the resident's representative; and to clarify the AHCA rulemaking and inspection authority required by the resident's bill of rights.

Section 10 amends s. 429.31, F.S., to provide relocation assistance to a resident of an ALF whose residency is being terminated due to closure of the facility. Specifically, the bill requires the notice of relocation or termination to state that the resident may contact the State Long-Term Care Ombudsman Program for assistance with relocation and must include the statewide toll-free telephone number of the program. The bill requires an ALF to notify the AHCA of its plans to discontinue facility operation. Further, the bill requires the AHCA, upon receiving notice of a facility's voluntary or involuntary termination, to immediately inform the State Long-Term Care Ombudsman Program so they can provide assistance with relocation to the resident.

Section 11 amends s. 429.41, F.S., to:

- Clarify that the AHCA may account for technological advances in the provision of care, safety, and security, including the use of devices, equipment, and other security measures related to wander management, emergency response, staff risk management, and the general safety and security of residents, staff, and the facility in its rules.

²² The term "assistive devices" is defined in section 1 of the bill.

²³ The bill defines "bedridden" as a resident who is confined to a bed because of the inability to: move, turn, or reposition without total physical assistance; transfer to a chair or wheelchair without total physical assistance; or sit safely in a chair or wheelchair without personal assistance or a physical restraint.

- Remove language regarding firesafety standards that are being placed in new section 429.435, F.S. (See section 12 of the bill).
- Clarify that rule requirements for maintenance and sanitary conditions include furnishings for resident bedrooms or sleeping areas, locking devices and linens, but do not include requirements that are duplicative of those in ch. 553, or ss. 381.006, 381.0072, and 633.206, F.S. The bill also requires that the rules clearly delineate the respective responsibilities of the AHCA's licensure and survey staff and the county health departments to ensure that inspections are not duplicative and allows the AHCA to collect fees²⁴ for food service inspections conducted by the county health department and transfer such fees to the Department of Health.
- Remove the requirement that comprehensive emergency management plans be made available for review by appropriate volunteer organizations and require that an ALF submit its plan to the county emergency management agency within 30 days after being issued a license rather than requiring the plan to be approved prior to the issuance of the license.
- Allow the use of physical restraints (as defined in section 1 of the bill) other than Posey restraints²⁵ in accordance with the AHCA rules. Such rules must specify requirements for care planning, staff monitoring, and periodic review by a physician.
- Require the establishment of specific ALF elopement drill requirements, in addition to elopement policies and procedures on resident elopement, and require administrators and direct care staff to review elopement procedures to address resident elopement as part of the elopement drill.
- Allow the AHCA to use an abbreviated survey for an ALF that has had a confirmed ombudsman council complaint or licensure complaint unless such complaint results in a class I, II, or uncorrected class III violation.
- Require the AHCA to adopt key quality-of-care standards in rule and eliminate the requirement to incorporate input from the state long-term care ombudsman council and representatives of provider groups.

Section 12 creates s. 429.435, F.S., to consolidate requirements relating to uniform fire safety standards for ALFs into the new section. The requirements of this section are transposed from s. 429.41, F.S.

Section 13 amends s. 429.52, F.S., to require the AHCA, in conjunction with ALF providers, to develop core training requirements for administrators consisting of core training learning objectives. The bill also requires the AHCA to adopt a curriculum outline that includes the learning objectives.

The bill requires staff assisting with the self-administration of medication to complete six additional hours of training before providing such assistance and two hours of continuing education annually thereafter. The bill also specifies that topics covered in the preservice orientation for ALF staff are not required to be covered again in staff in-service training and that all required in-service training may be completed in a single course.

²⁴ The quarterly fee of \$300 is established in current law under s. 381.0072, F.S.

²⁵ Posey restraints are a generic term for a restraint that restricts a patient's free movement while the patient is in bed.

Additionally the bill requires the AHCA to establish core trainer registration and removal requirements.

Section 14 establishes an effective date of July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.02, 429.07, 429.11, 429.176, 429.23, 429.255, 429.256, 429.26, 429.28, 429.31, 429.41, and 429.52.

This bill creates section 429.435 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.)

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 18, 2020:

The committee substitute:

- Removes the definitions of “abuse”, “exploitation”, and “neglect”.
- Amends the definition of “extended congregate care” to make conforming and technical changes.
- Clarifies that a facility that is licensed to provide extended congregate care services must maintain a written progress report on each person who receives nursing services from the facility’s staff. Previously, the bill did not specify nursing services.
- Removes the provision from the definition of “adverse incident” to only include events associated with the ALF’s intervention rather than the resident’s underlying disease or condition.
- Revises adverse incident reporting notifications for the AHCA and requirements for ALFs.
- Authorizes unlicensed ALF staff to change the bandages of residents for minor cuts and abrasions.
- Provides for a resident a resident or his or her representative, designee, surrogate, guardian, or attorney, as applicable, to contract for services with a third party. The third-party is required to communicate with the facility regarding the resident’s condition and the services. The ALF is required to document that it received such communication.
- Clarifies that residents who receive assistance with the self-administration of medication must be orally advised of the medication’s name and dosage and allows a resident to sign a waiver to opt-out of being orally advised. The waiver must include specified information and immediately be updated each time the resident’s medications or dosages change.
- Clarifies the medical examination form must (formerly may) be used only as an informative tool to determine the appropriateness of the resident’s admission to or continued residency on the facility.
- Amends the Resident Bill of Rights to allow the State Long-Term Care Ombudsman Program to provide assistance to a resident who needs to be relocated due to the closure of a facility.
- Removes the prohibition against geriatric chairs as an allowable use of physical restraints.
- Makes technical and conforming changes.

CS by Health Policy on November 5, 2019:

The CS:

- Amends the definition of “neglect” to include the failure to prevent sexual abuse.
- Maintains current law requiring an ALF to submit a preliminary adverse incident report to the AHCA within one business day of the incident occurring.
- Prevents AHCA from fining an ALF for not filing a full adverse incident report until three days after the AHCA provides the ALF with a reminder that the report is due.
- Specifies that the medical examination required for admittance to an ALF is not a guarantee of admission, continued residency, or services to be delivered and that the medical examination is to be used as an informative tool to assist in the determination of the appropriateness of the resident’s admission or continued residency.
- Specifies that an ALF must still arrange the necessary care and services to treat a resident with dementia or other similar condition if the ALF cannot locate the resident’s representative or he or she is not responsive.
- Specifies ss. 381.006 and 381.0072, F.S., in requiring that ALF rules not conflict with or duplicate provisions in the specified sections. Currently, the bill specifies the entire chapter of law.
- Maintains current law authority for AHCA to adopt rules over elopement policies and procedures.
- Specifies that the six hours of training necessary to provide assistance with medication is in addition to other required training.

B. Amendments:

None.



831164

576-03911-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to assisted living facilities;
amending s. 429.02, F.S.; defining and revising terms;
amending s. 429.07, F.S.; requiring assisted living
facilities that provide certain services to maintain a
written progress report on each person receiving
services from the facility's staff; conforming a
cross-reference; amending s. 429.11, F.S.; prohibiting
a county or municipality from issuing a business tax
receipt, rather than an occupational license, to a
facility under certain circumstances; amending s.
429.176, F.S.; requiring an owner of a facility to
provide certain documentation to the Agency for Health
Care Administration within a specified timeframe;
amending s. 429.23, F.S.; authorizing a facility to
send certain reports regarding adverse incidents
through the agency's online portal; requiring the
agency to send reminders by electronic mail to certain
facility contacts regarding submission deadlines for
such reports within a specified timeframe; amending s.
429.255, F.S.; authorizing certain persons to change a
resident's bandage for a minor cut or abrasion;
authorizing certain persons to contract with a third-
party to provide services to a resident under certain
circumstances; providing requirements relating to the
third-party provider; clarifying that the absence of
an order not to resuscitate does not preclude a



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physician from withholding or withdrawing
cardiopulmonary resuscitation or use of an automated
external defibrillator; amending s. 429.256, F.S.;
revising the types of medications that may be self-
administered; revising provisions relating to
assistance with the self-administration of such
medications; requiring a person assisting with a
resident's self-administration of medication to
confirm and advise the patient of specified
information; authorizing a resident to opt out of such
advisement through a signed waiver; providing
requirements for such waiver; revising provisions
relating to certain medications that are not self-
administered with assistance; amending s. 429.26,
F.S.; including medical examinations in the criteria
used for admission to an assisted living facility;
providing specified criteria for determination of
appropriateness for admission to and continued
residency in an assisted living facility; prohibiting
such facility from admitting certain individuals;
defining the term "bedridden"; authorizing a facility
to retain certain individuals under certain
conditions; requiring that a resident receive a
medical examination within a specified timeframe after
admission to a facility; requiring that such
examination be recorded on a form; providing
limitations on the use of such form; providing
requirements for the content of the form; revising
provisions relating to the placement of residents by



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57 the Department of Children and Families; requiring a
58 facility to notify a resident's representative or
59 designee of specified information under certain
60 circumstances; requiring the facility to arrange with
61 an appropriate health care provider for the care and
62 services needed to treat a resident under certain
63 circumstances; removing provisions relating to the
64 retention of certain residents in a facility; amending
65 s. 429.28, F.S.; requiring facilities to provide
66 written notice of relocation or termination of
67 residency from a facility to the resident or the
68 resident's legal guardian; revising provisions related
69 to a licensure survey required by the agency; deleting
70 a requirement that the agency adopt certain rules;
71 amending s. 429.31, F.S.; revising notice requirements
72 for facilities that are terminating operations;
73 requiring the agency to inform the State Long-Term
74 Ombudsman Program immediately upon notice of a
75 facility's termination of operations; amending s.
76 429.41, F.S.; revising legislative intent; revising
77 provisions related to rules the agency, in
78 consultation with the Department of Children and
79 Families and the Department of Health, is required to
80 adopt regarding minimum standards of resident care;
81 requiring county emergency management agencies, rather
82 than local emergency management agencies, to review
83 and approve or disapprove of a facility's
84 comprehensive emergency management plan; requiring a
85 facility to submit a comprehensive emergency



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86 management plan to the county emergency management
87 agency within a specified timeframe; prohibiting the
88 use of Posey restraints; authorizing the use of other
89 restraints under certain circumstances; revising the
90 criteria under which a facility must be fully
91 inspected; creating s. 429.435, F.S.; requiring the
92 State Fire Marshall to establish uniform firesafety
93 standards for assisted living facilities; providing
94 for a firesafety evacuation capability determination
95 within a specified timeframe under certain
96 circumstances; requiring the State Fire Marshall to
97 use certain standards from a specified national
98 association to determine the uniform firesafety
99 standards to be adopted; authorizing local governments
100 and utilities to charge certain fees relating to fire
101 sprinkler systems; requiring licensed facilities to
102 have an annual fire inspection; specifying certain
103 code requirements for facilities that undergo a
104 specific alteration or rehabilitation; amending s.
105 429.52, F.S.; revising certain provisions relating to
106 facility staff training and educational requirements;
107 requiring the agency, in conjunction with providers,
108 to establish core training requirements for facility
109 administrators; revising the training and continuing
110 education requirements for facility staff who assist
111 residents with the self-administration of medications;
112 revising provisions relating to the training
113 responsibilities of the agency; requiring the agency
114 to contract with another entity to administer a



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115 certain competency test; requiring the agency to adopt
116 a curriculum outline with learning objectives to be
117 used by core trainers; conforming provisions to
118 changes made by the act; providing an effective date.
119

120 Be It Enacted by the Legislature of the State of Florida:
121

122 Section 1. Present subsections (7) through (27) of section
123 429.02, Florida Statutes, are redesignated as subsections (8)
124 through (28), respectively, a new subsection (7) is added to
125 that section, and present subsections (11) and (18) are amended,
126 to read:

127 429.02 Definitions.—When used in this part, the term:

128 (7) “Assistive device” means any device designed or adapted
129 to help a resident perform an action, a task, an activity of
130 daily living, or a transfer; prevent a fall; or recover from a
131 fall. The term does not include a total body lift or a motorized
132 sit-to-stand lift, with the exception of a chair lift or
133 recliner lift that a resident is able to operate independently.

134 ~~(12)(11)~~ “Extended congregate care” means acts beyond those
135 authorized in subsection ~~(18)~~ which ~~(17)~~ ~~that~~ may be performed
136 pursuant to part I of chapter 464 by persons licensed thereunder
137 while carrying out their professional duties, and other
138 supportive services that ~~which~~ may be specified by rule. The
139 purpose of such services is to enable residents to age in place
140 in a residential environment despite mental or physical
141 limitations that might otherwise disqualify them from residency
142 in a facility licensed under this part.

143 ~~(19)(18)~~ “Physical restraint” means a device that ~~which~~



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144 physically limits, restricts, or deprives an individual of
145 movement or mobility, ~~including, but not limited to, a half-bed~~
146 ~~rail, a full bed rail, a geriatric chair, and a posey restraint.~~
147 ~~The term “physical restraint” shall also include any device that~~
148 ~~is which was~~ not specifically manufactured as a restraint but is
149 ~~which has been~~ altered, arranged, or otherwise used for that
150 ~~this~~ purpose. The term does shall not include any device that
151 the resident chooses to use and is able to remove or avoid
152 independently, or any bandage material used for the purpose of
153 binding a wound or injury.

154 Section 2. Paragraphs (b) and (c) of subsection (3) of
155 section 429.07, Florida Statutes, are amended to read:

156 429.07 License required; fee.—

157 (3) In addition to the requirements of s. 408.806, each
158 license granted by the agency must state the type of care for
159 which the license is granted. Licenses shall be issued for one
160 or more of the following categories of care: standard, extended
161 congregate care, limited nursing services, or limited mental
162 health.

163 (b) An extended congregate care license shall be issued to
164 each facility that has been licensed as an assisted living
165 facility for 2 or more years and that provides services,
166 directly or through contract, beyond those authorized in
167 paragraph (a), including services performed by persons licensed
168 under part I of chapter 464 and supportive services, as defined
169 by rule, to persons who would otherwise be disqualified from
170 continued residence in a facility licensed under this part. An
171 extended congregate care license may be issued to a facility
172 that has a provisional extended congregate care license and



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173 meets the requirements for licensure under subparagraph 2. The
174 primary purpose of extended congregate care services is to allow
175 residents the option of remaining in a familiar setting from
176 which they would otherwise be disqualified for continued
177 residency as they become more impaired. A facility licensed to
178 provide extended congregate care services may also admit an
179 individual who exceeds the admission criteria for a facility
180 with a standard license, if he or she is determined appropriate
181 for admission to the extended congregate care facility.

182 1. In order for extended congregate care services to be
183 provided, the agency must first determine that all requirements
184 established in law and rule are met and must specifically
185 designate, on the facility's license, that such services may be
186 provided and whether the designation applies to all or part of
187 the facility. This designation may be made at the time of
188 initial licensure or relicensure, or upon request in writing by
189 a licensee under this part and part II of chapter 408. The
190 notification of approval or the denial of the request shall be
191 made in accordance with part II of chapter 408. Each existing
192 facility that qualifies to provide extended congregate care
193 services must have maintained a standard license and may not
194 have been subject to administrative sanctions during the
195 previous 2 years, or since initial licensure if the facility has
196 been licensed for less than 2 years, for any of the following
197 reasons:

- 198 a. A class I or class II violation;
199 b. Three or more repeat or recurring class III violations
200 of identical or similar resident care standards from which a
201 pattern of noncompliance is found by the agency;



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202 c. Three or more class III violations that were not
203 corrected in accordance with the corrective action plan approved
204 by the agency;

205 d. Violation of resident care standards which results in
206 requiring the facility to employ the services of a consultant
207 pharmacist or consultant dietitian;

208 e. Denial, suspension, or revocation of a license for
209 another facility licensed under this part in which the applicant
210 for an extended congregate care license has at least 25 percent
211 ownership interest; or

212 f. Imposition of a moratorium pursuant to this part or part
213 II of chapter 408 or initiation of injunctive proceedings.

214
215 The agency may deny or revoke a facility's extended congregate
216 care license for not meeting the criteria for an extended
217 congregate care license as provided in this subparagraph.

218 2. If an assisted living facility has been licensed for
219 less than 2 years, the initial extended congregate care license
220 must be provisional and may not exceed 6 months. The licensee
221 shall notify the agency, in writing, when it has admitted at
222 least one extended congregate care resident, after which an
223 unannounced inspection shall be made to determine compliance
224 with the requirements of an extended congregate care license. A
225 licensee with a provisional extended congregate care license
226 which ~~that~~ demonstrates compliance with all the requirements of
227 an extended congregate care license during the inspection shall
228 be issued an extended congregate care license. In addition to
229 sanctions authorized under this part, if violations are found
230 during the inspection and the licensee fails to demonstrate



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231 compliance with all assisted living facility requirements during
232 a followup inspection, the licensee shall immediately suspend
233 extended congregate care services, and the provisional extended
234 congregate care license expires. The agency may extend the
235 provisional license for not more than 1 month in order to
236 complete a followup visit.

237 3. A facility that is licensed to provide extended
238 congregate care services shall maintain a written progress
239 report on each person who receives nursing services from the
240 facility's staff which describes the type, amount, duration,
241 scope, and outcome of services that are rendered and the general
242 status of the resident's health. A registered nurse, or
243 appropriate designee, representing the agency shall visit the
244 facility at least twice a year to monitor residents who are
245 receiving extended congregate care services and to determine if
246 the facility is in compliance with this part, part II of chapter
247 408, and relevant rules. One of the visits may be in conjunction
248 with the regular survey. The monitoring visits may be provided
249 through contractual arrangements with appropriate community
250 agencies. A registered nurse shall serve as part of the team
251 that inspects the facility. The agency may waive one of the
252 required yearly monitoring visits for a facility that has:

- 253 a. Held an extended congregate care license for at least 24
254 months;
- 255 b. No class I or class II violations and no uncorrected
256 class III violations; and
- 257 c. No ombudsman council complaints that resulted in a
258 citation for licensure.
- 259 4. A facility that is licensed to provide extended



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260 congregate care services must:

- 261 a. Demonstrate the capability to meet unanticipated
262 resident service needs.
- 263 b. Offer a physical environment that promotes a homelike
264 setting, provides for resident privacy, promotes resident
265 independence, and allows sufficient congregate space as defined
266 by rule.
- 267 c. Have sufficient staff available, taking into account the
268 physical plant and firesafety features of the building, to
269 assist with the evacuation of residents in an emergency.
- 270 d. Adopt and follow policies and procedures that maximize
271 resident independence, dignity, choice, and decisionmaking to
272 permit residents to age in place, so that moves due to changes
273 in functional status are minimized or avoided.
- 274 e. Allow residents or, if applicable, a resident's
275 representative, designee, surrogate, guardian, or attorney in
276 fact to make a variety of personal choices, participate in
277 developing service plans, and share responsibility in
278 decisionmaking.
- 279 f. Implement the concept of managed risk.
- 280 g. Provide, directly or through contract, the services of a
281 person licensed under part I of chapter 464.
- 282 h. In addition to the training mandated in s. 429.52,
283 provide specialized training as defined by rule for facility
284 staff.
- 285 5. A facility that is licensed to provide extended
286 congregate care services is exempt from the criteria for
287 continued residency set forth in rules adopted under s. 429.41.
288 A licensed facility must adopt its own requirements within



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289 guidelines for continued residency set forth by rule. However,
290 the facility may not serve residents who require 24-hour nursing
291 supervision. A licensed facility that provides extended
292 congregate care services must also provide each resident with a
293 written copy of facility policies governing admission and
294 retention.

295 6. Before the admission of an individual to a facility
296 licensed to provide extended congregate care services, the
297 individual must undergo a medical examination as provided in s.
298 429.26(5) ~~s. 429.26(4)~~ and the facility must develop a
299 preliminary service plan for the individual.

300 7. If a facility can no longer provide or arrange for
301 services in accordance with the resident's service plan and
302 needs and the facility's policy, the facility must make
303 arrangements for relocating the person in accordance with s.
304 429.28(1)(k).

305 (c) A limited nursing services license shall be issued to a
306 facility that provides services beyond those authorized in
307 paragraph (a) and as specified in this paragraph.

308 1. In order for limited nursing services to be provided in
309 a facility licensed under this part, the agency must first
310 determine that all requirements established in law and rule are
311 met and must specifically designate, on the facility's license,
312 that such services may be provided. This designation may be made
313 at the time of initial licensure or licensure renewal, or upon
314 request in writing by a licensee under this part and part II of
315 chapter 408. Notification of approval or denial of such request
316 shall be made in accordance with part II of chapter 408. An
317 existing facility that qualifies to provide limited nursing



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318 services must have maintained a standard license and may not
319 have been subject to administrative sanctions that affect the
320 health, safety, and welfare of residents for the previous 2
321 years or since initial licensure if the facility has been
322 licensed for less than 2 years.

323 2. A facility that is licensed to provide limited nursing
324 services shall maintain a written progress report on each person
325 who receives such nursing services from the facility's staff.
326 The report must describe the type, amount, duration, scope, and
327 outcome of services that are rendered and the general status of
328 the resident's health. A registered nurse representing the
329 agency shall visit the facility at least annually to monitor
330 residents who are receiving limited nursing services and to
331 determine if the facility is in compliance with applicable
332 provisions of this part, part II of chapter 408, and related
333 rules. The monitoring visits may be provided through contractual
334 arrangements with appropriate community agencies. A registered
335 nurse shall also serve as part of the team that inspects such
336 facility. Visits may be in conjunction with other agency
337 inspections. The agency may waive the required yearly monitoring
338 visit for a facility that has:

339 a. Had a limited nursing services license for at least 24
340 months;

341 b. No class I or class II violations and no uncorrected
342 class III violations; and

343 c. No ombudsman council complaints that resulted in a
344 citation for licensure.

345 3. A person who receives limited nursing services under
346 this part must meet the admission criteria established by the



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347 agency for assisted living facilities. When a resident no longer
348 meets the admission criteria for a facility licensed under this
349 part, arrangements for relocating the person shall be made in
350 accordance with s. 429.28(1)(k), unless the facility is licensed
351 to provide extended congregate care services.

352 Section 3. Subsection (7) of section 429.11, Florida
353 Statutes, is amended to read:

354 429.11 Initial application for license; provisional
355 license.-

356 (7) A county or municipality may not issue a business tax
357 receipt ~~an occupational license~~ that is being obtained for the
358 purpose of operating a facility regulated under this part
359 without first ascertaining that the applicant has been licensed
360 to operate such facility at the specified location or locations
361 by the agency. The agency shall furnish to local agencies
362 responsible for issuing business tax receipts ~~occupational~~
363 ~~licenses~~ sufficient instruction for making such determinations.

364 Section 4. Section 429.176, Florida Statutes, is amended to
365 read:

366 429.176 Notice of change of administrator.-If, during the
367 period for which a license is issued, the owner changes
368 administrators, the owner must notify the agency of the change
369 within 10 days and provide documentation within 90 days that the
370 new administrator meets educational requirements and has
371 completed the applicable core educational requirements under s.
372 429.52. A facility may not be operated for more than 120
373 consecutive days without an administrator who has completed the
374 core educational requirements.

375 Section 5. Subsections (3), (4), and (5) of section 429.23,



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376 Florida Statutes, are amended to read:

377 429.23 Internal risk management and quality assurance
378 program; adverse incidents and reporting requirements.-

379 (3) Licensed facilities shall provide within 1 business day
380 after the occurrence of an adverse incident, through the
381 agency's online portal or, if the portal is offline, by
382 electronic mail, ~~facsimile, or United States mail,~~ a preliminary
383 report to the agency on all adverse incidents specified under
384 this section. The report must include information regarding the
385 identity of the affected resident, the type of adverse incident,
386 and the status of the facility's investigation of the incident.

387 (4) Licensed facilities shall provide within 15 days,
388 through the agency's online portal or, if the portal is offline,
389 by electronic mail, ~~facsimile, or United States mail,~~ a full
390 report to the agency on all adverse incidents specified in this
391 section. The report must include the results of the facility's
392 investigation into the adverse incident.

393 (5) Three business days before the deadline for the
394 submission of the full report required under subsection (4), the
395 agency shall send by electronic mail a reminder to the
396 facility's administrator and other specified facility contacts.
397 Within 3 business days after the agency sends the reminder, a
398 facility is not subject to any administrative or other agency
399 action for failing to withdraw the preliminary report if the
400 facility determines the event was not an adverse incident or for
401 failing to file a full report if the facility determines the
402 event was an adverse incident ~~Each facility shall report monthly~~
403 ~~to the agency any liability claim filed against it. The report~~
404 ~~must include the name of the resident, the dates of the incident~~



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405 ~~leading to the claim, if applicable, and the type of injury or~~
406 ~~violation of rights alleged to have occurred. This report is not~~
407 ~~discoverable in any civil or administrative action, except in~~
408 ~~such actions brought by the agency to enforce the provisions of~~
409 ~~this part.~~

410 Section 6. Paragraphs (a) and (b) of subsection (1) of
411 section 429.255, Florida Statutes, are amended, paragraph (d) is
412 added to that subsection, and subsection (4) of that section is
413 amended, to read:

414 429.255 Use of personnel; emergency care.—

415 (1) (a) Persons under contract to the facility, facility
416 staff, or volunteers, who are licensed according to part I of
417 chapter 464, or those persons exempt under s. 464.022(1), ~~and~~
418 ~~others as defined by rule,~~ may administer medications to
419 residents, take residents' vital signs, change residents'
420 bandages for minor cuts and abrasions, manage individual weekly
421 pill organizers for residents who self-administer medication,
422 give prepackaged enemas ordered by a physician, observe
423 residents, document observations on the appropriate resident's
424 record, and report observations to the resident's physician, ~~and~~
425 ~~contract or allow residents or a resident's representative,~~
426 ~~designee, surrogate, guardian, or attorney in fact to contract~~
427 ~~with a third party, provided residents meet the criteria for~~
428 ~~appropriate placement as defined in s. 429.26.~~ Nursing
429 assistants certified pursuant to part II of chapter 464 may take
430 residents' vital signs as directed by a licensed nurse or
431 physician.

432 (b) All staff of ~~in~~ facilities licensed under this part
433 shall exercise their professional responsibility to observe



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434 residents, to document observations on the appropriate
435 resident's record, and to report the observations to the
436 resident's physician. However, the owner or administrator of the
437 facility shall be responsible for determining that the resident
438 receiving services is appropriate for residence in the facility.

439 (d) A resident or his or her representative, designee,
440 surrogate, guardian, or attorney in fact, as applicable, may
441 contract for services with a third party, provided the resident
442 meets the criteria for residency and continued residency as
443 defined in s. 429.26. The third party must communicate with the
444 facility regarding the resident's condition and the services
445 being provided in accordance with the facility's policies. The
446 facility must document that it received such communication.

447 (4) Facility staff may withhold or withdraw cardiopulmonary
448 resuscitation or the use of an automated external defibrillator
449 if presented with an order not to resuscitate executed pursuant
450 to s. 401.45. The agency shall adopt rules providing for the
451 implementation of such orders. Facility staff and facilities may
452 not be subject to criminal prosecution or civil liability, nor
453 be considered to have engaged in negligent or unprofessional
454 conduct, for withholding or withdrawing cardiopulmonary
455 resuscitation or use of an automated external defibrillator
456 pursuant to such an order and rules adopted by the agency. The
457 absence of an order not to resuscitate executed pursuant to s.
458 401.45 does not preclude a physician from withholding or
459 withdrawing cardiopulmonary resuscitation or use of an automated
460 external defibrillator as otherwise permitted by law.

461 Section 7. Subsection (2), paragraph (b) of subsection (3),
462 and paragraphs (e), (f), and (g) of subsection (4) of section



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463 429.256, Florida Statutes, are amended to read:
464 429.256 Assistance with self-administration of medication.-
465 (2) Residents who are capable of self-administering their
466 own medications without assistance shall be encouraged and
467 allowed to do so. However, an unlicensed person may, consistent
468 with a dispensed prescription's label or the package directions
469 of an over-the-counter medication, assist a resident whose
470 condition is medically stable with the self-administration of
471 routine, regularly scheduled medications that are intended to be
472 self-administered. Assistance with self-medication by an
473 unlicensed person may occur only upon a documented request by,
474 and the written informed consent of, a resident or the
475 resident's surrogate, guardian, or attorney in fact. For the
476 purposes of this section, self-administered medications include
477 both legend and over-the-counter oral dosage forms, topical
478 dosage forms, transdermal patches, and topical ophthalmic, otic,
479 and nasal dosage forms including solutions, suspensions, sprays,
480 and inhalers.
481 (3) Assistance with self-administration of medication
482 includes:
483 (b) In the presence of the resident, confirming that the
484 medication is intended for that resident, orally advising the
485 resident of the medication name and dosage ~~reading the label,~~
486 opening the container, removing a prescribed amount of
487 medication from the container, and closing the container. The
488 resident may sign a written waiver to opt out of being orally
489 advised of the medication name and dosage. The waiver must
490 identify all of the medications intended for the resident,
491 including names and dosages of such medications, and must



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492 immediately be updated each time the resident's medications or
493 dosages change.
494 (4) Assistance with self-administration does not include:
495 (e) The use of irrigations or debriding agents used in the
496 treatment of a skin condition.
497 (f) Assisting with rectal, urethral, or vaginal
498 preparations.
499 (g) Assisting with medications ordered by the physician or
500 health care professional with prescriptive authority to be given
501 "as needed," unless the order is written with specific
502 parameters that preclude independent judgment on the part of the
503 unlicensed person, and ~~at the request of a competent~~ resident
504 requesting the medication is aware of his or her need for the
505 medication and understands the purpose for taking the
506 medication.
507 Section 8. Section 429.26, Florida Statutes, is amended to
508 read:
509 429.26 Appropriateness of placements; examinations of
510 residents.-
511 (1) The owner or administrator of a facility is responsible
512 for determining the appropriateness of admission of an
513 individual to the facility and for determining the continued
514 appropriateness of residence of an individual in the facility. A
515 determination ~~must shall~~ be based upon an evaluation assessment
516 of the strengths, needs, and preferences of the resident, a
517 medical examination, the care and services offered or arranged
518 for by the facility in accordance with facility policy, and any
519 limitations in law or rule related to admission criteria or
520 continued residency for the type of license held by the facility



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521 under this part. The following criteria apply to the
522 determination of appropriateness for admission and continued
523 residency of an individual in a facility:

524 (a) A facility may admit or retain a resident who receives
525 a health care service or treatment that is designed to be
526 provided within a private residential setting if all
527 requirements for providing that service or treatment are met by
528 the facility or a third party.

529 (b) A facility may admit or retain a resident who requires
530 the use of assistive devices.

531 (c) A facility may admit or retain an individual receiving
532 hospice services if the arrangement is agreed to by the facility
533 and the resident, additional care is provided by a licensed
534 hospice, and the resident is under the care of a physician who
535 agrees that the physical needs of the resident can be met at the
536 facility. The resident must have a plan of care which delineates
537 how the facility and the hospice will meet the scheduled and
538 unscheduled needs of the resident, including, if applicable,
539 staffing for nursing care.

540 (d)1. Except for a resident who is receiving hospice
541 services as provided in paragraph (c), a facility may not admit
542 or retain a resident who is bedridden or who requires 24-hour
543 nursing supervision. For purposes of this paragraph, the term
544 "bedridden" means that a resident is confined to a bed because
545 of the inability to:

546 a. Move, turn, or reposition without total physical
547 assistance;

548 b. Transfer to a chair or wheelchair without total physical
549 assistance; or



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550 c. Sit safely in a chair or wheelchair without personal
551 assistance or a physical restraint.

552 2. A resident may continue to reside in a facility if,
553 during residency, he or she is bedridden for no more than 7
554 consecutive days.

555 3. If a facility is licensed to provide extended congregate
556 care, a resident may continue to reside in a facility if, during
557 residency, he or she is bedridden for no more than 14
558 consecutive days.

559 (2) A resident may not be moved from one facility to
560 another without consultation with and agreement from the
561 resident or, if applicable, the resident's representative or
562 designee or the resident's family, guardian, surrogate, or
563 attorney in fact. In the case of a resident who has been placed
564 by the department or the Department of Children and Families,
565 the administrator must notify the appropriate contact person in
566 the applicable department.

567 (3)(2) A physician, physician assistant, or advanced
568 practice registered nurse practitioner who is employed by an
569 assisted living facility to provide an initial examination for
570 admission purposes may not have financial interests interest in
571 the facility.

572 (4)(3) Persons licensed under part I of chapter 464 who are
573 employed by or under contract with a facility shall, on a
574 routine basis or at least monthly, perform a nursing assessment
575 of the residents for whom they are providing nursing services
576 ordered by a physician, except administration of medication, and
577 shall document such assessment, including any substantial
578 changes in a resident's status which may necessitate relocation



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579 to a nursing home, hospital, or specialized health care
580 facility. Such records shall be maintained in the facility for
581 inspection by the agency and shall be forwarded to the
582 resident's case manager, if applicable.

583 (5) (a) (4) If possible, Each resident must ~~shall~~ have been
584 examined by a licensed physician, a licensed physician
585 assistant, or a licensed advanced practice registered nurse
586 practitioner within 60 days before admission to the facility or
587 within 30 days after admission to the facility, except as
588 provided in s. 429.07. The information from the medical
589 examination must be recorded on the practitioner's form or on a
590 form adopted by agency rule. The signed and completed medical
591 examination form, signed only by the practitioner, must ~~report~~
592 ~~shall~~ be submitted to the owner or administrator of the
593 facility, who shall use the information contained therein to
594 assist in the determination of the appropriateness of the
595 resident's admission to or ~~and~~ continued residency ~~stay~~ in the
596 facility.

597 (b) The medical examination form may be used only to record
598 the practitioner's direct observation of the patient at the time
599 of examination and must include the patient's medical history.
600 Such form does not guarantee admission to, continued residency
601 in, or the delivery of services at the facility and must be used
602 only as an informative tool to assist in the determination of
603 the appropriateness of the resident's admission to or continued
604 residency in the facility. The medical examination form,
605 reflecting the resident's condition on the date the examination
606 is performed, becomes ~~report shall become~~ a permanent part of
607 the facility's record of the resident at the facility and must



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608 ~~shall~~ be made available to the agency during inspection or upon
609 request. An assessment that has been completed through the
610 Comprehensive Assessment and Review for Long-Term Care Services
611 (CARES) Program fulfills the requirements for a medical
612 examination under this subsection and s. 429.07(3)(b)6.

613 (c) The medical examination form must include all of the
614 following information about the resident:

- 615 1. Height, weight, and known allergies.
- 616 2. Significant medical history and diagnoses.
- 617 3. Physical or sensory limitations, including the need for
618 fall precautions or recommended use of assistive devices.
- 619 4. Cognitive or behavioral status and a brief description
620 of any behavioral issues known or ascertained by the examining
621 practitioner, including any known history of wandering or
622 elopement.
- 623 5. Nursing, treatment, or therapy service requirements.
- 624 6. Whether the resident needs assistance for ambulating,
625 eating, or transferring.
- 626 7. Special dietary instructions.
- 627 8. Whether the resident has any communicable diseases,
628 including precautions that are necessary due to such diseases.
- 629 9. Whether the resident is bedridden and the presence of
630 any pressure sores.
- 631 10. Whether the resident needs 24-hour nursing supervision
632 or psychiatric care.
- 633 11. A list of current prescribed medications as known or
634 ascertained by the examining practitioner and whether the
635 resident can self-administer medications, needs assistance with
636 medications, or needs medication administration.



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637 ~~(5) Except as provided in s. 429.07, if a medical~~
638 ~~examination has not been completed within 60 days before the~~
639 ~~admission of the resident to the facility, a licensed physician,~~
640 ~~licensed physician assistant, or licensed nurse practitioner~~
641 ~~shall examine the resident and complete a medical examination~~
642 ~~form provided by the agency within 30 days following the~~
643 ~~admission to the facility to enable the facility owner or~~
644 ~~administrator to determine the appropriateness of the admission.~~
645 ~~The medical examination form shall become a permanent part of~~
646 ~~the record of the resident at the facility and shall be made~~
647 ~~available to the agency during inspection by the agency or upon~~
648 ~~request.~~

649 (6) Any resident accepted in a facility and placed by ~~the~~
650 ~~department or~~ the Department of Children and Families must shall
651 have been examined by medical personnel within 30 days before
652 placement in the facility. The examination must shall include an
653 assessment of the appropriateness of placement in a facility.
654 The findings of this examination must shall be recorded on the
655 examination form provided by the agency. The completed form must
656 ~~shall~~ accompany the resident and ~~shall~~ be submitted to the
657 facility owner or administrator. Additionally, in the case of a
658 mental health resident, the Department of Children and Families
659 must provide documentation that the individual has been assessed
660 by a psychiatrist, clinical psychologist, clinical social
661 worker, or psychiatric nurse, or an individual who is supervised
662 by one of these professionals, and determined to be appropriate
663 to reside in an assisted living facility. The documentation must
664 be in the facility within 30 days after the mental health
665 resident has been admitted to the facility. An evaluation



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666 completed upon discharge from a state mental hospital meets the
667 requirements of this subsection related to appropriateness for
668 placement as a mental health resident, provided that providing
669 it was completed within 90 days before prior to admission to the
670 facility. The applicable Department of Children and Families
671 shall provide to the facility administrator any information
672 about the resident which that would help the administrator meet
673 his or her responsibilities under subsection (1). Further,
674 Department of Children and Families personnel shall explain to
675 the facility operator any special needs of the resident and
676 advise the operator whom to call should problems arise. The
677 applicable Department of Children and Families shall advise and
678 assist the facility administrator when where the special needs
679 of residents who are recipients of optional state
680 supplementation require such assistance.

681 (7) The facility shall must notify a licensed physician
682 when a resident exhibits signs of dementia or cognitive
683 impairment or has a change of condition in order to rule out the
684 presence of an underlying physiological condition that may be
685 contributing to such dementia or impairment. The notification
686 must occur within 30 days after the acknowledgment of such signs
687 by facility staff. If an underlying condition is determined to
688 exist, the facility must notify the resident's representative or
689 designee of the need for health care services and must assist in
690 making appointments for shall arrange, with the appropriate
691 health care provider, the necessary care and services to treat
692 the condition. If the resident does not have a representative or
693 designee or if the resident's representative or designee cannot
694 be located or is nonresponsive, the facility shall arrange with



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695 an appropriate health care provider for the necessary care and
696 services to treat the condition.

697 (8) The Department of Children and Families may require an
698 examination for supplemental security income and optional state
699 supplementation recipients residing in facilities at any time
700 and shall provide the examination whenever a resident's
701 condition requires it. Any facility administrator; personnel of
702 the agency, the department, or the Department of Children and
703 Families; or a representative of the State Long-Term Care
704 Ombudsman Program who believes a resident needs to be evaluated
705 shall notify the resident's case manager, who shall take
706 appropriate action. A report of the examination findings must
707 ~~shall~~ be provided to the resident's case manager and the
708 facility administrator to help the administrator meet his or her
709 responsibilities under subsection (1).

710 ~~(9) A terminally ill resident who no longer meets the~~
711 ~~criteria for continued residency may remain in the facility if~~
712 ~~the arrangement is mutually agreeable to the resident and the~~
713 ~~facility; additional care is rendered through a licensed~~
714 ~~hospice, and the resident is under the care of a physician who~~
715 ~~agrees that the physical needs of the resident are being met.~~

716 (9)(10) Facilities licensed to provide extended congregate
717 care services shall promote aging in place by determining
718 appropriateness of continued residency based on a comprehensive
719 review of the resident's physical and functional status; the
720 ability of the facility, family members, friends, or any other
721 pertinent individuals or agencies to provide the care and
722 services required; and documentation that a written service plan
723 consistent with facility policy has been developed and



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724 implemented to ensure that the resident's needs and preferences
725 are addressed.

726 ~~(11) No resident who requires 24-hour nursing supervision,~~
727 ~~except for a resident who is an enrolled hospice patient~~
728 ~~pursuant to part IV of chapter 400, shall be retained in a~~
729 ~~facility licensed under this part.~~

730 Section 9. Paragraph (k) of subsection (1) and subsection
731 (3) of section 429.28, Florida Statutes, are amended to read:
732 429.28 Resident bill of rights.-

733 (1) No resident of a facility shall be deprived of any
734 civil or legal rights, benefits, or privileges guaranteed by
735 law, the Constitution of the State of Florida, or the
736 Constitution of the United States as a resident of a facility.
737 Every resident of a facility shall have the right to:

738 (k) At least 45 days' notice of relocation or termination
739 of residency from the facility unless, for medical reasons, the
740 resident is certified by a physician to require an emergency
741 relocation to a facility providing a more skilled level of care
742 or the resident engages in a pattern of conduct that is harmful
743 or offensive to other residents. In the case of a resident who
744 has been adjudicated mentally incapacitated, the guardian shall
745 be given at least 45 days' notice of a nonemergency relocation
746 or residency termination. Reasons for relocation ~~must shall~~
747 be set forth in writing and provided to the resident or the
748 resident's legal representative. In order for a facility to
749 terminate the residency of an individual without notice as
750 provided herein, the facility shall show good cause in a court
751 of competent jurisdiction.

752 (3) (a) The agency shall conduct a survey to determine



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753 ~~whether the facility is complying with this part general~~
754 ~~compliance with facility standards and compliance with~~
755 ~~residents' rights~~ as a prerequisite to initial licensure or
756 licensure renewal. ~~The agency shall adopt rules for uniform~~
757 ~~standards and criteria that will be used to determine compliance~~
758 ~~with facility standards and compliance with residents' rights.~~

759 (b) In order to determine whether the facility is
760 adequately protecting residents' rights, the licensure renewal
761 biennial survey must shall include private informal
762 conversations with a sample of residents and consultation with
763 the ombudsman council in the district in which the facility is
764 located to discuss residents' experiences within the facility.

765 Section 10. Subsections (1) and (2) of section 429.31,
766 Florida Statutes, are amended to read:

767 429.31 Closing of facility; notice; penalty.—

768 (1) In addition to the requirements of part II of chapter
769 408, the facility shall inform, in writing, the agency and each
770 resident or the next of kin, legal representative, or agency
771 acting on each resident's behalf, of the fact and the proposed
772 time of discontinuance of operation, following the notification
773 requirements provided in s. 429.28(1)(k). In the event a
774 resident has no person to represent him or her, the facility
775 shall be responsible for referral to an appropriate social
776 service agency for placement.

777 (2) Immediately upon the notice by the agency of the
778 voluntary or involuntary termination of such operation, the
779 agency shall inform the State Long-Term Care Ombudsman Program
780 and monitor the transfer of residents to other facilities and
781 ensure that residents' rights are being protected. The agency,



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782 in consultation with the Department of Children and Families,
783 shall specify procedures for ensuring that all residents who
784 receive services are appropriately relocated.

785 Section 11. Subsections (1), (2), and (5) of section
786 429.41, Florida Statutes, are amended to read:

787 429.41 Rules establishing standards.—

788 (1) It is the intent of the Legislature that rules
789 published and enforced pursuant to this section shall include
790 criteria by which a reasonable and consistent quality of
791 resident care and quality of life may be ensured and the results
792 of such resident care may be demonstrated. Such rules shall also
793 promote ensure a safe and sanitary environment that is
794 residential and noninstitutional in design or nature and may
795 allow for technological advances in the provision of care,
796 safety, and security, including the use of devices, equipment,
797 and other security measures related to wander management,
798 emergency response, staff risk management, and the general
799 safety and security of residents, staff, and the facility. It is
800 further intended that reasonable efforts be made to accommodate
801 the needs and preferences of residents to enhance the quality of
802 life in a facility. ~~Uniform firesafety standards for assisted~~
803 ~~living facilities shall be established by the State Fire Marshal~~
804 ~~pursuant to s. 633.206. The agency may adopt rules to administer~~
805 ~~part II of chapter 408. In order to provide safe and sanitary~~
806 ~~facilities and the highest quality of resident care~~
807 ~~accommodating the needs and preferences of residents,~~ The
808 agency, in consultation with the Department of Children and
809 Families and the Department of Health, shall adopt rules,
810 ~~policies, and procedures~~ to administer this part, which must



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811 include reasonable and fair minimum standards in relation to:

812 (a) The requirements for ~~and~~ maintenance ~~and~~ the sanitary
813 ~~condition~~ of facilities, not in conflict with, ~~or duplicative~~
814 ~~of, the requirements in s. 381.006, s. 381.0072, chapter 553, or~~
815 ~~s. 633.206, relating to a safe and decent living environment,~~
816 ~~including furnishings for resident bedrooms or sleeping areas,~~
817 ~~locking devices, linens plumbing, heating, cooling, lighting,~~
818 ~~ventilation, living space, and other housing conditions relating~~
819 ~~to hazards, which will promote ensure the health, safety, and~~
820 ~~welfare eomfort~~ of residents suitable to the size of the
821 structure. The rules must clearly delineate the respective
822 responsibilities of the agency's licensure and survey staff and
823 the county health departments and ensure that inspections are
824 not duplicative. The agency may collect fees for food service
825 inspections conducted by county health departments and may
826 transfer such fees to the Department of Health.

827 ~~1. Firesafety evacuation capability determination.-An~~
828 ~~evacuation capability evaluation for initial licensure shall be~~
829 ~~conducted within 6 months after the date of licensure.~~

830 ~~2. Firesafety requirements.-~~

831 ~~a. The National Fire Protection Association, Life Safety~~
832 ~~Code, NFPA 101 and 101A, current editions, shall be used in~~
833 ~~determining the uniform firesafety code adopted by the State~~
834 ~~Fire Marshal for assisted living facilities, pursuant to s.~~
835 ~~633.206.~~

836 ~~b. A local government or a utility may charge fees only in~~
837 ~~an amount not to exceed the actual expenses incurred by the~~
838 ~~local government or the utility relating to the installation and~~
839 ~~maintenance of an automatic fire sprinkler system in a licensed~~



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840 ~~assisted living facility structure.~~

841 ~~e. All licensed facilities must have an annual fire~~
842 ~~inspection conducted by the local fire marshal or authority~~
843 ~~having jurisdiction.~~

844 ~~d. An assisted living facility that is issued a building~~
845 ~~permit or certificate of occupancy before July 1, 2016, may at~~
846 ~~its option and after notifying the authority having~~
847 ~~jurisdiction, remain under the provisions of the 1994 and 1995~~
848 ~~editions of the National Fire Protection Association, Life~~
849 ~~Safety Code, NFPA 101, and NFPA 101A. The facility opting to~~
850 ~~remain under such provisions may make repairs, modernizations,~~
851 ~~renovations, or additions to, or rehabilitate, the facility in~~
852 ~~compliance with NFPA 101, 1994 edition, and may utilize the~~
853 ~~alternative approaches to life safety in compliance with NFPA~~
854 ~~101A, 1995 edition. However, a facility for which a building~~
855 ~~permit or certificate of occupancy is issued before July 1,~~
856 ~~2016, that undergoes Level III building alteration or~~
857 ~~rehabilitation, as defined in the Florida Building Code, or~~
858 ~~seeks to utilize features not authorized under the 1994 or 1995~~
859 ~~editions of the Life Safety Code must thereafter comply with all~~
860 ~~aspects of the uniform firesafety standards established under s.~~
861 ~~633.206, and the Florida Fire Prevention Code, in effect for~~
862 ~~assisted living facilities as adopted by the State Fire Marshal.~~

863 ~~3. Resident clopement requirements.-Facilities are required~~
864 ~~to conduct a minimum of two resident clopement prevention and~~
865 ~~response drills per year. All administrators and direct care~~
866 ~~staff must participate in the drills, which shall include a~~
867 ~~review of procedures to address resident clopement. Facilities~~
868 ~~must document the implementation of the drills and ensure that~~



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869 ~~the drills are conducted in a manner consistent with the~~
870 ~~facility's resident eopement policies and procedures.~~

871 (b) The preparation and annual update of a comprehensive
872 emergency management plan. Such standards must be included in
873 the rules adopted by the agency after consultation with the
874 Division of Emergency Management. At a minimum, the rules must
875 provide for plan components that address emergency evacuation
876 transportation; adequate sheltering arrangements; postdisaster
877 activities, including provision of emergency power, food, and
878 water; postdisaster transportation; supplies; staffing;
879 emergency equipment; individual identification of residents and
880 transfer of records; communication with families; and responses
881 to family inquiries. The comprehensive emergency management plan
882 is subject to review and approval by the county local emergency
883 management agency. During its review, the county local emergency
884 management agency shall ensure that the following agencies, at a
885 minimum, are given the opportunity to review the plan: the
886 Department of Health, the Agency for Health Care Administration,
887 and the Division of Emergency Management. ~~Also, appropriate~~
888 ~~volunteer organizations must be given the opportunity to review~~
889 ~~the plan.~~ The county local emergency management agency shall
890 complete its review within 60 days and either approve the plan
891 or advise the facility of necessary revisions. A facility must
892 submit a comprehensive emergency management plan to the county
893 emergency management agency within 30 days after issuance of a
894 license.

895 (c) The number, training, and qualifications of all
896 personnel having responsibility for the care of residents. The
897 rules must require adequate staff to provide for the safety of



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898 all residents. Facilities licensed for 17 or more residents are
899 required to maintain an alert staff for 24 hours per day.

900 ~~(d) All sanitary conditions within the facility and its~~
901 ~~surroundings which will ensure the health and comfort of~~
902 ~~residents. The rules must clearly delineate the responsibilities~~
903 ~~of the agency's licensure and survey staff, the county health~~
904 ~~departments, and the local authority having jurisdiction over~~
905 ~~firesafety and ensure that inspections are not duplicative. The~~
906 ~~agency may collect fees for food service inspections conducted~~
907 ~~by the county health departments and transfer such fees to the~~
908 ~~Department of Health.~~

909 ~~(d)(e)~~ License application and license renewal, transfer of
910 ownership, proper management of resident funds and personal
911 property, surety bonds, resident contracts, refund policies,
912 financial ability to operate, and facility and staff records.

913 ~~(e)(f)~~ Inspections, complaint investigations, moratoriums,
914 classification of deficiencies, levying and enforcement of
915 penalties, ~~and use of income from fees and fines.~~

916 ~~(f)(g)~~ The enforcement of the resident bill of rights
917 specified in s. 429.28.

918 ~~(g)(h)~~ The care ~~and maintenance~~ of residents provided by
919 the facility, which must include, ~~but is not limited to:~~

- 920 1. The supervision of residents;
- 921 2. The provision of personal services;
- 922 3. The provision of, or arrangement for, social and leisure
923 activities;
- 924 4. The assistance in making arrangements ~~arrangement~~ for
925 appointments and transportation to appropriate medical, dental,
926 nursing, or mental health services, as needed by residents;



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927 5. The management of medication stored within the facility
928 and as needed by residents;
929 6. The ~~dietary~~ nutritional needs of residents;
930 7. Resident records; and
931 8. Internal risk management and quality assurance.
932 ~~(h)(i)~~ Facilities holding a limited nursing, extended
933 congregate care, or limited mental health license.
934 ~~(i)(j)~~ The establishment of specific criteria to define
935 appropriateness of resident admission and continued residency in
936 a facility holding a standard, limited nursing, extended
937 congregate care, and limited mental health license.
938 ~~(j)(k)~~ The use of physical or chemical restraints. The use
939 of Posey restraints is prohibited. Other physical restraints may
940 be used in accordance with agency rules when ordered is limited
941 to half-bed rails as prescribed and documented by the resident's
942 physician and consented to by with the consent of the resident
943 or, if applicable, the resident's representative or designee or
944 the resident's surrogate, guardian, or attorney in fact. Such
945 rules must specify requirements for care planning, staff
946 monitoring, and periodic review by a physician. The use of
947 chemical restraints is limited to prescribed dosages of
948 medications authorized by the resident's physician and must be
949 consistent with the resident's diagnosis. Residents who are
950 receiving medications that can serve as chemical restraints must
951 be evaluated by their physician at least annually to assess:
952 1. The continued need for the medication.
953 2. The level of the medication in the resident's blood.
954 3. The need for adjustments in the prescription.
955 ~~(k)(l)~~ The establishment of specific resident elopement



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956 drill requirements and policies and procedures on resident
957 elopement. Facilities shall conduct a minimum of two resident
958 elopement drills each year. All administrators and direct care
959 staff shall participate in the drills, which must include a
960 review of the facility's procedures to address resident
961 elopement. Facilities shall document participation in the
962 drills.
963 (2) In adopting any rules pursuant to this part, the agency
964 shall make distinct standards for facilities based upon facility
965 size; the types of care provided; the physical and mental
966 capabilities and needs of residents; the type, frequency, and
967 amount of services and care offered; and the staffing
968 characteristics of the facility. Rules developed pursuant to
969 this section may not restrict the use of shared staffing and
970 shared programming in facilities that are part of retirement
971 communities that provide multiple levels of care and otherwise
972 meet the requirements of law and rule. If a continuing care
973 facility licensed under chapter 651 or a retirement community
974 offering multiple levels of care licenses a building or part of
975 a building designated for independent living for assisted
976 living, staffing requirements established in rule apply only to
977 residents who receive personal, limited nursing, or extended
978 congregate care services under this part. Such facilities shall
979 retain a log listing the names and unit number for residents
980 receiving these services. The log must be available to surveyors
981 upon request. ~~Except for uniform firesafety standards,~~ The
982 agency shall adopt by rule separate and distinct standards for
983 facilities with 16 or fewer beds and for facilities with 17 or
984 more beds. The standards for facilities with 16 or fewer beds



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985 must be appropriate for a noninstitutional residential
986 environment; however, the structure may not be more than two
987 stories in height and all persons who cannot exit the facility
988 unassisted in an emergency must reside on the first floor. The
989 agency may make other distinctions among types of facilities as
990 necessary to enforce this part. Where appropriate, the agency
991 shall offer alternate solutions for complying with established
992 standards, based on distinctions made by the agency relative to
993 the physical characteristics of facilities and the types of care
994 offered.

995 (5) The agency may use an abbreviated biennial standard
996 licensure inspection that consists of a review of key quality-
997 of-care standards in lieu of a full inspection in a facility
998 that has a good record of past performance. However, a full
999 inspection must be conducted in a facility that has a history of
1000 class I or class II violations; ~~7~~ uncorrected class III
1001 violations; or a class I, class II, or uncorrected class III
1002 violation resulting from a complaint referred by the State Long-
1003 Term Care Ombudsman Program, ~~confirmed ombudsman council~~
1004 ~~complaints, or confirmed licensure complaints~~ within the
1005 previous licensure period immediately preceding the inspection
1006 or if a potentially serious problem is identified during the
1007 abbreviated inspection. The agency shall adopt by rule develop
1008 the key quality-of-care standards ~~with input from the State~~
1009 ~~Long-Term Care Ombudsman Council and representatives of provider~~
1010 ~~groups for incorporation into its rules.~~

1011 Section 12. Section 429.435, Florida Statutes, is created
1012 to read:

1013 429.435 Uniform firesafety standards.—Uniform firesafety



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1014 standards for assisted living facilities that are residential
1015 board and care occupancies shall be established by the State
1016 Fire Marshal pursuant to s. 633.206.

1017 (1) EVACUATION CAPABILITY.—A firesafety evacuation
1018 capability determination shall be conducted within 6 months
1019 after the date of initial licensure of an assisted living
1020 facility, if required.

1021 (2) FIRESAFETY REQUIREMENTS.—

1022 (a) The National Fire Protection Association, Life Safety
1023 Code, NFPA 101 and 101A, current editions, must be used in
1024 determining the uniform firesafety code adopted by the State
1025 Fire Marshal for assisted living facilities, pursuant to s.
1026 633.206.

1027 (b) A local government or a utility may charge fees that do
1028 not exceed the actual costs incurred by the local government or
1029 the utility for the installation and maintenance of an automatic
1030 fire sprinkler system in a licensed assisted living facility
1031 structure.

1032 (c) All licensed facilities must have an annual fire
1033 inspection conducted by the local fire marshal or authority
1034 having jurisdiction.

1035 (d) An assisted living facility that was issued a building
1036 permit or certificate of occupancy before July 1, 2016, at its
1037 option and after notifying the authority having jurisdiction,
1038 may remain under the provisions of the 1994 and 1995 editions of
1039 the National Fire Protection Association, Life Safety Code, NFPA
1040 101 and 101A. A facility opting to remain under such provisions
1041 may make repairs, modernizations, renovations, or additions to
1042 or rehabilitate the facility in compliance with NFPA 101, 1994



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1043 edition, and may use the alternative approaches to life safety
1044 in compliance with NFPA 101A, 1995 edition. However, a facility
1045 for which a building permit or certificate of occupancy was
1046 issued before July 1, 2016, which undergoes Level III building
1047 alteration or rehabilitation, as defined in the Florida Building
1048 Code, or which seeks to use features not authorized under the
1049 1994 or 1995 editions of the Life Safety Code, shall thereafter
1050 comply with all aspects of the uniform firesafety standards
1051 established under s. 633.206 and the Florida Fire Prevention
1052 Code in effect for assisted living facilities as adopted by the
1053 State Fire Marshal.

1054 Section 13. Section 429.52, Florida Statutes, is amended to
1055 read:

1056 429.52 Staff training and educational requirements
1057 programs; core educational requirement.-

1058 (1) ~~Effective October 1, 2015,~~ Each new assisted living
1059 facility employee who has not previously completed core training
1060 must attend a preservice orientation provided by the facility
1061 before interacting with residents. The preservice orientation
1062 must be at least 2 hours in duration and cover topics that help
1063 the employee provide responsible care and respond to the needs
1064 of facility residents. Upon completion, the employee and the
1065 administrator of the facility must sign a statement that the
1066 employee completed the required preservice orientation. The
1067 facility must keep the signed statement in the employee's
1068 personnel record.

1069 (2) Administrators and other assisted living facility staff
1070 must meet minimum training and education requirements
1071 established by the agency by rule. This training and education



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1072 is intended to assist facilities to appropriately respond to the
1073 needs of residents, to maintain resident care and facility
1074 standards, and to meet licensure requirements.

1075 (3) The agency, in conjunction with providers, shall
1076 develop core training requirements for administrators consisting
1077 of core training learning objectives, a competency test, and a
1078 minimum required score to indicate successful ~~passage completion~~
1079 of the core competency test ~~training and educational~~
1080 requirements. The required core competency test ~~training and~~
1081 education must cover at least the following topics:

1082 (a) State law and rules relating to assisted living
1083 facilities.

1084 (b) Resident rights and identifying and reporting abuse,
1085 neglect, and exploitation.

1086 (c) Special needs of elderly persons, persons with mental
1087 illness, and persons with developmental disabilities and how to
1088 meet those needs.

1089 (d) Nutrition and food service, including acceptable
1090 sanitation practices for preparing, storing, and serving food.

1091 (e) Medication management, recordkeeping, and proper
1092 techniques for assisting residents with self-administered
1093 medication.

1094 (f) Firesafety requirements, including fire evacuation
1095 drill procedures and other emergency procedures.

1096 (g) Care of persons with Alzheimer's disease and related
1097 disorders.

1098 (4) A ~~new~~ facility administrator must complete the required
1099 core training and education, including the competency test,
1100 within 90 days after the date of employment as an administrator.



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1101 Failure to do so is a violation of this part and subjects the
1102 violator to an administrative fine as prescribed in s. 429.19.
1103 Administrators licensed in accordance with part II of chapter
1104 468 are exempt from this requirement. Other licensed
1105 professionals may be exempted, as determined by the agency by
1106 rule.

1107 (5) Administrators are required to participate in
1108 continuing education for a minimum of 12 contact hours every 2
1109 years.

1110 (6) Staff ~~involved with the management of medications and~~
1111 ~~assisting with the self-administration of medications under s.~~
1112 ~~429.256 must complete a minimum of 6 additional hours of~~
1113 ~~training provided by a registered nurse or, a licensed~~
1114 ~~pharmacist before providing assistance, or agency staff. Two~~
1115 ~~hours of continuing education are required annually thereafter.~~
1116 The agency shall establish by rule the minimum requirements of
1117 this ~~additional~~ training.

1118 (7) ~~Other~~ Facility staff shall participate in inservice
1119 training relevant to their job duties as specified by agency
1120 ~~of the agency. Topics covered during the preservice~~
1121 ~~orientation are not required to be repeated during inservice~~
1122 ~~training. A single certificate of completion which covers all~~
1123 ~~required inservice training topics may be issued to a~~
1124 ~~participating staff member if the training is provided in a~~
1125 ~~single training course.~~

1126 (8) If the agency determines that there are problems in a
1127 facility which could be reduced through specific staff training
1128 ~~or education~~ beyond that already required under this section,
1129 the agency may require, and provide, or cause to be provided,



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1130 the training ~~or education~~ of any personal care staff in the
1131 facility.

1132 (9) The agency shall adopt rules related to these training
1133 and education requirements, the competency test, necessary
1134 procedures, and competency test fees and shall adopt or contract
1135 with another entity to develop and administer the competency
1136 test. The agency shall adopt a curriculum outline with learning
1137 objectives to be used by core trainers, which shall be used as
1138 the minimum core training content requirements. The agency shall
1139 consult with representatives of stakeholder associations and
1140 agencies in the development of the curriculum outline.

1141 (10) The core training required by this section ~~other than~~
1142 ~~the preservice orientation~~ must be conducted by persons
1143 registered with the agency as having the requisite experience
1144 and credentials to conduct the training. A person seeking to
1145 register as a core trainer must provide the agency with proof of
1146 completion of the ~~minimum~~ core training ~~education~~ requirements,
1147 successful passage of the competency test established under this
1148 section, and proof of compliance with the continuing education
1149 requirement in subsection (5).

1150 (11) A person seeking to register as a core trainer also
1151 must ~~also~~:

1152 (a) Provide proof of completion of a 4-year degree from an
1153 accredited college or university and must have worked in a
1154 management position in an assisted living facility for 3 years
1155 after being core certified;

1156 (b) Have worked in a management position in an assisted
1157 living facility for 5 years after being core certified and have
1158 1 year of teaching experience as an educator or staff trainer



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1159 for persons who work in assisted living facilities or other
1160 long-term care settings;

1161 (c) Have been previously employed as a core trainer for the
1162 agency or department; or

1163 (d) Meet other qualification criteria as defined in rule,
1164 which the agency is authorized to adopt.

1165 (12) The agency shall adopt rules to establish core trainer
1166 registration and removal requirements.

1167 Section 14. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 402

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Harrell

SUBJECT: Assisted Living Facilities

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Looke</u> | <u>Brown</u> | <u>HP</u> | <u>Fav/CS</u> |
| 2. | <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 402 amends various statutes related to the regulation of an assisted living facility (ALF). The bill:

- Allows the use of certain physical restraints in ALFs, including any device the resident chooses to use and is able to remove or avoid independently.
- Requires ALFs to submit a preliminary adverse incident report and final report through the Agency for Health Care Administration's (AHCA) online portal, or by electronic mail if the portal is offline.
- Revises adverse incident reporting notifications for the AHCA and requirements for ALFs.
- Authorizes unlicensed ALF staff to change the bandages of residents for minor cuts and abrasions.
- Authorizes a resident or his or her representative, designee, surrogate, guardian, or attorney, as applicable, to contract for services with a third party and provides requirements for third-party communication with the facility and requires an ALF to document that it received such communication.
- Removes the requirement for ALF staff assisting with the self-administration of medication to read the label of the medication to the resident. Instead, the bill requires staff to, in the presence of the resident, confirm the medication is correct and advise the resident of the medication name and dosage. The bill also allows the resident to sign a waiver to opt-out of being orally advised and provides the waiver that must be immediately updated each time the resident's medications and dosage change.

- Allows ALFs to admit residents that require 24-hour nursing care, residents that are receiving hospice services, or residents who are bedridden that meet specific criteria.
- Clarifies the requirements for a resident to be admitted to and retained in an ALF.
- Requires each resident to have a medical examination performed no longer than 60 days prior to or up to 30 days after admission to the ALF and requires the AHCA to adopt a form in rule that may be used by the health care practitioner performing the medical examination.
- Amends the Resident Bill of Rights to allow the State Long-Term Care Ombudsman Program to provide assistance to a resident who needs to be relocated due to the closure of a facility.
- Requires an ALF to notify a resident's representative or designee of the need for health care services and assist in making appointments if an underlying condition of dementia or cognitive impairment is determined to exist. If the resident does not have a representative or designee or the ALF cannot reach their representative or designee, the ALF must arrange for the necessary care and services to treat the condition with an appropriate health care provider.
- Amends the AHCA's rulemaking authority to account for technological advances in the provision of care, safety, and security.
- Clarifies who may approve an ALF's comprehensive emergency management plan and allows an ALF to submit the plan up to 30 days after receiving a license.
- Requires the AHCA to conduct a full inspection instead of an abbreviated biennial licensure inspection to review the key quality-of-care standards for a facility that has a class I, class II, or uncorrected class III violation resulting from a complaint referred by the State Long-Term Care Ombudsman Program.
- Consolidates provisions related to firesafety into its own section of law rather than being intermingled with the AHCA's rulemaking authority.
- Amends several provisions related to the ALF administrator core competency curriculum and examination to clarify that the AHCA must adopt an outline and learning objectives for such curriculum.

The bill does not have a fiscal impact on state revenues or expenditures.

The bill takes effect July 1, 2020.

II. Present Situation:

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.¹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.³

¹ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

² Section 429.02(17), F.S.

³ Section 429.02(1), F.S.

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁴ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.⁵ If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.⁶

There are 3,069 licensed ALFs in Florida having a total of 107,144 beds.⁷ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow an ALF to provide additional care. These specialty licenses include limited nursing services,⁸ limited mental health,⁹ and extended congregate care.¹⁰

ALF Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established in rule by the AHCA,¹¹ that are intended to assist ALFs in appropriately responding to the needs of residents, maintaining resident care and facility standards, and meeting licensure requirements.¹²

The current ALF core training requirements established by the AHCA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within three months after becoming an ALF administrator or manager. The minimum passing score for the competency test is 75 percent.¹³

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every two years.¹⁴ A newly-hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager, who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.¹⁵

⁴ See Rule 59A-36.007, F.A.C., for specific minimum standards.

⁵ Section 429.26, F.S., and Rule 59A-36.006, F.A.C.

⁶ Section 429.28, F.S.

⁷ Agency for Health Care Administration, Health Care Finder. See

<http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited October 30, 2019).

⁸ Section 429.07(3)(c), F.S.

⁹ Section 429.075, F.S.

¹⁰ Section 429.07(3)(b), F.S.

¹¹ Rule 59A-36.011, F.A.C.

¹² Section 429.52(1), F.S.

¹³ Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.

¹⁴ Rule 59A-36.011, F.A.C.

¹⁵ *Id.*

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for six hours of in-service training for facility staff who provide direct care to residents.¹⁶ Staff training requirements must generally be met within 30 days after staff begin employment at the facility; however, staff must have at least one hour of infection control training before providing direct care to residents. Nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard six hours of in-service training, staff must complete one hour of elopement training and one hour of training on “do not resuscitate” orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer’s disease, if applicable.

Inspections and Surveys

The AHCA is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license;
- Prior to biennial renewal of a license;
- When there is a change of ownership;
- To monitor ALFs licensed to provide limited nursing services or extended congregate care services;
- To monitor ALFs cited in the previous year for a class I or class II violation or for four or more uncorrected class III violations;
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;
- If the AHCA has reason to believe an ALF is violating a provision of part III of ch. 429, F.S., relating to adult day care centers or an administrative rule;
- To determine if cited deficiencies have been corrected; or
- To determine if an ALF is operating without a license.¹⁷

An applicant for licensure renewal is eligible for an abbreviated biennial survey by the AHCA if the applicant does not have any:

- Class I, class II, or uncorrected class III violations;
- Confirmed complaints from the long-term care ombudsman council¹⁸ which were reported to the AHCA by the council; or
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.¹⁹

¹⁶ *Id.*

¹⁷ Section 429.34, F.S.

¹⁸ Florida’s Long-Term Care Ombudsman Program was founded in 1975 as a result of the federal Older Americans Act, which grants a special set of residents’ rights to individuals who live in long-term care facilities such as nursing homes, assisted living facilities and adult family care homes. Volunteer ombudsmen seek to ensure the health, safety, welfare and rights of these residents throughout Florida. See <http://ombudsman.myflorida.com/AboutUs.php> (last visited on October 30, 2019).

¹⁹ Rule 59A-36.023, F.A.C.

III. Effect of Proposed Changes:

The bill amends various sections in ch. 429, F.S., related to the regulation of ALFs. In addition to technical and conforming changes:

Section 1 amends s. 429.02, F.S., to define “assistive device” to mean any device designed or adapted to help a resident perform an action, a task, an activity of daily living, or a transfer; prevent a fall; or recover from a fall. The term does not include a total body lift or a motorized sit-to-stand lift, with the exception of a chair lift or recliner lift that a resident is able to operate independently. Additionally, the bill amends the definition of “extended congregate care” to make conforming and technical changes and “physical restraint” to eliminate specific examples of what qualifies as a physical restraint and to specify that a device the resident chooses to use and is able to remove does not qualify as a physical restraint.

Section 2 amends s. 429.07, F.S., to specify that required written progress reports maintained on the services offered by extended congregate care and limited nursing services must cover only those services offered by the ALF, not those offered by third parties.

Section 3 amends s. 429.11, F.S., to specify that a county or municipality may not issue a business tax receipt, rather than an occupational license, to an ALF without first determining that the ALF is licensed by the AHCA. This is a technical change in terminology.

Section 4 amends s. 429.176, F.S., to specify that when an ALF changes administrators, the owner of the ALF must provide the AHCA with documentation that the new administrator meets educational requirements (in addition to core training requirements that are already required) within 90 days of the change.

Section 5 amends s. 429.23, F.S., to require ALFs to submit the adverse incident preliminary report and final report through AHCA’s online portal, or by electronic mail if the portal is offline, instead of by facsimile or United States Mail. The bill also adds language to prevent an ALF from being fined for failing to submit a final report until three days after AHCA notifies the ALF that the final report is due if the incident is determined to, in fact, not be an adverse incident. The bill also eliminates the requirement that each ALF file a monthly report with the AHCA that includes any liability claim filed against it.

Section 6 amends s. 429.255, F.S., to authorize unlicensed ALF staff to change the bandages of residents for minor cuts and abrasions. The bill also authorizes a resident or his or her representative, designee, surrogate, guardian, or attorney, as applicable, to contract for services with a third party, provided the resident meets the criteria for residency and continued residency. The third-party is required to communicate with the facility regarding the resident’s condition and the services being provided in accordance with the facility’s policies. The ALF is required to document that it received such communication.

Section 7 amends s. 429.256, F.S., to include transdermal patches in the list of medications that unlicensed ALF staff may assist a resident in self-administering. The bill also clarifies that assistance with the self-administration of medication includes:

- A staff member confirming that the medication is intended for the resident and orally advising the resident of the medication's name and dosage.²⁰ The resident may sign a written waiver to opt-out of being orally advised the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of the medications, and must immediately be updated each time the resident's medications or dosages change; and
- A staff member assisting with the self-administration of a medication that is prescribed "as needed" if the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.²¹

Section 8 amends s. 429.26, F.S., to require that each resident receive a medical examination by a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse within 60 days before admission to the facility or within 30 days after admission to the facility. The practitioner performing the examination must fill out and sign a form that reflects the resident's condition on the date the examination is performed. The bill specifies that the medical examination form required for admittance to an ALF does not guarantee admission to, continued residency in, or the delivery of services at the facility and must be used only as an informative tool to assist in the determination of the appropriateness of the resident's admission or continued residency. The form used may be the practitioner's own form or a form adopted by the AHCA in rule, both of which must include the following information on the resident:

- Height, weight, and known allergies.
- Significant medical history and diagnoses.
- Physical or sensory limitations, including the need for fall precautions or recommended use of assistive devices.
- Cognitive or behavioral status and a brief description of any behavioral issues known or ascertained by the examining practitioner, including any known history of wandering or elopement.
- Nursing, treatment, or therapy service requirements.
- Whether assistance is needed for ambulating, eating, or transferring.
- Special dietary instructions.
- Whether the resident has any communicable diseases, including necessary precautions that are necessary due to such diseases.
- Whether the resident is bedridden and the presence of any pressure sores.
- Whether the resident needs 24-hour nursing supervision or psychiatric care.
- A list of current prescribed medications as known or ascertained by the examining practitioner and whether the resident can self-administer medications, needs assistance, or needs medication administration.

The bill establishes criteria that for a resident's appropriateness for admission or continued residency, including:

- A facility may admit or retain a resident who receives a health care service or treatment that is designed to be provided within a private residential setting if all requirements for providing that service or treatment are met by the facility or a third party.

²⁰ Current law requires the staff member read the label on the medication. It is unclear whether the label must be read to the resident, however.

²¹ Current law requires the resident to be competent.

- A facility may admit or retain a resident who requires the use of assistive devices.²²
- A facility may admit or retain an individual receiving hospice services if the arrangement is agreed to by the facility and the resident, additional care is provided by a licensed hospice, and the resident is under the care of a physician who agrees that the physical needs of the resident can be met at the facility. The resident must have a plan of care that delineates how the facility and the hospice will meet the scheduled and unscheduled needs of the resident, including, if applicable, staffing for nursing care.
- A facility may not retain a resident who requires 24-hour nursing supervision, except for a resident who is enrolled in hospice services pursuant to part IV of chapter 400.
- A facility may not admit or retain a resident who is bedridden²³ except that:
 - A bedridden resident may be admitted or retained if he or she is receiving hospice services if the arrangement is agreed to by the facility and the resident, additional care is provided by a licensed hospice, and the resident is under the care of a physician who agrees that the physical needs of the resident can be met at the facility.
 - A facility may retain a bedridden resident if the resident is bedridden for no more than seven days or up to 14 days if the facility is licensed to provide extended congregate care.

Additionally, the bill amends the requirement that an ALF must arrange for the necessary care and services to treat a resident who has developed dementia or cognitive impairment to instead require the ALF to notify the resident's designee or representative of the need for such health care services and to assist in making appointments for the resident. If the resident's designee or representative cannot be located or is unresponsive, the ALF retains the requirement to arrange the necessary care for the resident.

Section 9 amends s. 429.28, F.S., to require that a document stating the reasons for relocation of a resident be provided to the resident or the resident's representative; and to clarify the AHCA rulemaking and inspection authority required by the resident's bill of rights.

Section 10 amends s. 429.31, F.S., to provide relocation assistance to a resident of an ALF whose residency is being terminated due to closure of the facility. Specifically, the bill requires the notice of relocation or termination to state that the resident may contact the State Long-Term Care Ombudsman Program for assistance with relocation and must include the statewide toll-free telephone number of the program. The bill requires an ALF to notify the AHCA of its plans to discontinue facility operation. Further, the bill requires the AHCA, upon receiving notice of a facility's voluntary or involuntary termination, to immediately inform the State Long-Term Care Ombudsman Program so they can provide assistance with relocation to the resident.

Section 11 amends s. 429.41, F.S., to:

- Clarify that the AHCA may account for technological advances in the provision of care, safety, and security, including the use of devices, equipment, and other security measures related to wander management, emergency response, staff risk management, and the general safety and security of residents, staff, and the facility in its rules.

²² The term "assistive devices" is defined in section 1 of the bill.

²³ The bill defines "bedridden" as a resident who is confined to a bed because of the inability to: move, turn, or reposition without total physical assistance; transfer to a chair or wheelchair without total physical assistance; or sit safely in a chair or wheelchair without personal assistance or a physical restraint.

- Remove language regarding firesafety standards that are being placed in new section 429.435, F.S. (See section 12 of the bill).
- Clarify that rule requirements for maintenance and sanitary conditions include furnishings for resident bedrooms or sleeping areas, locking devices and linens, but do not include requirements that are duplicative of those in ch. 553, or ss. 381.006, 381.0072, and 633.206, F.S. The bill also requires that the rules clearly delineate the respective responsibilities of the AHCA's licensure and survey staff and the county health departments to ensure that inspections are not duplicative and allows the AHCA to collect fees²⁴ for food service inspections conducted by the county health department and transfer such fees to the Department of Health.
- Remove the requirement that comprehensive emergency management plans be made available for review by appropriate volunteer organizations and require that an ALF submit its plan to the county emergency management agency within 30 days after being issued a license rather than requiring the plan to be approved prior to the issuance of the license.
- Allow the use of physical restraints (as defined in section 1 of the bill) other than Posey restraints²⁵ in accordance with the AHCA rules. Such rules must specify requirements for care planning, staff monitoring, and periodic review by a physician.
- Require the establishment of specific ALF elopement drill requirements, in addition to elopement policies and procedures on resident elopement, and require administrators and direct care staff to review elopement procedures to address resident elopement as part of the elopement drill.
- Allow the AHCA to use an abbreviated survey for an ALF that has had a confirmed ombudsman council complaint or licensure complaint unless such complaint results in a class I, II, or uncorrected class III violation.
- Require the AHCA to adopt key quality-of-care standards in rule and eliminate the requirement to incorporate input from the state long-term care ombudsman council and representatives of provider groups.

Section 12 creates s. 429.435, F.S., to consolidate requirements relating to uniform fire safety standards for ALFs into the new section. The requirements of this section are transposed from s. 429.41, F.S.

Section 13 amends s. 429.52, F.S., to require the AHCA, in conjunction with ALF providers, to develop core training requirements for administrators consisting of core training learning objectives. The bill also requires the AHCA to adopt a curriculum outline that includes the learning objectives.

The bill requires staff assisting with the self-administration of medication to complete six additional hours of training before providing such assistance and two hours of continuing education annually thereafter. The bill also specifies that topics covered in the preservice orientation for ALF staff are not required to be covered again in staff in-service training and that all required in-service training may be completed in a single course.

²⁴ The quarterly fee of \$300 is established in current law under s. 381.0072, F.S.

²⁵ Posey restraints are a generic term for a restraint that restricts a patient's free movement while the patient is in bed.

Additionally the bill requires the AHCA to establish core trainer registration and removal requirements.

Section 14 establishes an effective date of July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.02, 429.07, 429.11, 429.176, 429.23, 429.255, 429.256, 429.26, 429.28, 429.31, 429.41, and 429.52.

This bill creates section 429.435 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/CS by Appropriations on March 3, 2020:**

The committee substitute:

- Removes the definitions of “abuse”, “exploitation”, and “neglect”.
- Amends the definition of “extended congregate care” to make conforming and technical changes.
- Clarifies that a facility that is licensed to provide extended congregate care services must maintain a written progress report on each person who receives nursing services from the facility’s staff. Previously, the bill did not specify nursing services.
- Removes the provision from the definition of “adverse incident” to only include events associated with the ALF’s intervention rather than the resident’s underlying disease or condition.
- Revises adverse incident reporting notifications for the AHCA and requirements for ALFs.
- Authorizes unlicensed ALF staff to change the bandages of residents for minor cuts and abrasions.
- Provides for a resident or his or her representative, designee, surrogate, guardian, or attorney, as applicable, to contract for services with a third party. The third-party is required to communicate with the facility regarding the resident’s condition and the services. The ALF is required to document that it received such communication.
- Clarifies that residents who receive assistance with the self-administration of medication must be orally advised of the medication’s name and dosage and allows a resident to sign a waiver to opt-out of being orally advised. The waiver must include specified information and immediately be updated each time the resident’s medications or dosages change.
- Clarifies the medical examination form must (formerly may) be used only as an informative tool to determine the appropriateness of the resident’s admission to or continued residency on the facility.
- Amends the Resident Bill of Rights to allow the State Long-Term Care Ombudsman Program to provide assistance to a resident who needs to be relocated due to the closure of a facility.
- Removes the prohibition against geriatric chairs as an allowable use of physical restraints.
- Makes technical and conforming changes.

CS by Health Policy on November 5, 2019:

The CS:

- Amends the definition of “neglect” to include the failure to prevent sexual abuse.
- Maintains current law requiring an ALF to submit a preliminary adverse incident report to the AHCA within one business day of the incident occurring.
- Prevents AHCA from fining an ALF for not filing a full adverse incident report until three days after the AHCA provides the ALF with a reminder that the report is due.
- Specifies that the medical examination required for admittance to an ALF is not a guarantee of admission, continued residency, or services to be delivered and that the medical examination is to be used as an informative tool to assist in the determination of the appropriateness of the resident’s admission or continued residency.
- Specifies that an ALF must still arrange the necessary care and services to treat a resident with dementia or other similar condition if the ALF cannot locate the resident’s representative or he or she is not responsive.
- Specifies ss. 381.006 and 381.0072, F.S., in requiring that ALF rules not conflict with or duplicate provisions in the specified sections. Currently, the bill specifies the entire chapter of law.
- Maintains current law authority for AHCA to adopt rules over elopement policies and procedures.
- Specifies that the six hours of training necessary to provide assistance with medication is in addition to other required training.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Harrell

588-01170-20

2020402c1

1 A bill to be entitled
 2 An act relating to assisted living facilities;
 3 amending s. 429.02, F.S.; defining and redefining
 4 terms; amending s. 429.07, F.S.; clarifying that an
 5 assisted living facility licensed to provide extended
 6 congregate care services or limited nursing services
 7 must maintain a written progress report on each person
 8 receiving services from the facility's staff;
 9 conforming a cross-reference; amending s. 429.11,
 10 F.S.; prohibiting a county or municipality from
 11 issuing a business tax receipt, rather than an
 12 occupational license, to a facility under certain
 13 circumstances; amending s. 429.176, F.S.; amending
 14 educational requirements for an administrator who is
 15 replacing another administrator; amending s. 429.23,
 16 F.S.; removing restrictions on the method by which a
 17 facility may send a report to the Agency for Health
 18 Care Administration; requiring the agency to send a
 19 reminder to the facility 3 business days prior to the
 20 deadline for submission of the full report; removing a
 21 requirement that each facility file reports of
 22 liability claims; amending s. 429.255, F.S.;
 23 clarifying that the absence of an order not to
 24 resuscitate does not preclude a physician from
 25 withholding or withdrawing cardiopulmonary
 26 resuscitation or use of an automated external
 27 defibrillator; amending s. 429.256, F.S.; requiring a
 28 person assisting with a resident's self-administration
 29 of medication to confirm that the medication is

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30 intended for that resident and to orally advise the
 31 resident of the medication name and purpose; amending
 32 s. 429.26, F.S.; including medical examinations within
 33 criteria used for admission to an assisted living
 34 facility; providing specified criteria for
 35 determination of appropriateness for admission and
 36 continued residency at an assisted living facility;
 37 defining the term "bedridden"; requiring that a
 38 resident receive a medical examination within a
 39 specified timeframe after admission to a facility;
 40 requiring that such examination be recorded on a
 41 specified form; providing limitations on the use of
 42 such form; providing minimum requirements for such
 43 form; conforming a provision to changes made by the
 44 act; eliminating the role of the Department of Elderly
 45 Affairs in certain provisions relating to the
 46 placement of residents in assisted living facilities;
 47 requiring a facility to notify a resident's
 48 representative or designee of the need for health care
 49 services and to assist in making appointments for such
 50 care and services under certain circumstances;
 51 requiring the facility to arrange for necessary care
 52 and services if no resident representative or designee
 53 is available or responsive; removing provisions
 54 relating to the retention of certain residents in a
 55 facility; amending s. 429.28, F.S.; revising
 56 residents' rights relating to a safe and secure living
 57 environment; amending s. 429.41, F.S.; revising
 58 legislative intent; removing a provision to conform to

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59 changes made by the act; removing a redundant
 60 provision authorizing the Agency for Health Care
 61 Administration to adopt certain rules; removing
 62 provisions relating to firesafety requirements, which
 63 are relocated to another section; requiring county
 64 emergency management agencies, rather than local
 65 emergency management agencies, to review and approve
 66 or disapprove of a facility's comprehensive emergency
 67 management plan; requiring a facility to submit a
 68 comprehensive emergency management plan to the county
 69 emergency management agency within a specified
 70 timeframe after its licensure; revising the criteria
 71 under which a facility must be fully inspected;
 72 revising standards for the care of residents provided
 73 by a facility; prohibiting the use of geriatric chairs
 74 and Posey restraints in facilities; authorizing other
 75 physical restraints to be used under certain
 76 conditions and in accordance with certain rules;
 77 requiring the agency to establish resident elopement
 78 drill requirements; requiring that elopement drills
 79 include a review of a facility's procedures to address
 80 elopement; revising the criteria under which a
 81 facility must be fully inspected; revising provisions
 82 requiring the agency to adopt by rule key quality-of-
 83 care standards; creating s. 429.435, F.S.; revising
 84 uniform firesafety standards for assisted living
 85 facilities, which are relocated to this section;
 86 amending s. 429.52, F.S.; revising provisions relating
 87 to facility staff training and educational

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88 requirements; requiring the agency, in conjunction
 89 with providers, to establish core training
 90 requirements for facility administrators; revising
 91 continuing education requirements for facility staff
 92 who assist residents with the self-administration of
 93 medications; revising the training requirements for
 94 facility staff; revising provisions relating to the
 95 training responsibilities of the agency; requiring the
 96 agency to contract with another entity to administer a
 97 certain competency test; requiring the department to
 98 adopt a curriculum outline to be used by core
 99 trainers; providing an effective date.

100
101 Be It Enacted by the Legislature of the State of Florida:

102
103 Section 1. Present subsections (1) through (5), (6) through
 104 (10), (11) through (15), and (16) through (27) of section
 105 429.02, Florida Statutes, are redesignated as subsections (2)
 106 through (6), (8) through (12), (14) through (18), and (20)
 107 through (31), respectively, new subsections (1), (7), (13), and
 108 (19) are added, and present subsections (11) and (18) of that
 109 section are amended, to read:

110 429.02 Definitions.—When used in this part, the term:

111 (1) "Abuse" has the same meaning as in s. 415.102.

112 (7) "Assistive device" means any device designed or adapted
 113 to help a resident perform an action, a task, an activity of
 114 daily living, or a transfer; prevent a fall; or recover from a
 115 fall. The term does not include a total body lift or a motorized
 116 sit-to-stand lift, with the exception of a chair lift or

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117 recliner lift that a resident is able to operate independently.
 118 (13) "Exploitation" has the same meaning as in s. 415.102.
 119 (14)(11) "Extended congregate care" means acts beyond those
 120 authorized in subsection (21) which (17) that may be performed
 121 pursuant to part I of chapter 464 by persons licensed thereunder
 122 while carrying out their professional duties, and other
 123 supportive services ~~that~~ which may be specified by rule. The
 124 purpose of such services is to enable residents to age in place
 125 in a residential environment despite mental or physical
 126 limitations that might otherwise disqualify them from residency
 127 in a facility licensed under this part.
 128 (19) "Neglect" has the same meaning as in s. 415.102. For
 129 purposes other than reporting requirements within this part,
 130 "neglect" may also include the failure to prevent sexual abuse
 131 as defined in s. 415.102.
 132 (22)(18) "Physical restraint" means a device ~~that~~ which
 133 physically limits, restricts, or deprives an individual of
 134 movement or mobility, including, ~~but not limited to, a half-bed~~
 135 ~~rail, a full-bed rail, a geriatric chair, and a posey restraint.~~
 136 The term "physical restraint" shall also include any device ~~that~~
 137 ~~is~~ which was not specifically manufactured as a restraint but is
 138 ~~which has been~~ altered, arranged, or otherwise used for ~~that~~
 139 ~~this~~ purpose. The term ~~does shall~~ not include any device that
 140 ~~the resident chooses to use and is able to remove or avoid~~
 141 ~~independently, or any~~ bandage material used for the purpose of
 142 binding a wound or injury.
 143 Section 2. Paragraphs (b) and (c) of subsection (3) of
 144 section 429.07, Florida Statutes, are amended to read:
 145 429.07 License required; fee.-

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146 (3) In addition to the requirements of s. 408.806, each
 147 license granted by the agency must state the type of care for
 148 which the license is granted. Licenses shall be issued for one
 149 or more of the following categories of care: standard, extended
 150 congregate care, limited nursing services, or limited mental
 151 health.
 152 (b) An extended congregate care license shall be issued to
 153 each facility that has been licensed as an assisted living
 154 facility for 2 or more years and that provides services,
 155 directly or through contract, beyond those authorized in
 156 paragraph (a), including services performed by persons licensed
 157 under part I of chapter 464 and supportive services, as defined
 158 by rule, to persons who would otherwise be disqualified from
 159 continued residence in a facility licensed under this part. An
 160 extended congregate care license may be issued to a facility
 161 that has a provisional extended congregate care license and
 162 meets the requirements for licensure under subparagraph 2. The
 163 primary purpose of extended congregate care services is to allow
 164 residents the option of remaining in a familiar setting from
 165 which they would otherwise be disqualified for continued
 166 residency as they become more impaired. A facility licensed to
 167 provide extended congregate care services may also admit an
 168 individual who exceeds the admission criteria for a facility
 169 with a standard license, if he or she is determined appropriate
 170 for admission to the extended congregate care facility.
 171 1. In order for extended congregate care services to be
 172 provided, the agency must first determine that all requirements
 173 established in law and rule are met and must specifically
 174 designate, on the facility's license, that such services may be

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175 provided and whether the designation applies to all or part of
 176 the facility. This designation may be made at the time of
 177 initial licensure or relicensure, or upon request in writing by
 178 a licensee under this part and part II of chapter 408. The
 179 notification of approval or the denial of the request shall be
 180 made in accordance with part II of chapter 408. Each existing
 181 facility that qualifies to provide extended congregate care
 182 services must have maintained a standard license and may not
 183 have been subject to administrative sanctions during the
 184 previous 2 years, or since initial licensure if the facility has
 185 been licensed for less than 2 years, for any of the following
 186 reasons:

- 187 a. A class I or class II violation;
- 188 b. Three or more repeat or recurring class III violations
 189 of identical or similar resident care standards from which a
 190 pattern of noncompliance is found by the agency;
- 191 c. Three or more class III violations that were not
 192 corrected in accordance with the corrective action plan approved
 193 by the agency;
- 194 d. Violation of resident care standards which results in
 195 requiring the facility to employ the services of a consultant
 196 pharmacist or consultant dietitian;
- 197 e. Denial, suspension, or revocation of a license for
 198 another facility licensed under this part in which the applicant
 199 for an extended congregate care license has at least 25 percent
 200 ownership interest; or
- 201 f. Imposition of a moratorium pursuant to this part or part
 202 II of chapter 408 or initiation of injunctive proceedings.

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204 The agency may deny or revoke a facility's extended congregate
 205 care license for not meeting the criteria for an extended
 206 congregate care license as provided in this subparagraph.

207 2. If an assisted living facility has been licensed for
 208 less than 2 years, the initial extended congregate care license
 209 must be provisional and may not exceed 6 months. The licensee
 210 shall notify the agency, in writing, when it has admitted at
 211 least one extended congregate care resident, after which an
 212 unannounced inspection shall be made to determine compliance
 213 with the requirements of an extended congregate care license. A
 214 licensee with a provisional extended congregate care license
 215 which ~~that~~ demonstrates compliance with all the requirements of
 216 an extended congregate care license during the inspection shall
 217 be issued an extended congregate care license. In addition to
 218 sanctions authorized under this part, if violations are found
 219 during the inspection and the licensee fails to demonstrate
 220 compliance with all assisted living facility requirements during
 221 a followup inspection, the licensee shall immediately suspend
 222 extended congregate care services, and the provisional extended
 223 congregate care license expires. The agency may extend the
 224 provisional license for not more than 1 month in order to
 225 complete a followup visit.

226 3. A facility that is licensed to provide extended
 227 congregate care services shall maintain a written progress
 228 report on each person who receives services from the facility's
 229 staff which describes the type, amount, duration, scope, and
 230 outcome of services that are rendered and the general status of
 231 the resident's health. A registered nurse, or appropriate
 232 designee, representing the agency shall visit the facility at

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233 least twice a year to monitor residents who are receiving
 234 extended congregate care services and to determine if the
 235 facility is in compliance with this part, part II of chapter
 236 408, and relevant rules. One of the visits may be in conjunction
 237 with the regular survey. The monitoring visits may be provided
 238 through contractual arrangements with appropriate community
 239 agencies. A registered nurse shall serve as part of the team
 240 that inspects the facility. The agency may waive one of the
 241 required yearly monitoring visits for a facility that has:

242 a. Held an extended congregate care license for at least 24
 243 months;

244 b. No class I or class II violations and no uncorrected
 245 class III violations; and

246 c. No ombudsman council complaints that resulted in a
 247 citation for licensure.

248 4. A facility that is licensed to provide extended
 249 congregate care services must:

250 a. Demonstrate the capability to meet unanticipated
 251 resident service needs.

252 b. Offer a physical environment that promotes a homelike
 253 setting, provides for resident privacy, promotes resident
 254 independence, and allows sufficient congregate space as defined
 255 by rule.

256 c. Have sufficient staff available, taking into account the
 257 physical plant and firesafety features of the building, to
 258 assist with the evacuation of residents in an emergency.

259 d. Adopt and follow policies and procedures that maximize
 260 resident independence, dignity, choice, and decisionmaking to
 261 permit residents to age in place, so that moves due to changes

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262 in functional status are minimized or avoided.

263 e. Allow residents or, if applicable, a resident's
 264 representative, designee, surrogate, guardian, or attorney in
 265 fact to make a variety of personal choices, participate in
 266 developing service plans, and share responsibility in
 267 decisionmaking.

268 f. Implement the concept of managed risk.

269 g. Provide, directly or through contract, the services of a
 270 person licensed under part I of chapter 464.

271 h. In addition to the training mandated in s. 429.52,
 272 provide specialized training as defined by rule for facility
 273 staff.

274 5. A facility that is licensed to provide extended
 275 congregate care services is exempt from the criteria for
 276 continued residency set forth in rules adopted under s. 429.41.
 277 A licensed facility must adopt its own requirements within
 278 guidelines for continued residency set forth by rule. However,
 279 the facility may not serve residents who require 24-hour nursing
 280 supervision. A licensed facility that provides extended
 281 congregate care services must also provide each resident with a
 282 written copy of facility policies governing admission and
 283 retention.

284 6. Before the admission of an individual to a facility
 285 licensed to provide extended congregate care services, the
 286 individual must undergo a medical examination as provided in s.
 287 429.26(5) ~~s. 429.26(4)~~ and the facility must develop a
 288 preliminary service plan for the individual.

289 7. If a facility can no longer provide or arrange for
 290 services in accordance with the resident's service plan and

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291 needs and the facility's policy, the facility must make
 292 arrangements for relocating the person in accordance with s.
 293 429.28(1)(k).

294 (c) A limited nursing services license shall be issued to a
 295 facility that provides services beyond those authorized in
 296 paragraph (a) and as specified in this paragraph.

297 1. In order for limited nursing services to be provided in
 298 a facility licensed under this part, the agency must first
 299 determine that all requirements established in law and rule are
 300 met and must specifically designate, on the facility's license,
 301 that such services may be provided. This designation may be made
 302 at the time of initial licensure or licensure renewal, or upon
 303 request in writing by a licensee under this part and part II of
 304 chapter 408. Notification of approval or denial of such request
 305 shall be made in accordance with part II of chapter 408. An
 306 existing facility that qualifies to provide limited nursing
 307 services must have maintained a standard license and may not
 308 have been subject to administrative sanctions that affect the
 309 health, safety, and welfare of residents for the previous 2
 310 years or since initial licensure if the facility has been
 311 licensed for less than 2 years.

312 2. A facility that is licensed to provide limited nursing
 313 services shall maintain a written progress report on each person
 314 who receives such nursing services from the facility's staff.
 315 The report must describe the type, amount, duration, scope, and
 316 outcome of services that are rendered and the general status of
 317 the resident's health. A registered nurse representing the
 318 agency shall visit the facility at least annually to monitor
 319 residents who are receiving limited nursing services and to

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320 determine if the facility is in compliance with applicable
 321 provisions of this part, part II of chapter 408, and related
 322 rules. The monitoring visits may be provided through contractual
 323 arrangements with appropriate community agencies. A registered
 324 nurse shall also serve as part of the team that inspects such
 325 facility. Visits may be in conjunction with other agency
 326 inspections. The agency may waive the required yearly monitoring
 327 visit for a facility that has:

328 a. Had a limited nursing services license for at least 24
 329 months;

330 b. No class I or class II violations and no uncorrected
 331 class III violations; and

332 c. No ombudsman council complaints that resulted in a
 333 citation for licensure.

334 3. A person who receives limited nursing services under
 335 this part must meet the admission criteria established by the
 336 agency for assisted living facilities. When a resident no longer
 337 meets the admission criteria for a facility licensed under this
 338 part, arrangements for relocating the person shall be made in
 339 accordance with s. 429.28(1)(k), unless the facility is licensed
 340 to provide extended congregate care services.

341 Section 3. Subsection (7) of section 429.11, Florida
 342 Statutes, is amended to read:

343 429.11 Initial application for license; provisional
 344 license.—

345 (7) A county or municipality may not issue a business tax
 346 receipt ~~an occupational license~~ that is being obtained for the
 347 purpose of operating a facility regulated under this part
 348 without first ascertaining that the applicant has been licensed

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349 to operate such facility at the specified location or locations
 350 by the agency. The agency shall furnish to local agencies
 351 responsible for issuing ~~business tax receipts occupational~~
 352 ~~licenses~~ sufficient instruction for making such determinations.

353 Section 4. Section 429.176, Florida Statutes, is amended to
 354 read:

355 429.176 Notice of change of administrator.—If, during the
 356 period for which a license is issued, the owner changes
 357 administrators, the owner must notify the agency of the change
 358 within 10 days and provide documentation within 90 days that the
 359 new administrator meets educational requirements and has
 360 completed the applicable core educational requirements under s.
 361 429.52. A facility may not be operated for more than 120
 362 consecutive days without an administrator who has completed the
 363 core educational requirements.

364 Section 5. Subsections (2) through (5) of section 429.23,
 365 Florida Statutes, are amended to read:

366 429.23 Internal risk management and quality assurance
 367 program; adverse incidents and reporting requirements.—

368 (2) Every facility licensed under this part is required to
 369 maintain adverse incident reports. For purposes of this section,
 370 the term, “adverse incident” means:

371 (a) An event over which facility personnel could exercise
 372 control which is associated with the facility’s intervention,
 373 rather than as a result of the resident’s underlying disease or
 374 condition, and the injury results in:

- 375 1. Death;
- 376 2. Brain or spinal damage;
- 377 3. Permanent disfigurement;

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378 4. Fracture or dislocation of bones or joints;

379 5. Any condition that required medical attention to which
 380 the resident has not given his or her consent, including failure
 381 to honor advanced directives;

382 6. Any condition that requires the transfer of the resident
 383 from the facility to a unit providing more acute care due to the
 384 incident rather than the resident’s condition before the
 385 incident; or

386 7. A report made ~~An event that is reported~~ to law
 387 enforcement or its personnel for investigation; or

388 (b) Resident elopement, if the elopement places the
 389 resident at risk of harm or injury.

390 (3) Licensed facilities shall provide within 1 business day
 391 after the occurrence of an adverse incident, ~~by electronic mail,~~
 392 ~~facsimile, or United States mail,~~ a preliminary report to the
 393 agency on all adverse incidents specified under this section.
 394 The report must include information regarding the identity of
 395 the affected resident, the type of adverse incident, and the
 396 result status of the facility’s investigation of the incident.

397 (4) Licensed facilities shall provide within 15 days, ~~by~~
 398 ~~electronic mail, facsimile, or United States mail,~~ a full report
 399 to the agency on all adverse incidents specified in this
 400 section. The report must include the results of the facility’s
 401 investigation into the adverse incident.

402 (5) The agency shall send, by electronic mail, reminders to
 403 the facility’s administrator and other specified facility
 404 contacts 3 business days before the deadline for the submission
 405 of the full report. If the facility determines that the event is
 406 not an adverse incident, the facility must withdraw the

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407 preliminary report. Until 3 business days after the agency
 408 provides the reminder, facilities shall not be subject to any
 409 administrative or other action for failing to file a full report
 410 if the facility determined that the event was not an adverse
 411 incident after filing the preliminary report. Each facility
 412 ~~shall report monthly to the agency any liability claim filed~~
 413 ~~against it. The report must include the name of the resident,~~
 414 ~~the dates of the incident leading to the claim, if applicable,~~
 415 ~~and the type of injury or violation of rights alleged to have~~
 416 ~~occurred. This report is not discoverable in any civil or~~
 417 ~~administrative action, except in such actions brought by the~~
 418 ~~agency to enforce the provisions of this part.~~

419 Section 6. Subsection (4) of section 429.255, Florida
 420 Statutes, is amended to read:

421 429.255 Use of personnel; emergency care.—

422 (4) Facility staff may withhold or withdraw cardiopulmonary
 423 resuscitation or the use of an automated external defibrillator
 424 if presented with an order not to resuscitate executed pursuant
 425 to s. 401.45. The agency shall adopt rules providing for the
 426 implementation of such orders. Facility staff and facilities may
 427 not be subject to criminal prosecution or civil liability, nor
 428 be considered to have engaged in negligent or unprofessional
 429 conduct, for withholding or withdrawing cardiopulmonary
 430 resuscitation or use of an automated external defibrillator
 431 pursuant to such an order and rules adopted by the agency. The
 432 absence of an order not to resuscitate executed pursuant to s.
 433 401.45 does not preclude a physician from withholding or
 434 withdrawing cardiopulmonary resuscitation or use of an automated
 435 external defibrillator as otherwise permitted by law.

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436 Section 7. Subsection (2), paragraph (b) of subsection (3),
 437 and paragraphs (e), (f), and (g) of subsection (4) of section
 438 429.256, Florida Statutes, are amended to read:

439 429.256 Assistance with self-administration of medication.—

440 (2) Residents who are capable of self-administering their
 441 own medications without assistance shall be encouraged and
 442 allowed to do so. However, an unlicensed person may, consistent
 443 with a dispensed prescription's label or the package directions
 444 of an over-the-counter medication, assist a resident whose
 445 condition is medically stable with the self-administration of
 446 routine, regularly scheduled medications that are intended to be
 447 self-administered. Assistance with self-medication by an
 448 unlicensed person may occur only upon a documented request by,
 449 and the written informed consent of, a resident or the
 450 resident's surrogate, guardian, or attorney in fact. For the
 451 purposes of this section, self-administered medications include
 452 both legend and over-the-counter oral dosage forms, topical
 453 dosage forms, transdermal patches, and topical ophthalmic, otic,
 454 and nasal dosage forms including solutions, suspensions, sprays,
 455 and inhalers.

456 (3) Assistance with self-administration of medication
 457 includes:

458 (b) In the presence of the resident, confirming that the
 459 medication is intended for that resident, orally advising the
 460 resident of the medication name and purpose ~~reading the label,~~
 461 opening the container, removing a prescribed amount of
 462 medication from the container, and closing the container.

463 (4) Assistance with self-administration does not include:

464 (e) The use of irrigations or debriding agents used in the

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465 treatment of a skin condition.

466 (f) Assisting with rectal, urethral, or vaginal
467 preparations.

468 (g) Assisting with medications ordered by the physician or
469 health care professional with prescriptive authority to be given
470 "as needed," unless the order is written with specific
471 parameters that preclude independent judgment on the part of the
472 unlicensed person, and ~~at the request of a competent resident~~
473 requesting the medication is aware of his or her need for the
474 medication and understands the purpose for taking the
475 medication.

476 Section 8. Section 429.26, Florida Statutes, is amended to
477 read:

478 429.26 Appropriateness of placements; examinations of
479 residents.-

480 (1) The owner or administrator of a facility is responsible
481 for determining the appropriateness of admission of an
482 individual to the facility and for determining the continued
483 appropriateness of residence of an individual in the facility. A
484 determination ~~must shall~~ be based upon an evaluation assessment
485 of the strengths, needs, and preferences of the resident, a
486 medical examination, the care and services offered or arranged
487 for by the facility in accordance with facility policy, and any
488 limitations in law or rule related to admission criteria or
489 continued residency for the type of license held by the facility
490 under this part. The following criteria apply to the
491 determination of appropriateness for admission and continued
492 residency of an individual in a facility:

493 (a) A facility may admit or retain a resident who receives

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494 a health care service or treatment that is designed to be
495 provided within a private residential setting if all
496 requirements for providing that service or treatment are met by
497 the facility or a third party.

498 (b) A facility may admit or retain a resident who requires
499 the use of assistive devices.

500 (c) A facility may admit or retain an individual receiving
501 hospice services if the arrangement is agreed to by the facility
502 and the resident, additional care is provided by a licensed
503 hospice, and the resident is under the care of a physician who
504 agrees that the physical needs of the resident can be met at the
505 facility. The resident must have a plan of care which delineates
506 how the facility and the hospice will meet the scheduled and
507 unscheduled needs of the resident.

508 (d)1. Except for a resident who is receiving hospice
509 services as provided in paragraph (c), a facility may not admit
510 or retain a resident who is bedridden or who requires 24-hour
511 nursing supervision. For purposes of this paragraph, the term
512 "bedridden" means that a resident is confined to a bed because
513 of the inability to:

514 a. Move, turn, or reposition without total physical
515 assistance;

516 b. Transfer to a chair or wheelchair without total physical
517 assistance; or

518 c. Sit safely in a chair or wheelchair without personal
519 assistance or a physical restraint.

520 2. A resident may continue to reside in a facility if,
521 during residency, he or she is bedridden for no more than 7
522 consecutive days.

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523 3. If a facility is licensed to provide extended congregate
 524 care, a resident may continue to reside in a facility if, during
 525 residency, he or she is bedridden for no more than 14
 526 consecutive days.

527 (2) A resident may not be moved from one facility to
 528 another without consultation with and agreement from the
 529 resident or, if applicable, the resident's representative or
 530 designee or the resident's family, guardian, surrogate, or
 531 attorney in fact. In the case of a resident who has been placed
 532 by the department or the Department of Children and Families,
 533 the administrator must notify the appropriate contact person in
 534 the applicable department.

535 (3)(2) A physician, physician assistant, or advanced
 536 practice registered nurse practitioner who is employed by an
 537 assisted living facility to provide an initial examination for
 538 admission purposes may not have financial interests ~~interest~~ in
 539 the facility.

540 (4)(3) Persons licensed under part I of chapter 464 who are
 541 employed by or under contract with a facility shall, on a
 542 routine basis or at least monthly, perform a nursing assessment
 543 of the residents for whom they are providing nursing services
 544 ordered by a physician, except administration of medication, and
 545 shall document such assessment, including any substantial
 546 changes in a resident's status which may necessitate relocation
 547 to a nursing home, hospital, or specialized health care
 548 facility. Such records shall be maintained in the facility for
 549 inspection by the agency and shall be forwarded to the
 550 resident's case manager, if applicable.

551 (5)(4) ~~If possible,~~ Each resident must ~~shall~~ have been

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552 examined by a licensed physician, a licensed physician
 553 assistant, or a licensed advanced practice registered nurse
 554 ~~practitioner~~ within 60 days before admission to the facility or
 555 within 30 days after admission to the facility, except as
 556 provided in s. 429.07. The information from the medical
 557 examination must be recorded on the practitioner's form or on a
 558 form adopted by agency rule. The ~~signed and completed~~ medical
 559 examination form, signed by the practitioner, must ~~report~~ shall
 560 be submitted to the owner or administrator of the facility, who
 561 shall use the information contained therein to assist in the
 562 determination of the appropriateness of the resident's admission
 563 to or ~~and~~ continued residency ~~stay~~ in the facility. The medical
 564 examination form may be used only to record the health care
 565 provider's direct observation of the patient at the time of
 566 examination and must include any known medical history. The
 567 medical examination form is not a guarantee of admission,
 568 continued residency, or the delivery of services and may be used
 569 only as an informative tool to assist in the determination of
 570 the appropriateness of the resident's admission to or continued
 571 residency in the facility. The medical examination form,
 572 reflecting the resident's condition on the date the examination
 573 is performed, becomes ~~report~~ shall become a permanent part of
 574 the facility's record of the resident ~~at the facility~~ and must
 575 ~~shall~~ be made available to the agency during inspection or upon
 576 request. An assessment that has been completed through the
 577 Comprehensive Assessment and Review for Long-Term Care Services
 578 (CARES) Program fulfills the requirements for a medical
 579 examination under this subsection and s. 429.07(3)(b)6.

580 (6) The medical examination form submitted under subsection

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581 (5) must include the following information relating to the
 582 resident:

583 (a) Height, weight, and known allergies.
 584 (b) Significant medical history and diagnoses.
 585 (c) Physical or sensory limitations, including the need for
 586 fall precautions or recommended use of assistive devices.
 587 (d) Cognitive or behavioral status and a brief description
 588 of any behavioral issues known or ascertained by the examining
 589 practitioner, including any known history of wandering or
 590 elopement.

591 (e) Nursing, treatment, or therapy service requirements.
 592 (f) Whether assistance is needed for ambulating, eating, or
 593 transferring.

594 (g) Special dietary instructions.
 595 (h) Whether he or she has any communicable diseases,
 596 including necessary precautions.

597 (i) Whether he or she is bedridden and the status of any
 598 pressure sores that he or she has.

599 (j) Whether the resident needs 24-hour nursing supervision
 600 or psychiatric care.

601 (k) A list of current prescribed medications as known or
 602 ascertained by the examining practitioner and whether the
 603 resident can self-administer medications, needs assistance, or
 604 needs medication administration.

605 ~~(5) Except as provided in s. 429.07, if a medical~~
 606 ~~examination has not been completed within 60 days before the~~
 607 ~~admission of the resident to the facility, a licensed physician,~~
 608 ~~licensed physician assistant, or licensed nurse practitioner~~
 609 ~~shall examine the resident and complete a medical examination~~

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610 ~~form provided by the agency within 30 days following the~~
 611 ~~admission to the facility to enable the facility owner or~~
 612 ~~administrator to determine the appropriateness of the admission.~~
 613 ~~The medical examination form shall become a permanent part of~~
 614 ~~the record of the resident at the facility and shall be made~~
 615 ~~available to the agency during inspection by the agency or upon~~
 616 ~~request.~~

617 (7)(6) Any resident accepted in a facility and placed by
 618 ~~the department or~~ the Department of Children and Families must
 619 ~~shall~~ have been examined by medical personnel within 30 days
 620 before placement in the facility. The examination must shall
 621 include an assessment of the appropriateness of placement in a
 622 facility. The findings of this examination must shall be
 623 recorded on the examination form provided by the agency. The
 624 completed form must shall accompany the resident and ~~shall~~ be
 625 submitted to the facility owner or administrator. Additionally,
 626 in the case of a mental health resident, the Department of
 627 Children and Families must provide documentation that the
 628 individual has been assessed by a psychiatrist, clinical
 629 psychologist, clinical social worker, or psychiatric nurse, or
 630 an individual who is supervised by one of these professionals,
 631 and determined to be appropriate to reside in an assisted living
 632 facility. The documentation must be in the facility within 30
 633 days after the mental health resident has been admitted to the
 634 facility. An evaluation completed upon discharge from a state
 635 mental hospital meets the requirements of this subsection
 636 related to appropriateness for placement as a mental health
 637 resident provided that providing it was completed within 90 days
 638 prior to admission to the facility. The ~~applicable~~ Department of

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639 Children and Families shall provide to the facility
 640 administrator any information about the resident ~~which that~~
 641 would help the administrator meet his or her responsibilities
 642 under subsection (1). Further, Department of Children and
 643 Families personnel shall explain to the facility operator any
 644 special needs of the resident and advise the operator whom to
 645 call should problems arise. The ~~applicable~~ Department of
 646 Children and Families shall advise and assist the facility
 647 administrator ~~when where~~ the special needs of residents who are
 648 recipients of optional state supplementation require such
 649 assistance.

650 ~~(8)(7)~~ The facility shall must notify a licensed physician
 651 when a resident exhibits signs of dementia or cognitive
 652 impairment or has a change of condition in order to rule out the
 653 presence of an underlying physiological condition that may be
 654 contributing to such dementia or impairment. The notification
 655 must occur within 30 days after the acknowledgment of such signs
 656 by facility staff. If an underlying condition is determined to
 657 exist, the facility must notify the resident's representative or
 658 designee of the need for health care services and must assist in
 659 making appointments for shall arrange, with the appropriate
 660 health care provider, the necessary care and services to treat
 661 the condition. If the resident does not have a representative or
 662 designee or if the resident's representative or designee cannot
 663 be located or is unresponsive, the facility shall arrange, with
 664 the appropriate health care provider, the necessary care and
 665 services to treat the condition.

666 ~~(9)(8)~~ The Department of Children and Families may require
 667 an examination for supplemental security income and optional

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668 state supplementation recipients residing in facilities at any
 669 time and shall provide the examination whenever a resident's
 670 condition requires it. Any facility administrator; personnel of
 671 the agency, the department, or the Department of Children and
 672 Families; or a representative of the State Long-Term Care
 673 Ombudsman Program who believes a resident needs to be evaluated
 674 shall notify the resident's case manager, who shall take
 675 appropriate action. A report of the examination findings must
 676 ~~shall~~ be provided to the resident's case manager and the
 677 facility administrator to help the administrator meet his or her
 678 responsibilities under subsection (1).

679 ~~(9) A terminally ill resident who no longer meets the~~
 680 ~~criteria for continued residency may remain in the facility if~~
 681 ~~the arrangement is mutually agreeable to the resident and the~~
 682 ~~facility; additional care is rendered through a licensed~~
 683 ~~hospice, and the resident is under the care of a physician who~~
 684 ~~agrees that the physical needs of the resident are being met.~~

685 (10) Facilities licensed to provide extended congregate
 686 care services shall promote aging in place by determining
 687 appropriateness of continued residency based on a comprehensive
 688 review of the resident's physical and functional status; the
 689 ability of the facility, family members, friends, or any other
 690 pertinent individuals or agencies to provide the care and
 691 services required; and documentation that a written service plan
 692 consistent with facility policy has been developed and
 693 implemented to ensure that the resident's needs and preferences
 694 are addressed.

695 ~~(11) No resident who requires 24-hour nursing supervision,~~
 696 ~~except for a resident who is an enrolled hospice patient~~

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697 ~~pursuant to part IV of chapter 400, shall be retained in a~~
 698 ~~facility licensed under this part.~~

699 Section 9. Paragraphs (a) and (k) of subsection (1) and
 700 subsection (3) of section 429.28, Florida Statutes, are amended
 701 to read:

702 429.28 Resident bill of rights.—

703 (l) No resident of a facility shall be deprived of any
 704 civil or legal rights, benefits, or privileges guaranteed by
 705 law, the Constitution of the State of Florida, or the
 706 Constitution of the United States as a resident of a facility.
 707 Every resident of a facility shall have the right to:

708 (a) Live in a safe and decent living environment, free from
 709 abuse, ~~and neglect, and exploitation.~~

710 (k) At least 45 days' notice of relocation or termination
 711 of residency from the facility unless, for medical reasons, the
 712 resident is certified by a physician to require an emergency
 713 relocation to a facility providing a more skilled level of care
 714 or the resident engages in a pattern of conduct that is harmful
 715 or offensive to other residents. In the case of a resident who
 716 has been adjudicated mentally incapacitated, the guardian shall
 717 be given at least 45 days' notice of a nonemergency relocation
 718 or residency termination. Reasons for relocation ~~must shall~~ be
 719 set forth in writing and provided to the resident or the
 720 resident's legal representative. In order for a facility to
 721 terminate the residency of an individual without notice as
 722 provided herein, the facility shall show good cause in a court
 723 of competent jurisdiction.

724 (3) (a) The agency shall conduct a survey to determine
 725 whether the facility is complying with this section general

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726 ~~compliance with facility standards and compliance with~~
 727 ~~residents' rights as a prerequisite to initial licensure or~~
 728 ~~licensure renewal. The agency shall adopt rules for uniform~~
 729 ~~standards and criteria that will be used to determine compliance~~
 730 ~~with facility standards and compliance with residents' rights.~~

731 (b) In order to determine whether the facility is
 732 adequately protecting residents' rights, the licensure renewal
 733 biennial survey must shall include private informal
 734 conversations with a sample of residents and consultation with
 735 the ombudsman council in the district in which the facility is
 736 located to discuss residents' experiences within the facility.

737 Section 10. Section 429.41, Florida Statutes, is amended to
 738 read:

739 429.41 Rules establishing standards.—

740 (1) It is the intent of the Legislature that rules
 741 published and enforced pursuant to this section shall include
 742 criteria by which a reasonable and consistent quality of
 743 resident care and quality of life may be ensured and the results
 744 of such resident care may be demonstrated. Such rules shall also
 745 promote ensure a safe and sanitary environment that is
 746 residential and noninstitutional in design or nature and may
 747 allow for technological advances in the provision of care,
 748 safety, and security, including the use of devices, equipment,
 749 and other security measures related to wander management,
 750 emergency response, staff risk management, and the general
 751 safety and security of residents, staff, and the facility. It is
 752 further intended that reasonable efforts be made to accommodate
 753 the needs and preferences of residents to enhance the quality of
 754 life in a facility. ~~Uniform firesafety standards for assisted~~

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755 ~~living facilities shall be established by the State Fire Marshal~~
 756 ~~pursuant to s. 633.206. The agency may adopt rules to administer~~
 757 ~~part II of chapter 408. In order to provide safe and sanitary~~
 758 ~~facilities and the highest quality of resident care~~
 759 ~~accommodating the needs and preferences of residents,~~ The
 760 agency, in consultation with the Department of Children and
 761 Families and the Department of Health, shall adopt rules,
 762 ~~policies, and procedures~~ to administer this part, which must
 763 include reasonable and fair minimum standards in relation to:
 764 (a) The requirements for and maintenance and the sanitary
 765 condition of facilities, not in conflict with, or duplicative
 766 of, rules adopted pursuant to s. 381.006(16) and s. 381.0072 and
 767 standards established under chapter 553 and s. 633.206, relating
 768 to a safe and decent living environment, including furnishings
 769 for resident bedrooms or sleeping areas, locking devices, lines
 770 plumbing, heating, cooling, lighting, ventilation, living space,
 771 and other housing conditions relating to hazards, which will
 772 promote ensure the health, safety, and welfare eomfort of
 773 residents suitable to the size of the structure. The rules must
 774 clearly delineate the respective responsibilities of the
 775 agency's licensure and survey staff and the county health
 776 departments and ensure that inspections are not duplicative. The
 777 agency may collect fees for food service inspections conducted
 778 by county health departments and may transfer such fees to the
 779 Department of Health.
 780 ~~1. Firesafety evacuation capability determination.—An~~
 781 ~~evacuation capability evaluation for initial licensure shall be~~
 782 ~~conducted within 6 months after the date of licensure.~~
 783 ~~2. Firesafety requirements.—~~

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784 a. ~~The National Fire Protection Association, Life Safety~~
 785 ~~Code, NFPA 101 and 101A, current editions, shall be used in~~
 786 ~~determining the uniform firesafety code adopted by the State~~
 787 ~~Fire Marshal for assisted living facilities, pursuant to s.~~
 788 ~~633.206.~~
 789 b. ~~A local government or a utility may charge fees only in~~
 790 ~~an amount not to exceed the actual expenses incurred by the~~
 791 ~~local government or the utility relating to the installation and~~
 792 ~~maintenance of an automatic fire sprinkler system in a licensed~~
 793 ~~assisted living facility structure.~~
 794 e. ~~All licensed facilities must have an annual fire~~
 795 ~~inspection conducted by the local fire marshal or authority~~
 796 ~~having jurisdiction.~~
 797 d. ~~An assisted living facility that is issued a building~~
 798 ~~permit or certificate of occupancy before July 1, 2016, may at~~
 799 ~~its option and after notifying the authority having~~
 800 ~~jurisdiction, remain under the provisions of the 1994 and 1995~~
 801 ~~editions of the National Fire Protection Association, Life~~
 802 ~~Safety Code, NFPA 101, and NFPA 101A. The facility opting to~~
 803 ~~remain under such provisions may make repairs, modernizations,~~
 804 ~~renovations, or additions to, or rehabilitate, the facility in~~
 805 ~~compliance with NFPA 101, 1994 edition, and may utilize the~~
 806 ~~alternative approaches to life safety in compliance with NFPA~~
 807 ~~101A, 1995 edition. However, a facility for which a building~~
 808 ~~permit or certificate of occupancy is issued before July 1,~~
 809 ~~2016, that undergoes Level III building alteration or~~
 810 ~~rehabilitation, as defined in the Florida Building Code, or~~
 811 ~~seeks to utilize features not authorized under the 1994 or 1995~~
 812 ~~editions of the Life Safety Code must thereafter comply with all~~

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813 aspects of the uniform firesafety standards established under s.
814 633.206, and the Florida Fire Prevention Code, in effect for
815 assisted living facilities as adopted by the State Fire Marshal.

816 ~~3. Resident elopement requirements. Facilities are required~~
817 ~~to conduct a minimum of two resident elopement prevention and~~
818 ~~response drills per year. All administrators and direct care~~
819 ~~staff must participate in the drills, which shall include a~~
820 ~~review of procedures to address resident elopement. Facilities~~
821 ~~must document the implementation of the drills and ensure that~~
822 ~~the drills are conducted in a manner consistent with the~~
823 ~~facility's resident elopement policies and procedures.~~

824 (b) The preparation and annual update of a comprehensive
825 emergency management plan. Such standards must be included in
826 the rules adopted by the agency after consultation with the
827 Division of Emergency Management. At a minimum, the rules must
828 provide for plan components that address emergency evacuation
829 transportation; adequate sheltering arrangements; postdisaster
830 activities, including provision of emergency power, food, and
831 water; postdisaster transportation; supplies; staffing;
832 emergency equipment; individual identification of residents and
833 transfer of records; communication with families; and responses
834 to family inquiries. The comprehensive emergency management plan
835 is subject to review and approval by the county local emergency
836 management agency. During its review, the county local emergency
837 management agency shall ensure that the following agencies, at a
838 minimum, are given the opportunity to review the plan: the
839 Department of Health, the Agency for Health Care Administration,
840 and the Division of Emergency Management. ~~Also, appropriate~~
841 ~~volunteer organizations must be given the opportunity to review~~

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842 ~~the plan.~~ The county local emergency management agency shall
843 complete its review within 60 days and either approve the plan
844 or advise the facility of necessary revisions. A facility must
845 submit a comprehensive emergency management plan to the county
846 emergency management agency within 30 days after issuance of a
847 license.

848 (c) The number, training, and qualifications of all
849 personnel having responsibility for the care of residents. The
850 rules must require adequate staff to provide for the safety of
851 all residents. Facilities licensed for 17 or more residents are
852 required to maintain an alert staff for 24 hours per day.

853 ~~(d) All sanitary conditions within the facility and its~~
854 ~~surroundings which will ensure the health and comfort of~~
855 ~~residents. The rules must clearly delineate the responsibilities~~
856 ~~of the agency's licensure and survey staff, the county health~~
857 ~~departments, and the local authority having jurisdiction over~~
858 ~~firesafety and ensure that inspections are not duplicative. The~~
859 ~~agency may collect fees for food service inspections conducted~~
860 ~~by the county health departments and transfer such fees to the~~
861 ~~Department of Health.~~

862 ~~(d)(e)~~ License application and license renewal, transfer of
863 ownership, proper management of resident funds and personal
864 property, surety bonds, resident contracts, refund policies,
865 financial ability to operate, and facility and staff records.

866 ~~(e)(f)~~ Inspections, complaint investigations, moratoriums,
867 classification of deficiencies, ~~levying~~ and enforcement of
868 penalties, ~~and use of income from fees and fines.~~

869 ~~(f)(g)~~ The enforcement of the resident bill of rights
870 specified in s. 429.28.

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871 ~~(g)(h)~~ The care ~~and maintenance~~ of residents provided by
 872 the facility, which must include, ~~but is not limited to:~~
 873 1. The supervision of residents;
 874 2. The provision of personal services;
 875 3. The provision of, or arrangement for, social and leisure
 876 activities;
 877 4. The assistance in making arrangements ~~arrangement~~ for
 878 appointments and transportation to appropriate medical, dental,
 879 nursing, or mental health services, as needed by residents;
 880 5. The management of medication stored within the facility
 881 and as needed by residents;
 882 6. The dietary ~~nutritional~~ needs of residents;
 883 7. Resident records; and
 884 8. Internal risk management and quality assurance.
 885 ~~(h)(i)~~ Facilities holding a limited nursing, extended
 886 congregate care, or limited mental health license.
 887 ~~(i)(j)~~ The establishment of specific criteria to define
 888 appropriateness of resident admission and continued residency in
 889 a facility holding a standard, limited nursing, extended
 890 congregate care, and limited mental health license.
 891 ~~(j)(k)~~ The use of physical or chemical restraints. The use
 892 of geriatric chairs or Posey restraints is prohibited. Other
 893 physical restraints may be used in accordance with agency rules
 894 when ordered is limited to half-bed rails as prescribed and
 895 documented by the resident's physician and consented to by ~~with~~
 896 ~~the consent of~~ the resident or, if applicable, the resident's
 897 representative or designee or the resident's surrogate,
 898 guardian, or attorney in fact. Such rules must specify
 899 requirements for care planning, staff monitoring, and periodic

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900 review by a physician. The use of chemical restraints is limited
 901 to prescribed dosages of medications authorized by the
 902 resident's physician and must be consistent with the resident's
 903 diagnosis. Residents who are receiving medications that can
 904 serve as chemical restraints must be evaluated by their
 905 physician at least annually to assess:
 906 1. The continued need for the medication.
 907 2. The level of the medication in the resident's blood.
 908 3. The need for adjustments in the prescription.
 909 ~~(k)(l)~~ The establishment of specific resident elopement
 910 drill requirements, policies, and procedures ~~on resident~~
 911 ~~elopement~~. Facilities shall conduct a minimum of two resident
 912 elopement drills each year. All administrators and direct care
 913 staff shall participate in the drills, which must include a
 914 review of the facility's procedures to address resident
 915 elopement. Facilities shall document participation in the
 916 drills.
 917 (2) In adopting any rules pursuant to this part, the agency
 918 shall make distinct standards for facilities based upon facility
 919 size; the types of care provided; the physical and mental
 920 capabilities and needs of residents; the type, frequency, and
 921 amount of services and care offered; and the staffing
 922 characteristics of the facility. Rules developed pursuant to
 923 this section may not restrict the use of shared staffing and
 924 shared programming in facilities that are part of retirement
 925 communities that provide multiple levels of care and otherwise
 926 meet the requirements of law and rule. If a continuing care
 927 facility licensed under chapter 651 or a retirement community
 928 offering multiple levels of care licenses a building or part of

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929 a building designated for independent living for assisted
 930 living, staffing requirements established in rule apply only to
 931 residents who receive personal, limited nursing, or extended
 932 congregate care services under this part. Such facilities shall
 933 retain a log listing the names and unit number for residents
 934 receiving these services. The log must be available to surveyors
 935 upon request. ~~Except for uniform firesafety standards,~~ The
 936 agency shall adopt by rule separate and distinct standards for
 937 facilities with 16 or fewer beds and for facilities with 17 or
 938 more beds. The standards for facilities with 16 or fewer beds
 939 must be appropriate for a noninstitutional residential
 940 environment; however, the structure may not be more than two
 941 stories in height and all persons who cannot exit the facility
 942 unassisted in an emergency must reside on the first floor. The
 943 agency may make other distinctions among types of facilities as
 944 necessary to enforce this part. Where appropriate, the agency
 945 shall offer alternate solutions for complying with established
 946 standards, based on distinctions made by the agency relative to
 947 the physical characteristics of facilities and the types of care
 948 offered.

949 (3) Rules adopted by the agency shall encourage the
 950 development of homelike facilities that promote the dignity,
 951 individuality, personal strengths, and decisionmaking ability of
 952 residents.

953 (4) The agency may waive rules adopted under this part to
 954 demonstrate and evaluate innovative or cost-effective congregate
 955 care alternatives that enable individuals to age in place. Such
 956 waivers may be granted only in instances where there is
 957 reasonable assurance that the health, safety, or welfare of

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958 residents will not be endangered. To apply for a waiver, the
 959 licensee shall submit to the agency a written description of the
 960 concept to be demonstrated, including goals, objectives, and
 961 anticipated benefits; the number and types of residents who will
 962 be affected, if applicable; a brief description of how the
 963 demonstration will be evaluated; and any other information
 964 deemed appropriate by the agency. Any facility granted a waiver
 965 shall submit a report of findings to the agency within 12
 966 months. At such time, the agency may renew or revoke the waiver
 967 or pursue any regulatory or statutory changes necessary to allow
 968 other facilities to adopt the same practices. The agency may by
 969 rule clarify terms and establish waiver application procedures,
 970 criteria for reviewing waiver proposals, and procedures for
 971 reporting findings, as necessary to implement this subsection.

972 (5) The agency may use an abbreviated biennial standard
 973 licensure inspection that consists of a review of key quality-
 974 of-care standards in lieu of a full inspection in a facility
 975 that has a good record of past performance. However, a full
 976 inspection must be conducted in a facility that has a history of
 977 class I or class II violations; 7 uncorrected class III
 978 violations; or a class I, class II, or uncorrected class III
 979 violation resulting from a complaint referred by the State Long-
 980 Term Care Ombudsman Program, confirmed ombudsman council
 981 complaints, or confirmed licensure complaints within the
 982 previous licensure period immediately preceding the inspection
 983 or if a potentially serious problem is identified during the
 984 abbreviated inspection. The agency shall adopt by rule develop
 985 the key quality-of-care standards with input from the State
 986 Long-Term Care Ombudsman Council and representatives of provider

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987 ~~groups for incorporation into its rules.~~

988 Section 11. Section 429.435, Florida Statutes, is created
989 to read:

990 429.435 Uniform firesafety standards.—Uniform firesafety
991 standards for assisted living facilities, which are residential
992 board and care occupancies, shall be established by the State
993 Fire Marshal pursuant to s. 633.206.

994 (1) EVACUATION CAPABILITY.—A firesafety evacuation
995 capability determination shall be conducted within 6 months
996 after the date of initial licensure of an assisted living
997 facility, if required.

998 (2) FIRESAFETY REQUIREMENTS.—

999 (a) The National Fire Protection Association, Life Safety
1000 Code, NFPA 101 and 101A, current editions, must be used in
1001 determining the uniform firesafety code adopted by the State
1002 Fire Marshal for assisted living facilities, pursuant to s.
1003 633.206.

1004 (b) A local government or a utility may charge fees that do
1005 not exceed the actual costs incurred by the local government or
1006 the utility for the installation and maintenance of an automatic
1007 fire sprinkler system in a licensed assisted living facility
1008 structure.

1009 (c) All licensed facilities must have an annual fire
1010 inspection conducted by the local fire marshal or authority
1011 having jurisdiction.

1012 (d) An assisted living facility that was issued a building
1013 permit or certificate of occupancy before July 1, 2016, at its
1014 option and after notifying the authority having jurisdiction,
1015 may remain under the provisions of the 1994 and 1995 editions of

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1016 the National Fire Protection Association, Life Safety Code, NFPA
1017 101 and 101A. A facility opting to remain under such provisions
1018 may make repairs, modernizations, renovations, or additions to,
1019 or rehabilitate, the facility in compliance with NFPA 101, 1994
1020 edition, and may utilize the alternative approaches to life
1021 safety in compliance with NFPA 101A, 1995 edition. However, a
1022 facility for which a building permit or certificate of occupancy
1023 was issued before July 1, 2016, which undergoes Level III
1024 building alteration or rehabilitation, as defined in the Florida
1025 Building Code, or which seeks to utilize features not authorized
1026 under the 1994 or 1995 editions of the Life Safety Code, shall
1027 thereafter comply with all aspects of the uniform firesafety
1028 standards established under s. 633.206 and the Florida Fire
1029 Prevention Code in effect for assisted living facilities as
1030 adopted by the State Fire Marshal.

1031 Section 12. Section 429.52, Florida Statutes, is amended to
1032 read:

1033 429.52 Staff training and educational requirements
1034 programs; core educational requirement.—

1035 (1) ~~Effective October 1, 2015,~~ Each new assisted living
1036 facility employee who has not previously completed core training
1037 must attend a preservice orientation provided by the facility
1038 before interacting with residents. The preservice orientation
1039 must be at least 2 hours in duration and cover topics that help
1040 the employee provide responsible care and respond to the needs
1041 of facility residents. Upon completion, the employee and the
1042 administrator of the facility must sign a statement that the
1043 employee completed the required preservice orientation. The
1044 facility must keep the signed statement in the employee's

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1045 personnel record.

1046 (2) Administrators and other assisted living facility staff
1047 must meet minimum training and education requirements
1048 established by the agency by rule. This training and education
1049 is intended to assist facilities to appropriately respond to the
1050 needs of residents, to maintain resident care and facility
1051 standards, and to meet licensure requirements.

1052 (3) The agency, in conjunction with providers, shall
1053 develop core training requirements for administrators consisting
1054 of core training learning objectives, a competency test, and a
1055 minimum required score to indicate successful passage completion
1056 of the core competency test training and educational
1057 requirements. The required core competency test training and
1058 education must cover at least the following topics:

1059 (a) State law and rules relating to assisted living
1060 facilities.

1061 (b) Resident rights and identifying and reporting abuse,
1062 neglect, and exploitation.

1063 (c) Special needs of elderly persons, persons with mental
1064 illness, and persons with developmental disabilities and how to
1065 meet those needs.

1066 (d) Nutrition and food service, including acceptable
1067 sanitation practices for preparing, storing, and serving food.

1068 (e) Medication management, recordkeeping, and proper
1069 techniques for assisting residents with self-administered
1070 medication.

1071 (f) Firesafety requirements, including fire evacuation
1072 drill procedures and other emergency procedures.

1073 (g) Care of persons with Alzheimer's disease and related

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1074 disorders.

1075 (4) A ~~new~~ facility administrator must complete the required
1076 core training and education, including the competency test,
1077 within 90 days after the date of employment as an administrator.
1078 Failure to do so is a violation of this part and subjects the
1079 violator to an administrative fine as prescribed in s. 429.19.
1080 Administrators licensed in accordance with part II of chapter
1081 468 are exempt from this requirement. Other licensed
1082 professionals may be exempted, as determined by the agency by
1083 rule.

1084 (5) Administrators are required to participate in
1085 continuing education for a minimum of 12 contact hours every 2
1086 years.

1087 (6) Staff ~~involved with the management of medications and~~
1088 ~~assisting with the self-administration of medications under s.~~
1089 429.256 must complete a minimum of 6 additional hours of
1090 training provided by a registered nurse or, a licensed
1091 pharmacist before providing assistance, ~~or agency staff~~. Two
1092 hours of continuing education are required annually thereafter.
1093 The agency shall establish by rule the minimum requirements of
1094 this additional training.

1095 (7) ~~Other~~ Facility staff shall participate in in-service
1096 training relevant to their job duties as specified by agency
1097 ~~of the agency~~. Topics covered during the preservice
1098 orientation are not required to be repeated during in-service
1099 training. A single certificate of completion that covers all
1100 required in-service training topics may be issued to a
1101 participating staff member if the training is provided in a
1102 single training course.

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1103 (8) If the agency determines that there are problems in a
 1104 facility which could be reduced through specific staff training
 1105 ~~or education~~ beyond that already required under this section,
 1106 the agency may require, and provide, or cause to be provided,
 1107 the training ~~or education~~ of any personal care staff in the
 1108 facility.

1109 (9) The agency shall adopt rules related to these training
 1110 and education requirements, the competency test, necessary
 1111 procedures, and competency test fees and shall adopt or contract
 1112 with another entity to develop and administer the competency
 1113 test. The agency shall adopt a curriculum outline with learning
 1114 objectives to be used by core trainers, which shall be used as
 1115 the minimum core training content requirements. The agency shall
 1116 consult with representatives of stakeholder associations and
 1117 agencies in the development of the curriculum outline.

1118 (10) The core training required by this section ~~other than~~
 1119 ~~the preservice orientation~~ must be conducted by persons
 1120 registered with the agency as having the requisite experience
 1121 and credentials to conduct the training. A person seeking to
 1122 register as a core trainer must provide the agency with proof of
 1123 completion of the ~~minimum~~ core training ~~education~~ requirements,
 1124 successful passage of the competency test established under this
 1125 section, and proof of compliance with the continuing education
 1126 requirement in subsection (5).

1127 (11) A person seeking to register as a core trainer also
 1128 must ~~also~~:

1129 (a) Provide proof of completion of a 4-year degree from an
 1130 accredited college or university and must have worked in a
 1131 management position in an assisted living facility for 3 years

588-01170-20

2020402c1

1132 after being core certified;

1133 (b) Have worked in a management position in an assisted
 1134 living facility for 5 years after being core certified and have
 1135 1 year of teaching experience as an educator or staff trainer
 1136 for persons who work in assisted living facilities or other
 1137 long-term care settings;

1138 (c) Have been previously employed as a core trainer for the
 1139 agency or department; or

1140 (d) Meet other qualification criteria as defined in rule,
 1141 which the agency is authorized to adopt.

1142 (12) The agency shall adopt rules to establish core trainer
 1143 registration and removal requirements.

1144 Section 13. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Health
and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GAYLE HARRELL

25th District

February 19, 2020

Senator Rob Bradley
201 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bradley,

I respectfully request that **SB 402 – Assisted Living Facilities** be placed on the next available agenda for the Appropriations Committee Meeting. SB 402 passed its last committee stop unanimously.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

402

Bill Number (if applicable)

PCS → 831164

Amendment Barcode (if applicable)

Topic _____

Name Jason Hand

Job Title Vice President of Public Policy & Legal Affairs

Address 2292 Wednesday Street, Suite 1

Phone 850-443-0024

Street

Tallahassee

FL

32309

Email jhand@floridaseniorliving.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Senior Living 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
APPEARANCE RECORD

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

3-3-20

Meeting Date

402

Bill Number (if applicable)

Topic Assisted Living Facilities

Amendment Barcode (if applicable)

Name Tim Parson

Job Title _____

Address 113 E. College Ave.

Street

Phone (850) 910-2678

Tallahassee

City

FL

State

32301

Zip

Email tim@libertypartnersfl.com

Speaking: For Against Information

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

Representing Florida Assisted Living Association (FALA)

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)

3/3/20

Meeting Date

402

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jason Hand

Job Title Vice President of Public Policy & Legal Affairs

Address 2292 Wednesday Street, Suite 1

Phone 850-443-0024

Street

Tallahassee

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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 Appropriations

BILL: CS/CS/SB 412

INTRODUCER: Appropriations Committee; Infrastructure and Security Committee; and Senators Bean and Harrell

SUBJECT: License Plates

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|---------------|
| 1. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 412 creates 34 specialty license plates (SLP) and provides for the design and use of the annual fees associated with the SLPs. The bill also makes additional changes to the license plate laws:

- Revises four existing SLPs and repeals provisions related to four discontinued SLPs;
- Authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to issue SLPs for fleet vehicles and motor vehicle dealer vehicles upon approval by the SLP's sponsoring organization;
- Establishes a cap of 200 SLPs and provides a revised process for the discontinuation of low performing SLPs;
- Requires the DHSMV to conduct an audit every three years of certain SLP recipient organizations;
- Clarifies which military-related SLPs may make out-of-state expenditures; and
- Expands the prohibition against using SLP revenues for lobbying.

The bill also creates two new SLPs for recipients of the Purple Heart and the Bronze Star.

SB 414 (2020), to which this bill is linked, provides for an annual use fee of \$25 for a newly created SLP and \$50 for certain out-of-state collegiate SLPs.

The bill will have a negative indeterminate fiscal impact associated with programming costs to the DHSMV. These costs can be absorbed within existing resources.

The bill has an effective date of October 1, 2020, but only if SB 414 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in statute.³

In order to establish a specialty license plate and after the plate is approved by law, s. 320.08053, F.S., requires the following actions within certain timelines:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the plate may begin.

If the minimum sales requirement has not been met by the end of the 24-month pre-sale period, then the DHSMV will discontinue the plate and issuance of pre-sale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁴

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁵ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁶

DHSMV Costs Defrayed

The DHSMV is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited February 11, 2020).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

⁴ Section 320.08053(2)(b), F.S.

⁵ Section 320.08056(10)(a), F.S.

⁶ Section 320.08062, F.S.

with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁷

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum specialty license plate requirement.⁸ In addition, the DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁹

Fleet/Dealer License Plates

A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer and manufacturer license plate is subject to an annual license tax of \$17.¹⁰ These license plates are imprinted with the word "Dealer" at the bottom of the plate.¹¹ Dealers may, upon payment of the dealer plate license tax, secure one or more dealer license plates. These plates are valid while the motor vehicles are in the dealer's inventory and for sale, or while being operated in connection with the dealer's business, except when used as for-hire vehicles.¹²

Fleet license plates¹³ are available for companies that own or lease a minimum number of nonapportioned motor vehicles used for business purposes. In order to participate in the fleet vehicle program the company must have a minimum of 200 vehicles or a minimum of 25 trailers or semitrailers used exclusively to haul agricultural products.¹⁴ Fleet license plates are available upon approval by the DHSMV and payment of license taxes prescribed under s. 320.08, F.S. Fleet vehicle license plates have the word "Fleet" imprinted at the bottom of the plate.¹⁵ All vehicles with a fleet license plate must have the company's name or logo and unit number displayed so that they are readily identifiable.¹⁶

Neither dealer license plates nor fleet license plates are eligible to be specialty license plates.

⁷ Section 320.08056(7), F.S.

⁸ Section 320.08056(8)(a), F.S.

⁹ Section 320.08056(8)(b), F.S.

¹⁰ Section 320.08(12), F.S.

¹¹ Section 320.06(3)(a), F.S.

¹² Section 320.13, F.S.

¹³ The term "fleet" means nonapportioned motor vehicles owned or leased by a company and used for business purposes. Section 320.0657(1), F.S.

¹⁴ Florida Department of Highway Safety and Motor Vehicles, *Motor Vehicle Procedures Manual, Section 2. Registration, Procedure RS-55 II D.*, <https://www3.flhsmv.gov/dmv/Proc/rs/rs-55.pdf> (last visited February 6, 2020).

¹⁵ *Id.*

¹⁶ Section 320.0657(2)(a), F.S.

Existing Specialty License Plates

Special Olympics Florida License Plate

Section 320.08058(7), F.S., creates the Special Olympics Florida SLP with an annual use fee of \$15.¹⁷ The license plate contains the official Special Olympics Florida logo with “Florida” centered at the bottom of the plate, and “Everyone Wins” centered at the top of the plate. The first \$5 million collected annually must be forwarded to the Florida Developmental Disabilities Council to be used solely for the Special Olympics as approved by the Developmental Disabilities Council.¹⁸ Any additional fees must be deposited into the General Revenue Fund.

Live the Dream License Plate

Section 320.08058(48), F.S., creates the Live the Dream SLP with an annual use fee of \$25.¹⁹ The words “Live the Dream” must appear at the bottom of the plate. Proceeds from the Live the Dream SLP are distributed to the Dream Foundation, Inc., which retained the first \$60,000 in proceeds from the annual use fees as reimbursement for administrative costs, startup costs, and costs incurred in the SLP approval process. After those costs are reimbursed, up to 25 percent of the proceeds must be used for continuing promotion and marketing of the license plate and concept. The remaining funds must be distributed as follows:

- Twenty-five percent equally among the sickle cell organizations that are Florida members of the Sickle Cell Disease Association of America, Inc., for programs providing research, care, and treatment for sickle cell disease.
- Twenty-five percent to the Florida chapter of the March of Dimes for programs and services improving the health of babies through preventing birth defects and infant mortality.
- Ten percent to the Florida Association of Healthy Start Coalitions to decrease racial disparity in infant mortality and to increase healthy birth outcomes. Funding will be used by local Healthy Start Coalitions to provide services and increase screening rates for high-risk pregnant women, children under 4 years of age, and women of childbearing age.
- Ten percent to the Community Partnership for Homeless, Inc., for programs that provide relief from poverty, hunger, and homelessness.
- Five percent to the Dream Foundation, Inc., for administrative costs directly associated with operations relating to the management and distribution of the proceeds.

In March 2015, the DHSMV began withholding funds from the Dream Foundation, Inc., because the organization failed to produce financial documentation that the DHSMV requested. In August 2015, a DHSMV Inspector General Audit found that the funds from the sale of the Live the Dream SLP were being improperly distributed. Additionally, a royalty payment was due to the Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., for the use of Dr. Martin Luther King Jr.’s image on the license plate. In 2016, the Dream Foundation, Inc., was administratively dissolved and was subsequently reinstated in 2017 with new corporate officers.²⁰

¹⁷ Section 320.08056(4)(g), F.S.

¹⁸ See s. 393.002, F.S.

¹⁹ Section 320.08056(4)(vv), F.S.

²⁰ Department of State, Sunbiz.org, *Detail by Entity Name, The Dream Foundation, Inc.*, Document No. N01000003891. Throughout this analysis, references to Department of State, Division of Corporation documents filed by entities can be

In God We Trust License Plate

Section 320.08058(66), F.S., creates an In God We Trust SLP with an annual use fee of \$25.²¹ The words “In God We Trust” must appear at the bottom of the plate. The annual use fees are distributed to the In God We Trust Foundation, Inc., to fund educational scholarships for the children of Florida residents who are members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. Funds must also be distributed to other nonprofit organizations that may apply for grants and scholarships and to provide educational grants to public and private schools to promote the historical and religious significance of American and Florida history. The In God We Trust Foundation, Inc., must distribute the license plate annual use fees in the following manner:

- The In God We Trust Foundation, Inc., retains all revenues from the sale of the license plates until all startup costs for developing and establishing the license plate have been recovered.
- Ten percent of the funds received by the In God We Trust Foundation, Inc., must be spent on administrative costs, promotion, and marketing of the license plate directly associated with the operations of the In God We Trust Foundation, Inc.
- All remaining funds must be expended by the In God We Trust Foundation, Inc., for programs.

Fallen Law Enforcement Officer License Plate

Section 320.08058(80), F.S., creates the Fallen Law Enforcement Officers SLP with an annual use fee of \$25.²² The words “A Hero Remembered Never Dies” must appear at the bottom of the plate. The annual use fees are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate. The remainder of the proceeds must be used by the Police and Kids Foundation, Inc., to invest and reinvest and the interest earnings must be used for the operation of the Police and Kids Foundation, Inc.

Military Service Special License Plates

Currently, s. 320.089, F.S., authorizes 21 special license plates available to military service members or veterans for certain types of military service. Examples of service include Veteran of the U.S. Armed Forces, World War II Veteran, and Woman Veteran. While anyone who pays the appropriate fees may purchase most SLPs, one must provide proof of eligibility to obtain a military special license plate.

Military special license plates are each stamped with words consistent with the type of special license plate issued. A likeness of the related campaign medal or badge appears on the plate followed by the license plate serial number.

found by searching at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (last visited February 7, 2020) by entity name or by detail by document number.

²¹ Section 320.08056(4)(nnn), F.S.

²² Section 320.08056(4)(bbbb), F.S.

Applicants for special license plates are required to pay the annual license tax²³ with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.²⁴ The first \$100,000 of the revenue generated annually from the issuance of special use plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.²⁵

The Bronze Star

The Bronze Star Medal is awarded to any person who, after December 6, 1941, while serving in any capacity with the U.S. Armed Forces, distinguishes himself or herself by heroic or meritorious achievement or service not involving participation in aerial flight.²⁶

Existing Motorcycle Specialty License Plates

Section 320.08068, F.S., creates a motorcycle SLP with an annual use fee of \$20. The annual use fee is distributed equally to the Brain and Spinal Cord Injury Program Trust Fund, Prevent Blindness Florida, the Blind Services Foundation of Florida, the Florida Association of Centers for Independent Living, and the Florida Association of Centers for Independent Living (20 percent to each organization).²⁷

Prevent Blindness Florida

Preserve Vision Florida, formerly Prevent Blindness Florida, is a nonprofit organization offering vision education and services to Florida's children and adults. Its focus is promoting a lifetime of healthy vision care through advocacy, education, screening, and research. Its mission is to promote healthy vision through vision awareness and education, vision screening, assistance to receive medical eye care, and advocacy for vision and medical eye care health service. In May 2016, the organization Prevent Blindness Florida changed its name to Preserve Vision Florida.²⁸

The Purple Heart

The Purple Heart is awarded to members of the U.S. Armed Forces who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action.²⁹

²³ The annual license tax is provided in s. 320.08, F.S.

²⁴ Section 320.089(1)(c), F.S.

²⁵ Section 320.089(1)(b), F.S.

²⁶ The Balance Careers, *Bronze Star Metal*, <https://www.thebalance.com/bronze-star-medal-3344939> (last visited February 7, 2020).

²⁷ Section 320.08068(4), F.S.

²⁸ Preserve Vision Florida, *About Us*, <http://www.pvfla.org/about-us/> (last visited February 7, 2020).

²⁹ The Military Order of the Purple Heart, *About the Military Order of the Purple Heart*, <http://www.purpleheart.org/HistoryOrder.aspx> (last visited February 7, 2020).

Ducks Unlimited

Ducks Unlimited is a waterfowl and wetlands conservation organization founded in 1937. The mission of Ducks Unlimited is habitat conservation.³⁰ Since 1985, Ducks Unlimited has worked to conserve more than 29,000 acres of Florida wetlands.³¹

The Dan Marino Foundation, Inc.

Based in Fort Lauderdale, the Dan Marino Foundation, Inc., is a nonprofit organization dedicated to improving the lives of persons with autism or other developmental disabilities.³² “Opened in 2013, Marino Campus is a 10-month, non-residential program for young adults with autism and other developmental disabilities. Marino Campus offers three programs of study: computer technology, hospitality, and retail. Class instruction combined with real-world internships prepare Marino Campus students to obtain industry-leading certifications.”³³

Donate Life Florida

Florida’s organ, tissue, and eye donor registry is named for Joshua Abbott, the recipient of a lung transplant who passed away in 2006. In 2009, the Agency for Health Care Administration chose Donate Life Florida to create a statewide donor registry to increase registry enrollment and educate Floridians about donation.

Donate Life Florida is a charitable organization established in 1997 and is “dedicated to motivating Floridians to designate themselves as organ, tissue and eye donors, so lives are saved and enhanced through donation and transplantation.”³⁴

Florida State Beekeepers Association

The Florida State Beekeepers Association³⁵ is dedicated to providing “resources for the improvement of Beekeeping using proven techniques and procedures in the management of Honeybees and to share this knowledge with everyone interested in the Art of Beekeeping.”³⁶

Childhood Cancer

Neuroblastoma is among the most common childhood cancers and typically affects children under 5 years old. Not usually diagnosed until the tumor grows and presents symptoms, the majority of childhood neuroblastoma cases are aggressive; survival rates are less than 60 percent

³⁰ Ducks Unlimited, *About Ducks Unlimited*, <http://www.ducks.org/about-du?poe=hometxt> (last visited February 7, 2020).

³¹ Ducks Unlimited, *Florida Conservation Projects*, <http://www.ducks.org/florida/florida-conservation-projects> (last visited February 7, 2020).

³² Dan Marino Foundation, *About*, <https://danmarinofoundation.org/> (last visited February 7, 2020).

³³ Marino Campus, *History*, <https://danmarinofoundation.org/history> (last visited February 7, 2020).

³⁴ Donate Life Florida, *About the Joshua Abbott Organ and Tissue Donor Registry*, <https://www.donateliflorida.org/content/about/> (last visited February 7, 2020).

³⁵ Department of State, Sunbiz.org, *Detail by Entity Name, Florida State Beekeepers Association, Incorporated*, Document No. 721237.

³⁶ Florida State Beekeepers Association, *Mission Statement*, <http://apisenterprises.com/fsba/fsbamiission.htm> (last visited February 7, 2020).

with standard chemotherapy, and the relapse rate is 50 percent. Once relapsed, there is currently no curative treatment, and for those under 5 years old, the survival rate is less than 10 percent.³⁷ Beat Nb, Inc., is a nonprofit organization that has the mission to drive neuroblastoma cancer research and to raise awareness of the disease.³⁸

No Kid Should Know Cancer, Inc., is a nonprofit organization based in Melbourne, Florida, that is organized to bring awareness to childhood cancer and help families who have been affected by childhood cancer financially and spiritually. Additionally, the organization sponsors, hosts, and participates in events that benefit clinical trials and improved treatment plans.³⁹

University of Alabama

The Pensacola Bama Club is a chapter of the University of Alabama National Alumni Association. The club is a nonprofit, fan-based organization representing the University of Alabama National Alumni Association in Pensacola, Florida, and are open to alumni, friends, and fans of the university. “The organization’s primary mission is to provide scholarships to deserving local high school students as well as play host to an annual kick-off event and game watching parties.”⁴⁰

Rotary

Rotary is a global network of 1.2 million neighbors, friends, leaders, and problem-solvers who come together to make positive, lasting change in communities at home and abroad.⁴¹

Founded in 1990, the Community Foundation of Tampa Bay is dedicated to helping individuals in Citrus, Hernando, Hillsborough, Pinellas, and Pasco counties. The foundation functions as a partnership between donors, nonprofits, community and business leaders, professional advisors, volunteers, and the residents of the counties.⁴²

Florida National Parks Association, Inc.

The Florida National Parks Association, Inc., (FNPA) is the official nonprofit entity of Everglades National Park, Biscayne National Park, Dry Tortugas National Park, and Big Cypress National Preserve. The purpose of the FNPA is to generate additional revenues to help supplement the park service’s budget as well as support educational, interpretive, historical, and scientific research. The FNPA also operates the bookstores within the parks to help generate revenues as well as provide a visitor information services function on behalf of the National Park Service.⁴³

³⁷ Beat Nb, Inc. *Neuroblastoma*, <https://beatnb.org/neuroblastoma/> (last visited February 7, 2020).

³⁸ Beat Nb, Inc. *Our Mission and Vision*, <https://beatnb.org/about-us/> (last visited February 7, 2020).

³⁹ Department of State, Sunbiz.org, *Detail by Entity Name, No Kid Should Know Cancer, Inc.*, Document No. N1700002637.

⁴⁰ Pensacola Bama Club, *About*, <https://www.pensacolabamaclub.org/about> (last visited February 7, 2020).

⁴¹ Rotary, *Who We Are*, <https://www.rotary.org/en/about-rotary> (last visited February 7, 2020).

⁴² Community Foundation of Tampa Bay, *What We Do*, <https://cftampabay.org/about/what-we-do/> (last visited February 7, 2020).

⁴³ Florida National Parks Association, *About the Florida National Parks Association*, <https://floridanationalparksassociation.com/about-florida-national-parks-association> (last visited February 7, 2020).

Bonefish and Tarpon Trust

The Bonefish and Tarpon Trust's mission is to conserve and restore bonefish and tarpon fisheries and habitats through research, stewardship, education, and advocacy.⁴⁴

Florida Benevolent Group, Inc.

Based in Gainesville, Florida, Benevolent Group, Inc., assists students in obtaining a medical education through a college or certificate program. The organization's mission is to offer assistance to individuals struggling to make it into school or to stay in school.⁴⁵

University of Georgia

Founded in 1946 as the Georgia Alumni Association of Jacksonville, the Georgia Bulldog Club of Jacksonville is America's largest University of Georgia alumni and fan club.⁴⁶ In 1988, the club established the Vince Dooley Scholarship Fund to award scholarships to attend the University of Georgia for students from Duval, Nassau, St. Johns, Clay, or Baker counties, based on academic and economic need.⁴⁷

Highwaymen

The "Florida Highwaymen" were a group of African-American artists who painted the beautiful, untouched Florida landscape from the early 1950s through the 1980s.

The Florida Highwaymen painted wind-bent palm trees, serene sunsets, churning oceans and bright red Poinciana trees. They painted from their garages and back yards on inexpensive Upson board and then on the weekends would travel and sell their Highwaymen paintings to hotels, offices, businesses and individuals who appreciated the artwork for approximately \$25 apiece.

Currently, the market for an original work of art by a Florida Highwayman can bring \$5,000 or more. Some of the Highwaymen who are still living have resumed painting to meet the continuing demand for their work.⁴⁸

⁴⁴ Bonefish and Tarpon Trust, *BTT Mission*, <https://www.bonefishtarpontrust.org/btt-mission> (last visited February 7, 2020).

⁴⁵ Florida Benevolent Group, *About*, <https://www.floridabenevolentgroup.org/> (last visited February 7, 2020).

⁴⁶ Georgia Bulldog Club of Jacksonville, *Welcome to the Home of the Georgia Bulldog Club of Jacksonville*, <https://jaxbulldogs.com/> (last visited February 7, 2020)

⁴⁷ Georgia Bulldog Club of Jacksonville, *Scholarship*, <https://jaxbulldogs.com/scholarship-fund/> (last visited February 7, 2020).

⁴⁸ Florida Highwaymen Paintings, available at <http://www.floridahighwaymenpaintings.com/> (last visited February 7, 2020).

St. Lucie County Education Foundation

In 1990, the St. Lucie County Education Foundation⁴⁹ was organized as a direct support organization of the St. Lucie County School Board to raise private funds for programs to support students, teachers and public schools. The foundation is a nonprofit organization that advances K-12 public education in St. Lucie County by increasing the capacity and resources of the district in partnership with key stakeholders.⁵⁰

Florida Professional Sports Team License Plates

Section 320.08058(9), F.S., requires the DHSMV to develop a professional sports team license plate for Major League Baseball, National Basketball Association, National Football League, Arena Football League, National Hockey League, and Major League Soccer teams domiciled in Florida. The plates must bear DHSMV-approved colors and design and must include the official league or team logo, or both, as appropriate for each team. The word “Florida” must appear at the top of the plate.

The \$25 annual use fee⁵¹ is distributed as follows:

- Fifty-five percent to the Professional Sports Development Trust Fund within the Department of Economic Opportunity (DEO), to be used solely to attract and support major sports events in this state.
- The remaining proceeds must be allocated to Enterprise Florida, Inc., (for the Florida Sports Foundation) and must be deposited into the Professional Sports Development Trust Fund within the DEO. These funds must be used by Enterprise Florida, Inc., to:
 - Promote the economic development of the sports industry;
 - Distribute licensing and royalty fees to participating professional sports teams;
 - Promote education programs in Florida schools that provide an awareness of the benefits of physical activity and nutrition standards;
 - Partner with the Department of Education and the Department of Health to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement;
 - Institute a grant program for communities bidding on minor sporting events that create an economic impact for the state;
 - Distribute funds to Florida-based charities designated by Enterprise Florida, Inc., and the participating professional sports teams; and
 - Fulfill the sports promotion responsibilities of the DEO.

The proceeds from the Professional Sports Development Trust Fund may also be used for operational expenses of Enterprise Florida, Inc., (Florida Sports Foundation) and financial support of the Sunshine State Games.⁵²

⁴⁹ Department of State, Sunbiz.org, *Detail by Entity Name, St. Lucie County Education Foundation, Inc.*, Document No. N36808.

⁵⁰ St. Lucie County Education Foundation, *About Us*, available at <https://www.educationfoundationstlucie.org/p/3/about-us#.WjFxDGhSyUk> (last visited February 7, 2020).

⁵¹ Section 320.08056(4)(i), F.S.

⁵² Section 320.08058(9), F.S.

There are nine Florida Professional Sports Teams SLPs available for purchase: Florida Panthers, Tampa Bay Lightning, Miami Heat, Orlando Magic, Tampa Bay Buccaneers, Jacksonville Jaguars, Miami Dolphins, Miami Marlins, and Tampa Bay Rays.⁵³

Orlando City Soccer

The Orlando City Soccer Club was formed in 2010 and was awarded a Major League Soccer franchise in late November of 2013. The first game was played in March 2015 against another expansion team from New York; the game ended in a tie. The team moved into its new stadium in 2017.⁵⁴

Coastal Conservation Association Florida

The Coastal Conservation Association Florida (CCAF) is a statewide, nonprofit marine organization working in an advocacy role to protect the state's marine resources and the interests of saltwater anglers. It is comprised of 30 local chapters from Key West to Pensacola and it supports resource-based law enforcement, access to recreational fishing, and fishery regulations to protect state and federal fish stocks. CCAF is one of the 19 state chapters of the Coastal Conservation Association.⁵⁵

Palm Beach Zoo and Conservation Society

In 1969, the Zoological Society of the Palm Beaches was founded based on the interest of a group of citizens in West Palm Beach to create a society for the advancement and support of the Dreher Park Zoo. On October 1, 1969, the operation of the Dreher Park Zoo was transferred over to the Zoological Society. Since then the Zoological Society has operated the zoo, while the city owned and rented the land on which the Palm Beach Zoo was located. In 2014 the Palm Beach Zoo changed its name to the Palm Beach Zoo and Conservation Society. Today, the zoo houses over 500 animals on 23 acres and sees approximately 300,000 visitors annually.⁵⁶

Florida Society for Ethical Ecotourism

In 1998 the CREW Land and Water Trust and the Florida Department of Environmental Protection Rookery Bay National Estuarine Research Reserve received a grant from the Advisory Council of Environmental Education, within the Florida Game & Fresh Water Fish Commission, to provide an educational workshop for ecotour providers of Southwest Florida. As a result of the grant, a day-long Southwest Florida Eco/Heritage Tourism Workshop took place in downtown Ft. Myers in which 85 people participated.⁵⁷

⁵³ DHSMV, *Specialty License Plates Images, Professional Sports*, available at <https://www.flhsmv.gov/dmv/specialtytags/> (last visited February 7, 2020).

⁵⁴ Orlando City Soccer Club, *History*, available at <https://www.orlandocitysc.com/club/history> (last visited February 7, 2020).

⁵⁵ Coastal Conservation Association Florida, <https://www.ccaflorida.org/> (last visited February 7, 2020).

⁵⁶ Palm Beach Zoo & Conservation Society, *About Us*, <https://www.palmbeachzoo.org/about-us> (last visited February 7, 2020).

⁵⁷ Florida Society for Ethical Ecotourism, *History of the "Florida Society for Ethical Ecotourism"*, <https://www.floridasee.com/docs/Florida%20SEE%20History.pdf> (last visited February 7, 2020).

Following the workshop, a group of volunteers from Southwest Florida communities met and formed the Society for Ethical Ecotourism in Southwest Florida. In 2011 they changed their name to the Florida Society for Ethical Ecotourism, Inc.⁵⁸ The Florida Society for Ethical Ecotourism, Inc., is registered as an active nonprofit corporation with the DOS.⁵⁹

Paddle Florida, Inc.

Paddle Florida, Inc., is a nonprofit corporation⁶⁰ organized to support canoeing and kayaking in Florida. The organization supports multi-day paddling/camping trips in each of Florida's five water management districts, showcasing the state's natural beauty and rich cultural heritage while promoting water conservation, wildlife preservation, springs restoration, and waterways protection. Paddle Florida seeks to promote Florida as an international destination for nature-based tourism.⁶¹

Knights of Columbus

The Connecticut State Legislature officially chartered the Knights of Columbus as a fraternal benefit society on March 29, 1882. The order's founding principles were charity, unity, and fraternity. It offers mutual aid and assistance to sick, disabled, and needy members and their families. Fellowship is promoted among members and their families through educational, charitable, religious, social welfare, war relief, and public relief works. The Knights of Columbus now has 15,900 councils and 1.9 million members throughout the United States and the world.⁶² In Florida, the Florida KofC Charities, Inc., was formed to assist and contribute to the Florida State Council of the Knights of Columbus and its Florida chapters.⁶³

Daughters of the American Revolution

The National Society Daughters of the American Revolution (DAR) was founded on October 11, 1890, by a group of women in Washington, D.C., as a result of being excluded from the men's organizations to celebrate the women's ancestors who fought during the Revolutionary War. The objectives of the DAR are to continue the memory and spirit of men and women who achieved America's independence; to educate the public; and to foster patriotism and love of county. Since its founding in 1890, DAR has admitted more than 950,000 members.⁶⁴

⁵⁸ Id.

⁵⁹ Department of State, Sunbiz.org, *Detail by Entity Name, Florida Society for Ethical Ecotourism, Inc.*, Document No. N01000000235.

⁶⁰ Department of State, Sunbiz.org, *Detail by Entity Name, Paddle Florida, Inc.*, Document No. N11000000503.

⁶¹ Paddle Florida, <http://www.paddleflorida.org/> (last visited February 7, 2020).

⁶² Knights of Columbus, *Learn About Us*, <https://www.kofc.org/un/en/todays-knights/about-us.html> (last visited January 31, 2020).

⁶³ Department of State, Sunbiz.org, *Detail by Entity Name, Florida K of C Charities, Inc.*, Document No. N00000004260 and *see* Articles of Incorporation adopted June 23, 2000. *See also* Knights of Columbus Florida State Council, <https://www.floridakofc.org/> (last visited February 7, 2020).

⁶⁴ Daughters of the American Revolution, *DAR History*, <https://www.dar.org/national-society/about-dar/dar-history> (last visited February 7, 2020).

Florida Guardian Ad Litem Foundation, Inc.

The Florida Guardian Ad Litem (GAL) Foundation’s mission is “to provide additional resources for the (GAL) Program, its volunteers, and its affiliated circuit nonprofit organizations in order to promote Guardian Ad Litem representation for abused, neglected, and abandoned children in Florida’s dependency system.”⁶⁵

For 35 years, over 30,000 GAL volunteers have represented the interests of over 200,000 children with 10,000 GAL volunteers. The GAL Foundation has worked to provide targeted support to children involved in the GAL Program through grants, individual or corporate donations, or time. The foundation funds medical needs and activities related to normalcy for children represented by GAL volunteers.⁶⁶

St. Johns Riverkeeper

St. Johns Riverkeeper is a privately-funded and independent organization for the St. Johns River. It is a nonprofit organization that relies on the support of members, donors, and volunteers to defend, advocate, and activate others to protect and restore the St. Johns River. The organization is a member of the Waterkeeper Alliance. Waterkeeper Alliance is the world’s fastest growing environmental movement, with over 300 Waterkeeper Organizations protecting waterways on 6 continents.⁶⁷

Florida Veterans Foundation

The Florida Veterans Foundation is a direct-support organization of the Department of Veterans’ Affairs established by the Legislature in 2008.⁶⁸

“The Florida Veterans Foundation serves as the statewide lead organization for Florida veterans and their families by providing direct services and partnering with state and local governments, veteran service organizations, and educational institutions to improve their physical, financial, mental, emotional, and social well-being.”⁶⁹ The foundation supports the Department of Veterans Affairs’ mission of advocacy and “advocates for Florida veterans through local and statewide outreach to educate the public and governmental entities, increasing awareness on veteran-related issues.”⁷⁰

⁶⁵ Florida Guardian Ad Litem Foundation, *About Us*, <https://flgal.org/about/> (last visited February 7, 2020).

⁶⁶ *Id.*

⁶⁷ St. Johns Riverkeeper, *About Us*, <https://www.stjohnsriverkeeper.org/about-us/> (last visited February 7, 2020).

⁶⁸ Chapter 2008-84, Laws of Fla. Section 292.055, F.S.

⁶⁹ Florida Veterans Foundation, *About Florida Veterans Foundation*, <https://helpflvets.org/about/> (last visited February 7, 2020).

⁷⁰ *Id.*

K9s United Inc.

K9s United Inc.⁷¹ is “committed to supporting and honoring K9 law enforcement officers who detect, protect and serve communities by giving them the best equipment, amenities, and quality of life during and after their service, and memorializing those who give the ultimate sacrifice.”⁷²

Florida Off Road Foundation, Inc.

Florida Off Road Foundation, Inc., is a nonprofit corporation that was incorporated in 2019. The corporation’s filing documents state that it is organized to provide and distribute funds to the foundation from the sales of Florida Off Road specialty license plates to help preserve and protect Florida’s off road natural habitat, environmental, and other programs.⁷³

Florida Solar Energy Research and Education Foundation, Inc.

The Florida Solar Energy Research and Education Foundation was created in 1991.⁷⁴ The foundation was established to further the development and use of solar energy. Under a grant from the Florida Department of Community Affairs Energy Office, the foundation began to develop strategic alliances with sectors influencing the use of solar energy, such as a home builder, utility, financial, and institutional.

Florida Solar Energy Center

The mission of the Florida Solar Energy Center (center) is to research and develop energy technologies that enhance Florida’s and the nation’s economy and environment and educate the public, students, and practitioners on the results of the research. The Florida Solar Energy Center is administered by the University of Central Florida.⁷⁵ The center was created by the Florida Legislature in 1976 to serve as the state’s energy research institute.⁷⁶ The main responsibilities of the center are to:

- Develop and adopt standards for solar energy systems manufactured or sold in this state.
- Establish criteria for testing performance of solar energy systems.

The center may receive a testing fee for any testing performed.

All solar energy systems manufactured or sold in the state must meet the standards established by the center and must display accepted results of an approved performance test in a manner prescribed by the center.⁷⁷

⁷¹ Department of State, Sunbiz.org, *Detail by Entity Name, K9S United Inc.*, Document No. N1500004235.

⁷² K9s United, *We’re here for the officers who are here for you*, <https://www.k9sunitied.org/about> (last visited February 11, 2020).

⁷³ Department of State, Sunbiz.org, *Detail by Entity Name, Florida Off Road Foundation, Inc.*, Document No. N1900001532.

⁷⁴ Department of State, Sunbiz.org, *Detail by Entity Name, Florida Solar Energy Research and Education Foundation, Inc.*, Document No. N45228.

⁷⁵ FSEC Energy Research Center. *About Us*, <https://energyresearch.ucf.edu/about-us/> (last visited February 7, 2020).

⁷⁶ Chapter 76-246, Law of Fla.

⁷⁷ Section 377.705(4), F.S.

Florida Native Plant Society, Inc.

The Florida Native Plant Society, Inc. was founded in 1980.⁷⁸ The mission of the Florida Native Plant Society, Inc., is “to promote the preservation, conservation, and restoration of the native plants and native plant communities of Florida.”⁷⁹ The mission is fulfilled through:

- Support for conservation land acquisition;
- Land management that enhances habitat suitability for native plants;
- Education;
- Public policies that protect native flora, especially rare species;
- Research on native plant species; and
- Encouragement of local landscaping practices and policies that preserve Florida’s native plant heritage.

Florida 4-H Club Foundation, Inc.

The Florida 4-H Club Foundation, Inc., was founded in 1963.⁸⁰ The 4-H began around the turn of the century when educators began to emphasize the needs of young people and to introduce nature study as a basis for a better agricultural education. Boys and girls clubs and leagues were established in schools and churches to meet these needs and farmers institutes worked with schools to spark the interest of young people by promoting production contests, soil tests, and plant identification.⁸¹

Most states organized clubs outside of schools with rural parents acting as volunteer leaders and county extension office agents providing materials. Farmers saw the practical benefits and public support and enthusiasm for 4-H grew throughout the nation. The overall objective of 4-H has remained the same since the beginning – to develop youth as individuals and as responsible and productive citizens. Current activities include organized clubs, centers, school enrichment programs, various activities, and individual memberships.⁸²

Give Kids the World, Inc.

The Give Kids the World, Inc., was founded in 1986.⁸³ Give Kids the World, Inc., is a central Florida-based nonprofit resort on 84 acres that fulfills wish vacations for critically ill children and their families to visit the area’s theme parks. In addition to receiving theme park passes, the families enjoy free accommodations, transportation, entertainment, and accessible rides.⁸⁴

⁷⁸ Department of State, Sunbiz.org, *Detail by Entity Name, Florida Native Plant Society, Inc.*, Document No. N15068.

⁷⁹ Florida Native Plant Society, *Who We Are, History and Mission*, <https://www.fnps.org/who-we-are/history> and <https://www.fnps.org/who-we-are/mission> (last visited February 7, 2020).

⁸⁰ Department of State, Sunbiz.org, *Detail by Entity Name, Florida 4-H Club Foundation, Inc.*, Document No. 705136.

⁸¹ Florida 4-H, *History*, <http://florida4h.org/about/history/> (last visited February 7, 2020).

⁸² *Id.*

⁸³ Department of State, Sunbiz.org, *Detail by Entity Name, Give Kids the World, Inc.*, Document No. N14249.

⁸⁴ Give Kids the World Village, *About Us*, <https://www.gktw.org/about/index.php> (last visited February 7, 2020).

Johnson and Wales University-North Miami

Johnson and Wales University-North Miami is a campus of the Johnson & Wales University⁸⁵ (JWU) located in Providence, RI. JWU purchased the recently vacated North Miami General Hospital to house students and classrooms and an adjacent office building and parking garage in 1992 to establish its Florida campus. The university began with a culinary program. In 1996 a hospitality program was launched in 1996 and a College of Business began in 1997, offering seven majors.⁸⁶

From a venture in culinary education, JWU's North Miami Campus is now a center of higher education and community involvement celebrating 20 years of strategic growth and offering 34 majors and programs.⁸⁷

SFC Charitable Foundation, Inc.

The SFC Charitable Foundation, Inc., was founded in 1994.⁸⁸ The foundation, also known as Singing for Change, is a private foundation established in 1995 by Jimmy Buffett, as a way of saying thank you to the friends, fans, and concert-goers around the country who have loyally supported his music career.⁸⁹

Initially funded with contributions from Jimmy Buffett's 1995 summer tour, Singing for Change continues to receive one dollar from each concert ticket sold during his tours. Funds are used to provide grants to small, grassroots organizations located primarily in communities where concerts are held. Singing for Change has disbursed almost \$11 million in grants in its 23-year history.⁹⁰

Hatzalah of Miami-Dade, Inc.

The Hatzalah of Miami-Dade, Inc., was founded in 2008⁹¹ and is a volunteer not-for-profit organization. Its mission is to improve medical outcomes and save lives by augmenting existing emergency medical services in South Florida with community-based state-certified EMT volunteer responders.⁹² Hatzalah provides "provide trained volunteers capable of responding to any type of emergency with the skill and equipment necessary to provide competent medical care until the arrival of those professional personnel who have primary responsibility of treating and transporting ill or injured persons."⁹³

⁸⁵ Department of State, Sunbiz.org, *Detail by Entity Name, Johnson and Wales University*, Document No. P35891.

⁸⁶ Johnson & Wales University, *About JWU North Miami*, available at <https://www.jwu.edu/campuses/north-miami/about-jwu-north-miami/index.html> (last visited February 7, 2020).

⁸⁷ Johnson & Wales University, *Explore Majors & Programs*, <https://www.jwu.edu/academics/programs/explore-programs.html?filter.location=north%20miami> (last visited February 7, 2020).

⁸⁸ Department of State, Sunbiz.org, *Detail by Entity Name, SFC Charitable Foundation, Inc.*, Document No. N94000005329.

⁸⁹ Singing for Change, *Home*, <https://www.singingforchange.org/> (last visited February 7, 2020).

⁹⁰ *Id.*

⁹¹ Department of State, Sunbiz.org, *Detail by Entity Name, Hatzalah of Miami-Dade, Inc.*, Document No. N08000002779.

⁹² Hatzalah of Miami-Dade, *Home*, <http://www.miamihatlah.com/> (last visited February 11, 2020).

⁹³ Hatzalah of Miami-Dade, *FAQ*, <https://www.hatzalahsouthflorida.org/faq> (last visited February 11, 2020).

Make-A-Wish Foundation of Central and Northern Florida, Inc.

The Make-A-Wish Foundation of Central and Northern Florida, Inc., was founded in 1994⁹⁴ and serves 45 counties including the central, northern, and Space Coast regions of Florida.⁹⁵ Volunteers, donors, and supporters assist with the Make-A-Wish vision to grant the wish of every child diagnosed with a critical illness. The Make-A-Wish Foundation believes a wish experience can be a game-changer. This one belief guides them and inspires them to grant wishes that change the lives of the kids they serve.⁹⁶

Lake-Sumter State College Foundation, Inc.

Since 1980, the Lake-Sumter State College Foundation, Inc.,⁹⁷ has helped individuals, businesses, and organizations support the college's mission of developing the community through education. The foundation supports the Lake-Sumter State College through the funding of projects that directly or indirectly benefit students. These projects have included assistance for equipment for classroom instruction and the athletics department; libraries; the nursing program; computer labs; and support for faculty, staff, and students.⁹⁸

Best Buddies International, Inc.

The Best Buddies International, Inc., is a nonprofit organization founded in 1992.⁹⁹ Best Buddies International is “dedicated to establishing a global volunteer movement that creates opportunities for one-to-one friendships, integrated employment, leadership development, and inclusive living for individuals with intellectual and developmental disabilities (IDD).”¹⁰⁰

Morehouse College

Morehouse College is a private, historically black college for men founded in 1867. Located in Atlanta, Morehouse College's mission is to “produce academically superior, morally conscious leaders.”¹⁰¹

Morehouse College Alumni Chapter of Broward County, Florida, Incorporated is a nonprofit corporation¹⁰² founded in 1966 as an alumni association for area graduates of Morehouse

⁹⁴ Department of State, Sunbiz.org, *Detail by Entity Name, Make-A-Wish Foundation of Central and Northern Florida, Inc.*, Document No. N94000002058.

⁹⁵ Make-A-Wish Central and Northern Florida, *Our Chapter*, <https://cnfl.wish.org/about-us/our-chapter> (last visited February 11, 2020).

⁹⁶ Make-A-Wish Central and Northern Florida, *About Us*, <https://cnfl.wish.org/about-us> (last visited February 7, 2020).

⁹⁷ Department of State, Sunbiz.org, *Detail by Entity Name, Lake-Sumter State College Foundation, Inc.*, Document No. 750806.

⁹⁸ LSSC Foundation, *About Us*, <https://site.lssc.edu/foundation/Pages/About%20Us/default.aspx> (last visited February 7, 2020).

⁹⁹ Department of State, Sunbiz.org, *Detail by Entity Name, Best Buddies International, Inc.*, Document No. P37341.

¹⁰⁰ Best Buddies, *Mission*, <https://www.bestbuddies.org/what-we-do/mission-vision-goals/> (last visited February 7, 2020).

¹⁰¹ Morehouse College, *About*, <https://www.morehouse.edu/about/> (last visited March 3, 2020).

¹⁰² Department of State, Sunbiz.org, *Detail by Entity Name, Morehouse College Alumni Chapter of Broward County*, Document No. N01000001948.

College. The alumni chapter supports and advances the interests of Morehouse College and its alumni to foster interest to prospective students.¹⁰³

Audits and Attestations

All organizations receiving annual use fee proceeds from the DHSMV are responsible for ensuring that proceeds are used in accordance with state law.¹⁰⁴ Any organization not subject to an audit pursuant to the Florida Single Audit Act¹⁰⁵ must annually attest, under penalties of perjury, that such proceeds were used in compliance with applicable state laws.¹⁰⁶

Any organization subject to audit pursuant to the Florida Single Audit Act¹⁰⁷ must submit an audit report in accordance with the Auditor General's rules. The annual attestation must be submitted to the DHSMV for review within nine months after the end of the organization's fiscal year.¹⁰⁸

Within 120 days after receiving an organization's audit or attestation, the DHSMV must determine which recipients of revenues from SLP annual use fees have not complied with the appropriate statutory provisions. In determining compliance, the DHSMV may commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations.¹⁰⁹

The DHSMV must discontinue the distribution of revenues to any organization that fails to submit the required documentation, but may resume distribution of the revenues upon receipt of the required information.¹¹⁰

If the DHSMV determines that an organization has not complied with or has failed to use the revenues in accordance with applicable law, the DHSMV must discontinue the distribution of the revenues to the organization. The DHSMV must notify the organization of its findings and direct the organization to make the changes necessary in order to comply. If the officers of the organization sign an affidavit under penalties of perjury stating they acknowledge the findings of the DHSMV and attest they have taken corrective action and that the organization will submit to a follow-up review by the DHSMV, then the department may resume the distribution of revenues.¹¹¹

¹⁰³ Morehouse Broward County Alumni, *About Us*, <https://morehouse-broward.org/> (last visited March 3, 2020).

¹⁰⁴ Section 320.08062(1)(a), F.S.

¹⁰⁵ Section 215.97, F.S.

¹⁰⁶ Section 320.08062(1)(b), F.S.

¹⁰⁷ Nonstate entities that receive state financial assistance and meets audit thresholds are subject to the act. Section 215.97(2)(a), F.S., defines an "audit threshold" to include each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, shall review the threshold amount for requiring audits and may adjust such threshold amount consistent with the purposes of the statute.

¹⁰⁸ Section 320.08062(1)(c), F.S.

¹⁰⁹ Section 320.08062(2)(a), F.S.

¹¹⁰ Section 320.08062(2)(b), F.S.

¹¹¹ Section 320.08062(2)(c), F.S.

If an organization fails to comply with the DHSMV's recommendations and corrective actions as outlined above, the revenue distributions must be discontinued until completion of the next regular session of the Legislature. The DHSMV must notify the President of the Senate and the Speaker of the House of Representatives by the first day of the next regular session of any organization whose revenues have been withheld. If the Legislature does not provide direction to the organization and the DHSMV regarding the status of the undistributed revenues, the DHSMV must de-authorize the plate and the undistributed revenues are immediately deposited into the Highway Safety Operating Trust Fund.¹¹²

The DHSMV has the authority to examine all records pertaining to the use of funds from the sale of SLPs.¹¹³

III. Effect of Proposed Changes:

Establishing Specialty License Plates (section 4)

The bill amends s. 320.08053(2)(b), F.S., requiring a minimum sale of 3,000 vouchers prior to the DHSMV manufacturing a SLP, instead of the current 1,000 voucher sales requirement. However, for *out-of-state* college or university license plates, the minimum sale is 4,000 vouchers.

The bill creates s. 320.08053(3)(a), F.S., providing that new SLPs that have been approved by law but are awaiting issuance are issued in the order they appear in s. 320.08058, F.S.,¹¹⁴ provided that the plates have met the presale requirement and all other provisions of s. 320.08053, F.S. If the next awaiting SLP has not met the presale requirement, the DHSMV must proceed in the order provided in s. 320.08058, F.S., to identify the next qualified SLP that has met the presale requirement. The DHSMV must cycle through the list in statutory order.

The bill creates s. 320.08053(3)(b), F.S., prohibiting the DHSMV from making any new SLPs available for design or issuance until a sufficient number of plates are discontinued if the Legislature has approved 200 or more SLPs.¹¹⁵ The 200 license plate limit does not apply to *in-state* collegiate license plates established under s. 320.08058(3), F.S.

Discontinuing Specialty License Plates (sections 5 and 6)

The bill amends s. 320.08056(8)(a), F.S., effective July 1, 2022, requiring the DHSMV to discontinue the issuance of an approved SLP if the number of valid registrations falls below 3,000 plates for 12 consecutive months, instead of the current 1,000-plate threshold. However, *out-of-state* college or university license plates have a 4,000-plate threshold. In addition to the existing exemption from this requirement for *in-state* collegiate license plates, the bill provides exceptions for institutions and entities of the State University System, SLPs with statutory eligibility limitations for purchase, SLPs for which the annual use fees are distributed by a

¹¹² Section 320.08062(2)(d), F.S.

¹¹³ Section 320.08062(3), F.S.

¹¹⁴ Section 320.08058, F.S., lists specific specialty license plates.

¹¹⁵ Specialty license plates will be discontinued pursuant to s. 320.08056(8), F.S.

foundation for student and teacher leadership programs and teacher recruitment and retention, and Florida professional sports team license plates.¹¹⁶

The bill creates s. 320.08056(8)(c), F.S., providing that a vehicle owner or lessee issued a SLP that has been discontinued by the DHSMV may keep the discontinued SLP for the remainder of the 10-year license plate replacement period¹¹⁷ and must pay all other applicable registration fees. However, the owner or lessee is exempt from paying the applicable SLP fee for the remainder of the 10-year license plate replacement period.

The bill creates s. 320.08056(8)(d), F.S., providing that if the DHSMV discontinues issuance of an SLP, all annual use fees held or collected by the DHSMV must be distributed within 180 days after the date the SLP is discontinued. Of those fees, the DHSMV must retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuing the plate. The remaining funds are distributed to the appropriate organization or organizations.¹¹⁸

The bill creates s. 320.08056(8)(e), F.S., providing that if an organization that is the intended recipient of SLP funds no longer exists, the DHSMV must deposit any undistributed funds into the Highway Safety Operating Trust Fund.

The bill creates s. 320.08056(8)(f), F.S., providing that on January 1 of each year, the DHSMV must discontinue the SLP with the fewest number of plates in circulation, including license plates exempt from a statutory sales requirement. The DHSMV must mail a warning letter to the sponsoring organization of the 10 percent of SLPs with the lowest number of valid, active registrations as of December 1 of each year.¹¹⁹

Specialty License Plates – Other Provisions (section 5)

The bill amends s. 320.08056(4), F.S., to repeal references to each SLP that has an annual use fee of \$25. SB 414, which is linked to this bill, standardizes the annual use fee for all SLPs of \$25, unless otherwise specified in the statute, into one subsection of s. 320.08056, F.S.

The bill amends s. 320.08056(10)(a), F.S., authorizing out-of-state expenditure of SLP fees for the Support Our Troops, American Legion, Florida Salutes Veterans, United States Marine Corps, Military Services, and U.S. Paratroopers license plates.

The bill amends s. 320.08056(11), F.S., prohibiting any entity from using SLP revenue for lobbying. The current prohibition is limited to agencies.

¹¹⁶ Florida Professional Sports Team license plates are established in s. 320.08058(9), F.S.

¹¹⁷ License plates are issued for a 10-year period pursuant to s. 320.06(1)(b)1., F.S.

¹¹⁸ Distributions to recipient organizations are pursuant to s. 320.08058, F.S.

¹¹⁹ This applies to plates with registrations that fall below 1,000 before July 1, 2022. After July 1, 2022, the provisions of the bill increasing the registration thresholds apply. *See* previous discussion of amendment to s. 320.08056(8)(a), F.S.

The bill creates s. 320.08056(12), F.S., requiring the recipient organization for any *out-of-state* college or university license plates to:

- Have established an endowment, based in this state, for the purpose of providing scholarships to Florida residents meeting the requirements of ch. 320, F.S.
- Provide documentation to the DHSMV that the recipient organization and the DHSMV have the college's or university's consent to use an appropriate image on a license plate.

Currently, s. 320.01(34), F.S., defines "resident" to mean a person who has his or her principal place of domicile in Florida for a six-month period or more, is registered to vote, and has made a statement of domicile or filed for a homestead property tax exemption. Thus, the endowment must provide scholarships to students who meet the definition of "resident."¹²⁰

It is unclear what recourse, if any, is available to the DHSMV if the recipient organization fails to comply with the requirements of s. 320.08056(12), F.S.

Fleet/Dealer Specialty License Plates (sections 1, 2, 3, and 5)

The bill creates ss. 320.08056(2)(b) and (c), F.S., allowing the DHSMV to authorize dealer and fleet SLPs. With the permission of the sponsoring SLP organization, a dealer or fleet company may purchase SLPs to be used on dealer and fleet vehicles. Because the bill does not specify a method, it would be up to the DHSMV to establish how permission of the sponsoring SLP organization must be obtained.

Notwithstanding s. 320.08058, F.S., which establishes certain letters or words to be displayed on each SLP, a dealer or fleet SLP must include the letters "DLR" or "FLT" on the right side of the license plate. Dealer and fleet SLPs must be ordered directly through the DHSMV. The bill amends ss. 320.06(3)(a) and 320.0657(2)(b), F.S., providing that a dealer SLP is not required to say "Dealer" and a fleet SLP is not required to say "Fleet" at the bottom of the license plate.

The bill amends ss. 320.0657(2)(b) and 320.08(12), F.S., authorizing the purchase of dealer and fleet SLPs. The bill provides that for the additional annual use fee for the specific SLP, dealers and fleet companies may purchase SLPs in lieu of the standard fleet license plates. Dealers and fleet companies are responsible for all costs associated with the SLPs, including all annual use fees, processing fees, fees associated with switching license plate types, and other applicable fees.

Discontinued Specialty License Plates (sections 5 and 7)

The bill repeals the American Red Cross SLP, Donate Organs Pass It On SLP, St. Johns River SLP, and Hispanic Achievers SLP from law as these SLPs have been discontinued.

¹²⁰ While the bill language could be read differently, it is more likely that the phrase "meeting the requirements of ch. 320, F.S.," applies to "Florida residents." There does not appear to be any other requirements for "residents" in ch. 320, F.S., beyond the definition.

Existing Specialty License Plates (section 7)

Special Olympics Florida License Plate

The bill redesigns the Special Olympics Florida SLP with “Florida” centered at the top of the plate and “Be a Fan” centered at the bottom of the plate. The bill requires the first \$5 million collected annually to be forwarded to Special Olympics Florida instead of the nonprofit corporation known as the “Developmental Disabilities Council.”¹²¹

Live the Dream License Plate

The bill amends the distribution of funds for the Live the Dream SLP. The Dream Foundation, Inc., must use the distributions as follows:

- Up to 5 percent may be used to administer, promote, and market the license plate.
- At least 60 percent must be distributed equally among the sickle cell organizations that are Florida members of the Sickle Cell Disease Association of America, Inc.
- At least 30 percent must be distributed to Chapman Partnership, Inc., to be spent on programs in Florida.¹²²
- Up to 5 percent may be distributed by the DHSMV on behalf of The Dream Foundation, Inc., to the Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., as a royalty for the use of the image of Dr. Martin Luther King, Jr.

The bill also provides (**section 12**) that by November 1, 2020, the annual use fees withheld by the DHSMV from the sale of the Live the Dream SLP will first be used to satisfy all outstanding royalty payments due to The Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., for the use of Dr. Martin Luther King, Jr.’s image. All remaining funds will be distributed to the sub-recipients on a pro rata basis according to the revised distributions described above.

In God We Trust License Plate

The bill amends the distribution of the annual use fees from the In God We Trust SLP. The annual use fees will be distributed to the In God We Trust Foundation, Inc., which may use up to 10 percent of the proceeds to offset marketing, administration, and promotion, and the balance of the fees to address the needs of the military community and the needs of the public safety community, to provide educational grants and scholarships to foster self-reliance and stability in Florida’s children, and to provide education in public and private schools regarding the historical significance of religion in American and Florida history.

Fallen Law Enforcement Officer License Plate

The bill amends the uses of the annual use fees from the Fallen Law Enforcement Officer SLP. The bill provides that the Police and Kids Foundation, Inc., may use up to 10 percent of the proceeds for marketing the plate. The bill requires the remaining proceeds to be used by the foundation for its operations, activities, programs, and projects in Florida.

¹²¹ Created in s. 393.002, F.S.

¹²² In 2011, Community Partnership for the Homeless changed its name to Chapman Partnership.

New Military Service Special License Plate (section 11)

Bronze Star Special License Plate

The bill amends s. 320.089, F.S., authorizing the DHSMV to create the Bronze Star special use license plate for recipients of the Bronze Star medal who provide proof of their qualification. The license plate will be stamped with the term “Bronze Star” and a likeness of the related campaign medal. Revenue generated from the sale of the Bronze Star special use license plate will be administered the same as the existing military special license plates and deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund to support the State Veterans Homes Program.

Motorcycle Specialty License Plates

Existing Motorcycle Specialty License Plate – Preserve Vision (section 9)

The bill amends s. 320.08068(4)(b), F.S., changing the statutory reference from “Prevent Blindness Florida” to “Preserve Vision Florida, Inc.” to reflect the change in the organization’s name.

New Motorcycle Specialty License Plate – Purple Heart Motorcycle Special License Plate (section 10)

The bill creates s. 320.0875, F.S., creating the Purple Heart motorcycle SLP. Upon application to the DHSMV and payment of the motorcycle license tax,¹²³ a resident who owns or leases a motorcycle that is not used for-hire or commercial use shall be issued a Purple Heart motorcycle license plate if he or she provides documentation acceptable to the DHSMV that he or she is a recipient of the Purple Heart medal.

The Purple Heart motorcycle SLP will be stamped with the term “Combat-wounded Veteran” followed by the serial number of the license plate. It may have the term “Purple Heart” stamped on the plate and a likeness of the Purple Heart medal.

New Specialty License Plates (section 7)

Ducks Unlimited License Plate

The bill creates the Ducks Unlimited license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Conserving Florida Wetlands” appears at the bottom of the plate.

The annual use fees are distributed to Ducks Unlimited, Inc., to be used as follows:

- Up to 5 percent may be used for administrative costs and marketing of the plate.
- At least 95 percent must be used in Florida to support Ducks Unlimited’s mission and efforts to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

¹²³ The license tax is provided in s. 320.08, F.S.,

Dan Marino Campus License Plate

The bill creates the Dan Marino Campus license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Marino Campus” appears at the bottom of the plate.

The annual use fees are distributed to the Dan Marino Foundation, Inc., which may use up to 10 percent of the fees for administrative costs and marketing the plate. The remaining proceeds must be used by foundation to assist Floridians with developmental disabilities in becoming employed, independent, and productive; to promote awareness of such services; and to promote and fund education scholarships related to such services.

Donate Life Florida License Plate

The bill creates the Donate Life Florida license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Donors Save Lives” appears at the bottom of the plate.

The annual use fees are distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remaining proceeds must be used by Donate Life Florida to educate Florida residents on the importance of organ, tissue, and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry, which is Florida’s organ, tissue, and eye donor registry.

Florida State Beekeepers Association License Plate

The bill creates the Florida State Beekeepers Association license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Save the Bees” appears the bottom of the plate.

The annual use fees are distributed to the Florida State Beekeepers Association, which may use up to 18 percent of the annual use fees for:

- Direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process of the license plate.
- Promotion and marketing costs of the license plate.

The bill requires that all vendors associated with the administrative costs be selected by competitive bid.

The remaining proceeds must be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all expenditures.

Beat Childhood Cancer License Plate

The bill creates the Beat Childhood Cancer license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Beat Childhood Cancer” appears at the bottom of the plate.

The annual use fees are distributed as follows:

- Eighty percent to Beat Nb, Inc., which may use up to 10 percent of the proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the plate. The remaining proceeds must be used by Beat Nb, Inc., to fund pediatric cancer treatment and research in Florida.
- Twenty percent to No Kid Should Know Cancer, Inc., which may use up to 5 percent of the proceeds for administrative costs and for the marketing of the plate. The remaining proceeds must be used by No Kid Should Know Cancer, Inc., to:
 - Support Florida families who have a child recently diagnosed with cancer;
 - Hold events in Florida that raise awareness about childhood cancer; and
 - Support clinical trials in Florida that work to provide better treatment plans for children diagnosed with cancer.

University of Alabama License Plate

The bill creates the University of Alabama license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Roll Tide” appears at the bottom of the plate.

The annual use fees are distributed to the Pensacola Bama Club, which must use the proceeds to award scholarships to Florida residents attending the University of Alabama. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program¹²⁴ and use the scholarship funds for tuition and other expenses related to attending the University of Alabama.

Rotary License Plate

The bill creates the Rotary license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Rotary” appears at the bottom of the plate. The license plate will also bear the Rotary International wheel emblem.

The annual use fees are distributed to the Community Foundation of Tampa Bay, Inc., to be used as follows:

- Up to 10 percent for administrative costs and for marketing the plate;
- Ten percent distributed to Rotary’s Camp Florida for direct support to all programs and services provided to special needs children who attend the camp; and
- The remaining proceeds distributed, proportionally based on sales, to each Rotary district in the state to support Rotary youth programs in Florida.

Florida Bay Forever License Plate

The bill creates the Florida Bay Forever license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Florida Bay Forever” appears at the bottom of the plate.

¹²⁴ Section 1009.531, F.S.

The annual use fees are distributed to the Florida National Parks Association, Inc., which may use up to 10 percent of the proceeds for administrative costs and marketing the plate. The remaining proceeds must be used to supplement the Everglades National Park's budget and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.

Bonefish and Tarpon Trust License Plate

The bill creates the Bonefish and Tarpon Trust license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Bonefish and Tarpon Trust" appears at the bottom of the plate.

The annual use fees are distributed to the Bonefish and Tarpon Trust, which may use up to 10 percent of the proceeds to promote and market the plate. The remaining proceeds must be used to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments through stewardship, research, education, and advocacy.

Medical Professionals Who Care License Plate

The bill creates the Medical Professionals Who Care license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Medical Professionals Who Care" appears at the bottom of the plate.

The annual use fees are distributed to Florida Benevolent Group, Inc., which may use up to 10 percent of the fees for administrative costs, marketing, and promoting the plate. The remaining proceeds must be used to assist low-income individuals in obtaining medical education and careers through scholarships, support, and guidance.

University of Georgia License Plate

The bill creates the University of Georgia license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "University of Georgia" appears at the bottom of the plate.

The annual use fees are distributed to the Georgia Bulldog Club of Jacksonville, which must use the proceeds to award scholarships to Florida residents attending the University of Georgia. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program¹²⁵ and use the scholarship funds for tuition and other expenses related to attending the University of Georgia.

Highwaymen License Plate

The bill creates the Highwaymen license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Highwaymen" appears at the bottom of the plate.

¹²⁵ *Id.*

The annual use fees are distributed to the City of Fort Pierce, subject to a city resolution designating the city as the fiscal agent of the SLP. The city may use up to 10 percent of the fees for administrative costs and marketing of the plate and the remaining proceeds as follows:

- Before completion of construction of the Highwaymen Museum and African-American Cultural Center:
 - A minimum of 15 percent must be distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County.
 - The remaining proceeds must be used by the city to fund the construction of the Highwaymen Museum and African-American Cultural Center.
- Upon completion of construction of the Highwaymen Museum and African-American Cultural Center:
 - A minimum of 10 percent must be distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County.
 - The remaining proceeds must be used by the city to fund the day-to-day operations of the Highwaymen Museum and African-American Cultural Center.

Orlando City Soccer License Plate

The bill creates the Orlando City Soccer Club license plate as a Florida professional sports team SLP. Section 320.08058(9), F.S., requires the Florida Professional Sports Team license plates to bear the DHSMV-approved colors and design and include the official league or team logo, or both, as appropriate for each team. The word “Florida” must appear at the top of the plate.

The annual use fees are distributed as required in current law for Florida professional sports team SLPs.¹²⁶

Coastal Conservation Association License Plate

The bill creates the Coastal Conservation Association (CCA) license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Conserve Florida’s Fisheries” appears at the bottom of the plate.

The annual use fees are distributed to the CCA Florida to be used as follows:

- Up to 10 percent for administrative costs and to promote and market the plate; and
- The remaining proceeds to support the mission and efforts of the CCA Florida for habitat enhancement and restoration, saltwater fisheries conservation, and education; to advise the public on the conservation of marine resources; and to promote and enhance the present and future availability of those coastal resources for the benefit and enjoyment of the general public.

Palm Beach Zoo and Conservation Society License Plate

The bill creates the Palm Beach Zoo and Conservation Society license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Palm Beach Zoo and Conservation Society” appears at the bottom of the plate.

¹²⁶ See discussion in the Present Situation under the heading Florida Professional Sports Team License Plates.

The annual use fees are distributed to the Palm Beach Zoo and Conservation Society to fund educational programs for students in pre-K through grade 12, conservation projects to protect endangered or threatened species, and services for the health and welfare of animals in the zoo's care. The Palm Beach Zoo and Conservation Society may retain all proceeds until all startup costs for developing and establishing the plate have been recovered. Thereafter, up to 10 percent may be used for promoting and marketing the plate and administrative costs directly associated with the programs of the society and the plate.

Ethical Ecotourism License Plate

The bill creates the Ethical Ecotourism license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Florida Ecotourism" appears at the bottom of the plate.

The annual use fees are distributed equally between the Florida Society for Ethical Ecotourism and Paddle Florida, Inc., each of which may use up to 10 percent of the proceeds for administrative costs and the marketing the plate. The remaining proceeds must be used by the Florida Society for Ethical Ecotourism to provide environmental education and awareness that encourage behaviors that contribute to the sustainability of Florida's natural ecosystems and resources, and by Paddle Florida, Inc., to raise awareness about water conservation, wildlife preservation, restoration of springs, and protection of waterways in this state.

Knights of Columbus License Plate

The bill creates the Knights of Columbus license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "In God We Trust" appears at the bottom of the plate.

The annual use fees are distributed to the Florida KofC Charities, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate. The remaining proceeds must be used by the organization to fund its charitable activities, including, but not limited to, the Christian Refugee Relief Fund, disaster relief, Ultrasound Initiative, Food for Families, and Coats for Kids.

Daughters of the American Revolution License Plate

The bill creates the Daughters of the American Revolution license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Daughters of the American Revolution" appears at the bottom of the plate.

The annual use fees are distributed to the Daughters of the American Revolution. Up to 10 percent of the proceeds may be used to promote and market the plate. The remaining proceeds must be used by the organization to promote patriotism, preserve American history, and secure America's future through educational programs for local public and private K-12 students and scholarships and other educational funding for underprivileged children.

Guardian Ad Litem License Plate

The bill creates the Guardian Ad Litem license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Heartfelt Child Advocacy” appears at the bottom of the plate.

The annual use fees are distributed to the Florida Guardian Ad Litem Foundation, Inc. Up to 10 percent of the proceeds may be used for administrative costs and the marketing of the plate. The remaining proceeds must be used in this state to support the mission and efforts of the statewide Guardian Ad Litem Program to represent abused, abandoned, and neglected children and advocate for their best interests; recruit and retain volunteer child advocates; and meet the unique needs of the dependent children the program serves.

Jumbo Shrimp License Plate

The bill creates the Jumbo Shrimp license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Jumbo Shrimp” appears at the bottom of the plate.

The annual use fees are distributed to the St. Johns Riverkeeper, Inc. Up to 10 percent of the proceeds may be used to promote and market the plate. The remaining proceeds must be used by St. Johns Riverkeeper for programs and activities related to fulfilling its mission to protect and restore the health of the St. Johns River.

Gadsden Flag License Plate

The bill creates the Gadsden Flag license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Don’t Tread on Me” appears at the bottom of the plate.

The annual use fees are distributed to the Florida Veterans Foundation, a direct-support organization of the Department of Veterans’ Affairs, and must be used to benefit veterans. Up to 10 percent of the proceeds may be used for continuing promotion and marketing of the plate.

K9s United License Plate

The bill creates the K9s United license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “K9s United” appears at the bottom of the plate.

The annual use fees are distributed to K9s United, Inc. Up to 10 percent of the proceeds may be used to promote and market the plate. The remaining proceeds must be used by K9s United, Inc., to support K9 units throughout the state.

Explore Off Road Florida Plate

The bill creates the Explore Off Road Florida license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Explore Off Road” appears at the bottom of the plate.

The annual use fees are distributed to the Florida Off Road Foundation, Inc. Up to 10 percent of the funds may be used for marketing of the plate, costs directly associated with creation of the plate, and administrative costs related to distribution of proceeds, including annual audit services and compliance affidavit costs. The remaining proceeds must be used by the Florida Off Road Foundation, Inc., to fund qualified nonprofit organizations that protect and preserve Florida's natural off-road habitat; educate Floridians about responsible use of the off-road environment; support civilian volunteer programs to promote the use of off-road vehicles to assist law enforcement in situations such as search and rescue; support organized cleanups, trail maintenance, and restoration; or preserve Florida's off-road culture.

Solar Power License Plate

The bill creates the Solar Power license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Powered by the Sun" appears at the bottom of the plate.

The annual fees from the sale of the plate must be distributed to the Florida Solar Energy Research and Education Foundation, Inc., to fund its activities, programs, and projects aimed at solar workforce training, employment, internships, and related programs. The foundation may retain all revenue from the annual use fees until all startup costs for developing and establishing the plate have been recovered. Thereafter, up to 10 percent of the proceeds may be used for promotion and marketing of the plate and administrative costs directly associated with the corporation's programs and the plate. The remaining proceeds must be used as follows:

- To provide funds to the Florida Solar Energy Center for the purpose of developing and administering solar energy industry workforce training programs;
- To provide funds to veteran support facilities for solar demonstration projects that will lower energy costs to the veteran support facilities; and
- To provide funds to nonprofit, educational, or charitable organizations for projects or promotional campaigns which further the goal of solar energy development in this state.

Florida Native License Plate

The bill creates the Florida Native license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Native" appears at the bottom of the plate. The plate must contain a camouflage background including leaves, flowers, or fronds of a minimum of five different Florida native plants.

The DHSMV will retain all annual use fees from the sale of the plate until all startup costs for developing and issuing the plate have been recovered. Thereafter, the annual use fees are distributed to the Florida Native Plant Society. A maximum of 10 percent of the proceeds may be used for administrative costs and to market and promote the plate. The remaining proceeds must be used by the Florida Native Plant Society to fulfill the mission of the society, which is to restore and preserve native Florida plants on private and public lands through grants, education, and community projects.

Florida 4-H License Plate

The bill creates the Florida 4-H license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “4-H” appears at the bottom of the plate.

The annual use fees are distributed to the Florida 4-H. Florida 4-H must use the proceeds as follows:

- A maximum of 10 percent for administrative and marketing costs of the plate;
- Twenty percent to support leadership development in this state, including leadership development programs operated by 4-H University, state agencies, and the Legislature;
- Twenty percent to support competitive teams in this state; and
- The remaining proceeds to support Florida 4-H camps under the Florida 4-H program as designated by the University of Florida.

Give Kids the World License Plate

The bill creates the Give Kids the World license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Give Kids the World” appears at the bottom of the plate.

The annual use fees are distributed to Give Kids the World, Inc. Up to 10 percent of the proceeds may be used to promote and market the plate. The remaining proceeds must be used to support the mission of Give Kids the World of providing weeklong, cost-free vacations to children with critical illnesses and their families.

Johnson and Wales University License Plate

The bill creates the Johnson and Wales University license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Johnson and Wales University” appears at the bottom of the plate. The official Johnson and Wales University logo must appear on the left side of plate.

The annual use fees are distributed to Johnson and Wales University-North Miami. A maximum of 10 percent may be used to promote and market the plate. The remaining proceeds must be used to fund Johnson and Wales University-North Miami’s charitable activities, including, but not limited to, student need-based scholarships.

Margaritaville License Plate

The bill creates the Margaritaville license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Margaritaville” appears at the bottom of the plate.

The annual use fees are distributed to the SFC Charitable Foundation, Inc., (d/b/a/ Singing for Change Foundation). The Singing for Change Foundation will retain all revenue from the annual

use fees until all startup costs for developing and establishing the plate have been recovered. Thereafter, proceeds must be used as follows:

- Up to 10 percent may be used for administration, promotion, and marketing of the plate; and
- The remaining proceeds must be used for the foundation's educational, economic, and cultural programs that:
 - Assist local communities impacted by natural and manmade disasters with recovery, rebuilding, and future sustainability efforts; and
 - Promote and inspire local grassroots leadership that works to improve the quality of life in those communities and other communities in this state.

Florida Stands with Israel License Plate

The bill creates the Florida Stands with Israel license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Florida Stands with Israel" appears at the bottom of the plate.

The annual use fees are distributed to the Hatzalah of Miami-Dade, Inc., to be used as follows:

- Ten percent must be used solely to promote and market the plate; and
- Ninety percent must be used to assist in training and deploying first responders to expedite emergency response.

Walt Disney World License Plate

The bill creates the Walt Disney World license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Walt Disney World" appears at the bottom of the plate.

The annual use fees are distributed to the Make-A-Wish Foundation of Central and Northern Florida, Inc. A maximum of 10 percent of the proceeds may be used for administrative and marketing costs. The bill does not set any other requirements for use of the proceeds by the foundation.

Thank a Lineman License Plate

The bill creates the Thank a Lineman license plate. The license plate must bear the DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Thank a Lineman" appears at the bottom of the plate.

The annual use fees are distributed to the Lake-Sumter State College Foundation, Inc., to fund scholarships for students enrolled in the Electrical Distribution Technology Program at Lake-Sumter State College. Up to 10 percent of the proceeds may be used for marketing the plate and costs directly associated with the administration of the foundation.

Best Buddies License Plate

The bill creates the Best Buddies license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “BestBuddies.org” appears at the bottom of the plate.

The annual use fees are distributed to Best Buddies International, Inc. Up to ten percent of the proceeds may be used for administrative costs and marketing the plate. The remaining proceeds must be used to create opportunities for one-to-one friendships, integrated employment, leadership development, and inclusive living for individuals with intellectual and developmental disabilities.

Morehouse College License Plate

The bill creates the Morehouse College license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Morehouse College” appears at the bottom of the plate.

The annual use fees are distributed to the Morehouse College Alumni Association of Broward County, which must use the proceeds to award scholarships to Florida residents attending Morehouse College. Proceeds must be deposited into the endowment required in s. 320.08056(12), F.S. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program¹²⁷ and use the scholarship funds for tuition and other expenses related to attending Morehouse College.

Audits and Attestations (section 8)

The bill amends s. 320.08062(1)(b), F.S., requiring the DHSMV to audit any SLP revenue recipient every three years if the organization is not subject to the Florida Single Audit Act. The purpose of this audit is to ensure that SLP proceeds have been used in compliance with ss. 320.08056 and 320.08058, F.S.

Effective Date

The bill takes effect October 1, 2020, but only if SB 414 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

¹²⁷ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

SB 414 establishes a \$25 annual use fee that will be charged for any specialty license plate that the DHSMV is required to develop and a \$50 annual use fee for University of Alabama, University of Georgia, and Auburn University specialty license plates.¹²⁸

Individuals who choose to purchase a specialty license plate created in the bill will pay an additional use fee of \$25 in addition to required vehicle license taxes and fees.

Individuals who choose to purchase a University of Alabama or University of Georgia specialty license plate created in the bill will pay an additional use fee of \$50 in addition to required vehicle license taxes and fees.

B. Private Sector Impact:

Organizations receiving SLP revenue may receive additional revenues associated with the sale of SLPs.

Current law prohibits the redesign of a SLP unless the inventory of the license plate has been depleted. However, the organization may purchase the remaining inventory of the SLP from the DHSMV at the DHSMV's cost.¹²⁹ Special Olympics Florida may be required to purchase the remaining inventory of its SLPs at the DHSMV's cost prior to the authorized redesign of these SLPs.

C. Government Sector Impact:

Revenues from the sale of the Orlando City Soccer Club SLP will be deposited into the Professional Sports Development Trust Fund within the DEO. To the extent that

¹²⁸ Currently, this bill does not create a specialty license plate for Auburn University.

¹²⁹ Section 320.08056(9), F.S.

individuals choose to purchase this SLP, there may be a positive, but indeterminate impact to the Professional Sports Development Trust Fund.

Revenues from the sale of the Purple Heart motorcycle plate and the Bronze Star plate will be deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund within the Department of Veterans Affairs; to the extent that eligible individuals choose to purchase these license plates, there may be an indeterminate, positive fiscal impact on these trust funds.

Depending on the number of distributions tied to the plates, the amount of programming may vary as will the resources needed to complete the changes. The DHSMV is authorized to retain revenues from the first proceeds of SLP sales to defray departmental expenditures related to the SLP program.¹³⁰

Additionally, the DHSMV states the cost to perform an audit every 3 years of each SLP may result in an insignificant workload impact that can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 320.08056, F.S., (currently and as amended by the bill) requires the fees and any interest earned from the fees to be expended only for use in this state. There is no exception created in the bill to pay for tuition or other expenses for attendance at an out-of-state university. The bill creates a plate for the University of Georgia, the University of Alabama, and Morehouse College and requires the proceeds of the plates to be used to fund scholarships for students attending one of the schools to pay for tuition or other expenses related to attending the out-of-state school. The recipient organizations of the SLP proceeds must expend the funds as awards of scholarships to Florida students. The students will then expend the scholarship funds out-of-state at the university. The ultimate use of the funds will be out-of-state, but the initial expenditure of funds by the recipient organizations will likely be in state. It is uncertain how a court would interpret this provision.

The provisions creating the plate for Morehouse College requires the proceeds from the sales of the plates to be deposited into the endowment required by s. 320.08056(12), F.S. (created by the bill). However, the provisions creating the plates for the University of Georgia and the University of Alabama do not include this specific requirement. The bill does not specifically require either university's club to deposit plate proceeds into their respective endowment; just that each club must have an endowment for providing scholarships to Florida residents.

SB 414 creates an annual use fee of \$50 for an Auburn University specialty license plate; however, this bill does not create such a plate.

¹³⁰ Section 320.08056(7), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.06, 320.0657, 320.08, 320.08053, 320.08056, 320.08058, 320.08062, 320.08068, 320.0875, and 320.089.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute:

- Clarifies that the proceeds from sales of the Live the Dream, the Fallen Law Enforcement Officer, and the Beat Childhood Cancer plates must be spent in Florida.
- Specifies that the Ethical Ecotourism plate says “Florida Ecotourism” at the bottom of the plate, instead of words approved by the DHSMV.
- Creates a specialty license plate for Morehouse College.

CS by Infrastructure and Security on February 3, 2020:

Corrects a reference from “fleet” to “dealer”;

- Further modifies the Special Olympics Florida SLP to require the first \$5 million collected annually to be forwarded to Special Olympics Florida instead of the nonprofit corporation known as the “Developmental Disabilities Council” created in s. 393.002, F.S.;
- Removes the America the Beautiful SLP from the bill;
- Removes the Lighthouse SLP modifications from the bill;
- Modifies the description of the Explore Off Road Florida SLP to have “Florida” at the top and “Explore Off Road” at the bottom;
- Adds reference to the linked bill, SB 414; and
- Adds the following 10 SLPs to the bill;
 - Solar Power;
 - Florida Native;
 - Florida 4-H;
 - Give Kids the World;
 - Johnson and Wales University;
 - Margaritaville;
 - Florida Stands with Israel;
 - Walt Disney World;
 - Thank a Lineman; and
 - Best Buddies.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 03/04/2020 | . | |
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The Committee on Appropriations (Bean) recommended the following:

Senate Amendment

Delete lines 478 - 899
and insert:
programs in Florida that provide relief from poverty, hunger,
and homelessness.

4. Up to 5 percent may be distributed by the department on behalf of the Dream Foundation, Inc., to the Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., as a royalty for



10 the use of the image of Dr. Martin Luther King, Jr.

11 ~~5. Five percent of the proceeds shall be used by the~~
12 ~~foundation for administrative costs directly associated with~~
13 ~~operations as they relate to the management and distribution of~~
14 ~~the proceeds.~~

15 ~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.-~~

16 ~~(a) The department shall develop a Donate Organs Pass It On~~
17 ~~license plate as provided in this section. The word "Florida"~~
18 ~~must appear at the top of the plate, and the words "Donate~~
19 ~~Organs Pass It On" must appear at the bottom of the plate.~~

20 ~~(b) The annual use fees shall be distributed to Transplant~~
21 ~~Foundation, Inc., and shall use up to 10 percent of the proceeds~~
22 ~~from the annual use fee for marketing and administrative costs~~
23 ~~that are directly associated with the management and~~
24 ~~distribution of the proceeds. The remaining proceeds shall be~~
25 ~~used to provide statewide grants for patient services, including~~
26 ~~preoperative, rehabilitative, and housing assistance; organ~~
27 ~~donor education and awareness programs; and statewide medical~~
28 ~~research.~~

29 ~~(64)(66) IN GOD WE TRUST LICENSE PLATES.-~~

30 (b) The license plate annual use fees shall be distributed
31 to the In God We Trust Foundation, Inc., which may use a maximum
32 of 10 percent of the proceeds to offset marketing,
33 administration, and promotion, and the balance of the fees to
34 address the needs of the military community and the needs of the
35 public safety community, to provide educational grants and
36 scholarships to foster self-reliance and stability in Florida's
37 children, and to provide education in public and private schools
38 regarding the historical significance of religion in American



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39 ~~and Florida history to fund educational scholarships for the~~
40 ~~children of Florida residents who are members of the United~~
41 ~~States Armed Forces, the National Guard, and the United States~~
42 ~~Armed Forces Reserve and for the children of public safety~~
43 ~~employees who have died in the line of duty who are not covered~~
44 ~~by existing state law. Funds shall also be distributed to other~~
45 ~~s. 501(c)(3) organizations that may apply for grants and~~
46 ~~scholarships and to provide educational grants to public and~~
47 ~~private schools to promote the historical and religious~~
48 ~~significance of American and Florida history. The In God We~~
49 ~~Trust Foundation, Inc., shall distribute the license plate~~
50 ~~annual use fees in the following manner:~~

51 ~~1. The In God We Trust Foundation, Inc., shall retain all~~
52 ~~revenues from the sale of such plates until all startup costs~~
53 ~~for developing and establishing the plate have been recovered.~~

54 ~~2. Ten percent of the funds received by the In God We Trust~~
55 ~~Foundation, Inc., shall be expended for administrative costs,~~
56 ~~promotion, and marketing of the license plate directly~~
57 ~~associated with the operations of the In God We Trust~~
58 ~~Foundation, Inc.~~

59 ~~3. All remaining funds shall be expended by the In God We~~
60 ~~Trust Foundation, Inc., for programs.~~

61 ~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~

62 ~~(a) The department shall develop a St. Johns River license~~
63 ~~plate as provided in this section. The St. Johns River license~~
64 ~~plates must bear the colors and design approved by the~~
65 ~~department. The word "Florida" must appear at the top of the~~
66 ~~plate, and the words "St. Johns River" must appear at the bottom~~
67 ~~of the plate.~~



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68 ~~(b) The requirements of s. 320.08053 must be met prior to~~
69 ~~the issuance of the plate. Thereafter, the license plate annual~~
70 ~~use fees shall be distributed to the St. Johns River Alliance,~~
71 ~~Inc., a s. 501(c)(3) nonprofit organization, which shall~~
72 ~~administer the fees as follows:~~

73 ~~1. The St. Johns River Alliance, Inc., shall retain the~~
74 ~~first \$60,000 of the annual use fees as direct reimbursement for~~
75 ~~administrative costs, startup costs, and costs incurred in the~~
76 ~~development and approval process. Thereafter, up to 10 percent~~
77 ~~of the annual use fee revenue may be used for administrative~~
78 ~~costs directly associated with education programs, conservation,~~
79 ~~research, and grant administration of the organization, and up~~
80 ~~to 10 percent may be used for promotion and marketing of the~~
81 ~~specialty license plate.~~

82 ~~2. At least 30 percent of the fees shall be available for~~
83 ~~competitive grants for targeted community-based or county-based~~
84 ~~research or projects for which state funding is limited or not~~
85 ~~currently available. The remaining 50 percent shall be directed~~
86 ~~toward community outreach and access programs. The competitive~~
87 ~~grants shall be administered and approved by the board of~~
88 ~~directors of the St. Johns River Alliance, Inc. A grant advisory~~
89 ~~committee shall be composed of six members chosen by the St.~~
90 ~~Johns River Alliance board members.~~

91 ~~3. Any remaining funds shall be distributed with the~~
92 ~~approval of and accountability to the board of directors of the~~
93 ~~St. Johns River Alliance, Inc., and shall be used to support~~
94 ~~activities contributing to education, outreach, and springs~~
95 ~~conservation.~~

96 ~~(70) HISPANIC ACHIEVERS LICENSE PLATES.—~~



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97 ~~(a) Notwithstanding the requirements of s. 320.08053, the~~
98 ~~department shall develop a Hispanic Achievers license plate as~~
99 ~~provided in this section. The plate must bear the colors and~~
100 ~~design approved by the department. The word "Florida" must~~
101 ~~appear at the top of the plate, and the words "Hispanic~~
102 ~~Achievers" must appear at the bottom of the plate.~~

103 ~~(b) The proceeds from the license plate annual use fee~~
104 ~~shall be distributed to National Hispanic Corporate Achievers,~~
105 ~~Inc., a nonprofit corporation under s. 501(c)(3) of the Internal~~
106 ~~Revenue Code, to fund grants to nonprofit organizations to~~
107 ~~operate programs and provide scholarships and for marketing the~~
108 ~~Hispanic Achievers license plate. National Hispanic Corporate~~
109 ~~Achievers, Inc., shall establish a Hispanic Achievers Grant~~
110 ~~Council that shall provide recommendations for statewide grants~~
111 ~~from available Hispanic Achievers license plate proceeds to~~
112 ~~nonprofit organizations for programs and scholarships for~~
113 ~~Hispanic and minority Floridians. National Hispanic Corporate~~
114 ~~Achievers, Inc., shall also establish a Hispanic Achievers~~
115 ~~License Plate Fund. Moneys in the fund shall be used by the~~
116 ~~grant council as provided in this paragraph. All funds received~~
117 ~~under this subsection must be used in this state.~~

118 ~~(c) National Hispanic Corporate Achievers, Inc., may retain~~
119 ~~all proceeds from the annual use fee until documented startup~~
120 ~~costs for developing and establishing the plate have been~~
121 ~~recovered. Thereafter, the proceeds from the annual use fee~~
122 ~~shall be used as follows:~~

123 ~~1. Up to 5 percent of the proceeds may be used for the cost~~
124 ~~of administration of the Hispanic Achievers License Plate Fund,~~
125 ~~the Hispanic Achievers Grant Council, and related matters.~~



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126 ~~2. Funds may be used as necessary for annual audit or~~
127 ~~compliance affidavit costs.~~

128 ~~3. Up to 20 percent of the proceeds may be used to market~~
129 ~~and promote the Hispanic Achievers license plate.~~

130 ~~4. Twenty-five percent of the proceeds shall be used by the~~
131 ~~Hispanic Corporate Achievers, Inc., located in Seminole County,~~
132 ~~for grants.~~

133 ~~5. The remaining proceeds shall be available to the~~
134 ~~Hispanic Achievers Grant Council to award grants for services,~~
135 ~~programs, or scholarships for Hispanic and minority individuals~~
136 ~~and organizations throughout Florida. All grant recipients must~~
137 ~~provide to the Hispanic Achievers Grant Council an annual~~
138 ~~program and financial report regarding the use of grant funds.~~
139 ~~Such reports must be available to the public.~~

140 ~~(d) Effective July 1, 2014, the Hispanic Achievers license~~
141 ~~plate will shift into the presale voucher phase, as provided in~~
142 ~~s. 320.08053(2) (b). National Hispanic Corporate Achievers, Inc.,~~
143 ~~shall have 24 months to record a minimum of 1,000 sales. Sales~~
144 ~~include existing active plates and vouchers sold subsequent to~~
145 ~~July 1, 2014. During the voucher period, new plates may not be~~
146 ~~issued, but existing plates may be renewed. If, at the~~
147 ~~conclusion of the 24-month presale period, the requirement of a~~
148 ~~minimum of 1,000 sales has been met, the department shall resume~~
149 ~~normal distribution of the Hispanic Achievers license plate. If,~~
150 ~~after 24 months, the minimum of 1,000 sales has not been met,~~
151 ~~the department shall discontinue the Hispanic Achievers license~~
152 ~~plate. This subsection is repealed June 30, 2016.~~

153 ~~(76)-(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-~~

154 (b) The annual use fees must ~~shall~~ be distributed to the



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155 Police and Kids Foundation, Inc., which may use up to a maximum
156 of 10 percent of the proceeds for marketing to promote and
157 market the plate. All remaining proceeds must be used by the
158 Police and Kids Foundation, Inc., for its operations,
159 activities, programs, and projects in Florida ~~The remainder of~~
160 ~~the proceeds shall be used by the Police and Kids Foundation,~~
161 ~~Inc., to invest and reinvest, and the interest earnings shall be~~
162 ~~used for the operation of the Police and Kids Foundation, Inc.~~

163 (81) DUCKS UNLIMITED LICENSE PLATES.—

164 (a) The department shall develop a Ducks Unlimited license
165 plate as provided in this section and s. 320.08053. Ducks
166 Unlimited license plates must bear the colors and design
167 approved by the department. The word "Florida" must appear at
168 the top of the plate, and the words "Conserving Florida
169 Wetlands" must appear at the bottom of the plate.

170 (b) The annual use fees from the sale of the plate must be
171 distributed to Ducks Unlimited, Inc., a nonprofit corporation
172 under s. 501(c)(3) of the Internal Revenue Code, to be used as
173 follows:

174 1. Up to 5 percent may be used for administrative costs and
175 the marketing of the plate.

176 2. At least 95 percent must be used in this state to
177 support the mission and efforts of Ducks Unlimited, Inc., to
178 conserve, restore, and manage Florida wetlands and associated
179 habitats for the benefit of waterfowl, other wildlife, and
180 people.

181 (82) DAN MARINO CAMPUS LICENSE PLATES.—

182 (a) The department shall develop a Dan Marino Campus
183 license plate as provided in this section and s. 320.08053. The



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184 plate must bear the colors and design approved by the
185 department. The word "Florida" must appear at the top of the
186 plate, and the words "Marino Campus" must appear at the bottom
187 of the plate.

188 (b) The annual use fees from the sale of the plate must be
189 distributed to the Dan Marino Foundation, a Florida nonprofit
190 corporation, which may use up to 10 percent of such fees for
191 administrative costs and the marketing of the plate. The balance
192 of the fees must be used by the Dan Marino Foundation to assist
193 Floridians with developmental disabilities in becoming employed,
194 independent, and productive and to promote and fund education
195 scholarships and awareness of these services.

196 (83) DONATE LIFE FLORIDA LICENSE PLATES.—

197 (a) The department shall develop a Donate Life Florida
198 license plate as provided in this section and s. 320.08053. The
199 plate must bear the colors and design approved by the
200 department. The word "Florida" must appear at the top of the
201 plate, and the words "Donors Save Lives" must appear at the
202 bottom of the plate.

203 (b) The annual use fees from the sale of the plate must be
204 distributed to Donate Life Florida, which may use up to 10
205 percent of the proceeds for marketing and administrative costs.
206 The remaining proceeds must be used by Donate Life Florida to
207 educate Florida residents on the importance of organ, tissue,
208 and eye donation and for the continued maintenance of the Joshua
209 Abbott Organ and Tissue Donor Registry.

210 (84) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.—

211 (a) The department shall develop a Florida State Beekeepers
212 Association license plate as provided in this section and s.



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213 320.08053. The plate must bear the colors and design approved by
214 the department. The word "Florida" must appear at the top of the
215 plate, and the words "Save the Bees" must appear at the bottom
216 of the plate.

217 (b) The annual use fees must be distributed to the Florida
218 State Beekeepers Association, a Florida nonprofit corporation.
219 The Florida State Beekeepers Association may use up to 18
220 percent of the annual use fees for:

221 1. Direct reimbursement for administrative costs, startup
222 costs, and costs incurred in the development and approval
223 process of the license plate. All vendors associated with the
224 administrative costs must be selected by competitive bid.

225 2. Promotion and marketing costs of the license plate.

226 (c) The remaining funds must be distributed to the Florida
227 State Beekeepers Association and used to raise awareness of the
228 importance of beekeeping to Florida agriculture by funding
229 honeybee research, education, outreach, and husbandry. The
230 Florida State Beekeepers Association board of managers shall
231 approve, and is accountable for, all such expenditures.

232 (85) BEAT CHILDHOOD CANCER LICENSE PLATES.-

233 (a) The department shall develop a Beat Childhood Cancer
234 license plate as provided in this section and s. 320.08053. The
235 plate must bear the colors and design approved by the
236 department. The word "Florida" must appear at the top of the
237 plate, and the words "Beat Childhood Cancer" must appear at the
238 bottom of the plate.

239 (b) The annual use fees from the sale of the plate shall be
240 distributed as follows:

241 1. Eighty percent shall be distributed to Beat Nb, Inc.,



242 which may use up to 10 percent of the proceeds for
243 administrative costs directly associated with the operation of
244 the corporation and for marketing and promoting the plate. The
245 remaining proceeds shall be used by the corporation to fund
246 pediatric cancer treatment and research in Florida.

247 2. Twenty percent shall be distributed to No Kid Should
248 Know Cancer, Inc., a nonprofit corporation under s. 501(c)(3) of
249 the Internal Revenue Code, which may use up to 5 percent of the
250 proceeds for administrative costs and for the marketing of the
251 plate. The balance of the fees shall be used by No Kid Should
252 Know Cancer, Inc., to:

253 a. Support Florida families who have a child recently
254 diagnosed with cancer;

255 b. Hold events in Florida that raise awareness about
256 childhood cancer; and

257 c. Support clinical trials in Florida that work to provide
258 better treatment plans for children diagnosed with cancer and,
259 ultimately, a better prognosis.

260 (86) UNIVERSITY OF ALABAMA LICENSE PLATES.—

261 (a) The department shall develop a University of Alabama
262 license plate as provided in this section and s. 320.08053. The
263 plate must bear the colors and design approved by the
264 department. The word "Florida" must appear at the top of the
265 plate, and the words "Roll Tide" must appear at the bottom of
266 the plate.

267 (b) The annual use fees from the sale of the plate shall be
268 distributed to the Pensacola Bama Club, which must use the
269 moneys for the purpose of awarding scholarships to Florida
270 residents attending the University of Alabama. Students



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271 receiving these scholarships must be eligible for the Florida
272 Bright Futures Scholarship Program pursuant to s. 1009.531 and
273 shall use the scholarship funds for tuition and other expenses
274 related to attending the University of Alabama.

275 (87) ROTARY LICENSE PLATES.—

276 (a) The department shall develop a Rotary license plate as
277 provided in this section and s. 320.08053. The plate must bear
278 the colors and design approved by the department. The word
279 “Florida” must appear at the top of the plate, and the word
280 “Rotary” must appear on the bottom of the plate. The license
281 plate must bear the Rotary International wheel emblem.

282 (b) The annual use fees shall be distributed to the
283 Community Foundation of Tampa Bay, Inc., to be used as follows:

284 1. Up to 10 percent may be used for administrative costs
285 and for marketing of the plate.

286 2. Ten percent shall be distributed to Rotary’s Camp
287 Florida for direct support to all programs and services provided
288 to children with special needs who attend the camp.

289 3. The remainder shall be distributed, proportionally based
290 on sales, to each Rotary district in the state in support of
291 Rotary youth programs in Florida.

292 (88) FLORIDA BAY FOREVER LICENSE PLATES.—

293 (a) The department shall develop a Florida Bay Forever
294 license plate as provided in this section and s. 320.08053. The
295 plate must bear the colors and design approved by the
296 department. The word “Florida” must appear at the top of the
297 plate, and the words “Florida Bay Forever” must appear at the
298 bottom of the plate.

299 (b) The annual use fees from the sale of the plate shall be



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300 distributed to the Florida National Parks Association, Inc.,
301 which may use up to 10 percent of the proceeds for
302 administrative costs and marketing of the plate. The remainder
303 of the funds shall be used to supplement the Everglades National
304 Park's budgets and to support educational, interpretive,
305 historical, and scientific research relating to the Everglades
306 National Park.

307 (89) BONEFISH AND TARPON TRUST LICENSE PLATES.—

308 (a) The department shall develop a Bonefish and Tarpon
309 Trust license plate as provided in this section and s.
310 320.08053. The plate must bear the colors and design approved by
311 the department. The word "Florida" must appear at the top of the
312 plate, and the words "Bonefish and Tarpon Trust" must appear at
313 the bottom of the plate.

314 (b) The annual use fees from the sale of the plate shall be
315 distributed to the Bonefish and Tarpon Trust, which may use up
316 to 10 percent of the proceeds to promote and market the license
317 plate. The remainder of the proceeds shall be used to conserve
318 and enhance Florida bonefish and tarpon fisheries and their
319 respective environments through stewardship, research,
320 education, and advocacy.

321 (90) MEDICAL PROFESSIONALS WHO CARE LICENSE PLATES.—

322 (a) The department shall develop a Medical Professionals
323 Who Care license plate as provided in this section and s.
324 320.08053. The plate must bear the colors and design approved by
325 the department. The word "Florida" must appear at the top of the
326 plate, and the words "Medical Professionals Who Care" must
327 appear at the bottom of the plate.

328 (b) The annual use fees from the sale of the plate shall be



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329 distributed to Florida Benevolent Group, Inc., a Florida
330 nonprofit corporation, which may use up to 10 percent of such
331 fees for administrative costs, marketing, and promotion of the
332 plate. The remainder of the revenues shall be used by Florida
333 Benevolent Group, Inc., to assist low-income individuals in
334 obtaining a medical education and career through scholarships,
335 support, and guidance.

336 (91) UNIVERSITY OF GEORGIA LICENSE PLATES.—

337 (a) The department shall develop a University of Georgia
338 license plate as provided in this section and s. 320.08053. The
339 plate must bear the colors and design approved by the
340 department. The word "Florida" must appear at the top of the
341 plate, and the words "The University of Georgia" must appear at
342 the bottom of the plate.

343 (b) The annual use fees from the sale of the plate shall be
344 distributed to the Georgia Bulldog Club of Jacksonville, which
345 must use the moneys for the purpose of awarding scholarships to
346 Florida residents attending the University of Georgia. Students
347 receiving these scholarships must be eligible for the Florida
348 Bright Futures Scholarship Program pursuant to s. 1009.531 and
349 shall use the scholarship funds for tuition and other expenses
350 related to attending the University of Georgia.

351 (92) HIGHWAYMEN LICENSE PLATES.—

352 (a) The department shall develop a Highwaymen license plate
353 as provided in this section and s. 320.08053. The plate must
354 bear the colors and design approved by the department. The word
355 "Florida" must appear at the top of the plate, and the word
356 "Highwaymen" must appear at the bottom of the plate.

357 (b) The annual use fees shall be distributed to the City of



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358 Fort Pierce, subject to a city resolution designating the city
359 as the fiscal agent of the license plate. The city may use up to
360 10 percent of the fees for administrative costs and marketing of
361 the plate and shall use the remainder of the fees as follows:

362 1. Before completion of construction of the Highwaymen
363 Museum and African-American Cultural Center, the city shall
364 distribute at least 15 percent to the St. Lucie County Education
365 Foundation, Inc., to fund art education and art projects in
366 public schools within St. Lucie County. The remainder of the
367 fees shall be used by the city to fund the construction of the
368 Highwaymen Museum and African-American Cultural Center.

369 2. Upon completion of construction of the Highwaymen Museum
370 and African-American Cultural Center, the city shall distribute
371 at least 10 percent to the St. Lucie County Education
372 Foundation, Inc., to fund art education and art projects in
373 public schools within St. Lucie County. The remainder of the
374 fees shall be used by the city to fund the day-to-day operations
375 of the Highwaymen Museum and African-American Cultural Center.

376 (93) ORLANDO CITY SOCCER CLUB LICENSE PLATES.—

377 (a) The department shall develop an Orlando City Soccer
378 Club license plate as provided in paragraph (9) (a).

379 (b) The annual use fees from the sale of the plate shall be
380 distributed and used as provided in paragraph (9) (b).

381 (94) COASTAL CONSERVATION ASSOCIATION LICENSE PLATES.—

382 (a) The department shall develop a Coastal Conservation
383 Association license plate as provided in this section and s.
384 320.08053. The plate must bear the colors and design approved by
385 the department. The word "Florida" must appear at the top of the
386 plate, and the words "Conserve Florida's Fisheries" must appear



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387 at the bottom of the plate.

388 (b) The annual use fees from the sale of the plate shall be
389 distributed to Coastal Conservation Association Florida, a
390 nonprofit corporation under s. 501(c)(3) of the Internal Revenue
391 Code, to be used as follows:

392 1. Up to 10 percent of the proceeds may be used for
393 administrative costs and to promote and market the plate.

394 2. The remainder of the proceeds shall be used to support
395 the mission and efforts of Coastal Conservation Association
396 Florida for habitat enhancement and restoration, saltwater
397 fisheries conservation, and education; to advise the public on
398 the conservation of marine resources; and to promote and enhance
399 the present and future availability of those coastal resources
400 for the benefit and enjoyment of the general public.

401 (95) PALM BEACH ZOO AND CONSERVATION SOCIETY LICENSE
402 PLATES.—

403 (a) The department shall develop a Palm Beach Zoo and
404 Conservation Society license plate as provided in this section
405 and s. 320.08053. Palm Beach Zoo and Conservation Society
406 license plates must bear the colors and design approved by the
407 department. The word "Florida" must appear at the top of the
408 plate, and the words "Palm Beach Zoo and Conservation Society"
409 must appear at the bottom of the plate.

410 (b) The license plate annual use fees shall be distributed
411 to the Palm Beach Zoo and Conservation Society to fund
412 educational programs for students in pre-K through grade 12,
413 conservation projects to protect endangered or threatened
414 species, and services for the health and welfare of animals in
415 the zoo's care. The Palm Beach Zoo and Conservation Society may



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416 retain all revenue from the annual use fees until all startup
417 costs for developing and establishing the plate have been
418 recovered. Thereafter, up to 10 percent of the annual use fee
419 revenue may be used for promotion and marketing of the specialty
420 license plate and administrative costs directly associated with
421 the programs of the society and the specialty license plate.

422 (96) ETHICAL ECOTOURISM LICENSE PLATES.—

423 (a) The department shall develop an Ethical Ecotourism
424 license plate as provided in this section and s. 320.08053. The
425 word "Florida" must appear at the top of the plate, and words
426 "Florida Ecotourism" must appear at the bottom of



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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 03/04/2020 | . | |
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The Committee on Appropriations (Thurston) recommended the following:

Senate Amendment (with directory amendment)

Between lines 1208 and 1209
insert:

(114) MOREHOUSE COLLEGE LICENSE PLATES.-

(a) The department shall develop a Morehouse College license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Morehouse College" must appear at the



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11 bottom of the plate.

12 (b) The annual use fees from the sale of the plate shall be
13 distributed to the Morehouse College Alumni Association of
14 Broward County, which must use the proceeds for the purpose of
15 awarding scholarships to Florida residents attending Morehouse
16 College. The proceeds must be deposited in the endowment
17 required in s. 320.08056(12). Students receiving these
18 scholarships must be eligible for the Florida Bright Futures
19 Scholarship Program pursuant to s. 1009.531 and shall use the
20 scholarship funds for tuition and other expenses related to
21 attending Morehouse College.

22
23 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

24 And the directory clause is amended as follows:

25 Delete line 406

26 and insert:

27 (85) through (114) are added to that section, to read:

By the Committee on Infrastructure and Security; and Senators
Bean and Harrell

596-03033-20

2020412c1

1 A bill to be entitled
2 An act relating to license plates; amending s. 320.06,
3 F.S.; providing an exception to a design requirement
4 for dealer license plates; amending s. 320.0657, F.S.;
5 providing an exception to a design requirement for
6 fleet license plates; authorizing fleet companies to
7 purchase specialty license plates in lieu of standard
8 fleet license plates; requiring fleet companies to be
9 responsible for certain costs; amending s. 320.08,
10 F.S.; authorizing dealer companies to purchase
11 specialty license plates in lieu of standard dealer
12 license plates; requiring dealer companies to be
13 responsible for certain costs; amending s. 320.08053,
14 F.S.; revising requirements for presale and issuance
15 of specialty license plates; amending s. 320.08056,
16 F.S.; allowing the Department of Highway Safety and
17 Motor Vehicles to authorize dealer and fleet specialty
18 license plates; authorizing a dealer or fleet company
19 to purchase specialty license plates under certain
20 circumstances; providing requirements for such plates;
21 making technical changes; deleting fees relating to
22 the American Red Cross, Donate Organs-Pass It On, St.
23 Johns River, and Hispanic Achievers license plates to
24 conform to changes made by the act; providing
25 additional procedures and requirements for
26 discontinuing issuance of a specialty license plate;
27 conforming cross-references; prohibiting use fees
28 received by any entity from being used for certain
29 purposes; requiring certain organizations to establish

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30 endowments based in this state for providing
31 scholarships to Florida residents and to provide
32 documentation of consent to use certain images;
33 revising, as of a specified date, the criteria,
34 procedures, and exceptions under which the department
35 is required to discontinue the issuance of an approved
36 specialty license plate; amending s. 320.08058, F.S.;
37 revising the design of the Special Olympics Florida
38 license plate; revising the distribution of fees
39 collected from the sale of such plates; deleting
40 provisions requiring the department to develop the
41 American Red Cross license plate; revising the
42 authorized use of proceeds from the sale of the Live
43 the Dream license plate; deleting provisions requiring
44 the department to develop the Donate Organs-Pass It On
45 license plate; revising the authorized use of proceeds
46 from the sale of the In God We Trust license plate;
47 deleting provisions requiring the department to
48 develop the St. Johns River and the Hispanic Achievers
49 license plates; revising the authorized use of
50 proceeds from the sale of the Fallen Law Enforcement
51 Officers license plate; requiring the department to
52 develop certain specialty license plates; providing
53 for distribution and use of fees collected from the
54 sale of such plates; amending s. 320.08062, F.S.;
55 directing the department to audit certain
56 organizations that receive funds from the sale of
57 specialty license plates; amending s. 320.08068, F.S.;
58 requiring distribution of a specified percentage of

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59 motorcycle specialty license plate annual use fees to
 60 Preserve Vision Florida, Inc.; creating s. 320.0875,
 61 F.S.; providing for a special motorcycle license plate
 62 to be issued to a recipient of the Purple Heart under
 63 certain circumstances; providing requirements for the
 64 plate; authorizing a certain design for the plate;
 65 amending s. 320.089, F.S.; providing for a special
 66 license plate to be issued to a recipient of the
 67 Bronze Star; providing for distribution of certain
 68 annual use fees withheld by the department; providing
 69 contingent effective dates.

70
 71 Be It Enacted by the Legislature of the State of Florida:

72
 73 Section 1. Paragraph (a) of subsection (3) of section
 74 320.06, Florida Statutes, is amended to read:

75 320.06 Registration certificates, license plates, and
 76 validation stickers generally.—

77 (3) (a) Registration license plates must be made of metal
 78 specially treated with a retroreflection material, as specified
 79 by the department. The registration license plate is designed to
 80 increase nighttime visibility and legibility and must be at
 81 least 6 inches wide and not less than 12 inches in length,
 82 unless a plate with reduced dimensions is deemed necessary by
 83 the department to accommodate motorcycles, mopeds, or similar
 84 smaller vehicles. Validation stickers must also be treated with
 85 a retroreflection material, must be of such size as specified by
 86 the department, and must adhere to the license plate. The
 87 registration license plate must be imprinted with a combination

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88 of bold letters and numerals or numerals, not to exceed seven
 89 digits, to identify the registration license plate number. The
 90 license plate must be imprinted with the word "Florida" at the
 91 top and the name of the county in which it is sold, the state
 92 motto, or the words "Sunshine State" at the bottom. Apportioned
 93 license plates must have the word "Apportioned" at the bottom
 94 and license plates issued for vehicles taxed under s.
 95 320.08(3) (d), (4) (m) or (n), (5) (b) or (c), or (14) must have
 96 the word "Restricted" at the bottom. License plates issued for
 97 vehicles taxed under s. 320.08(12) must be imprinted with the
 98 word "Florida" at the top and the word "Dealer" at the bottom
 99 unless the license plate is a specialty license plate as
 100 authorized in s. 320.08056. Manufacturer license plates issued
 101 for vehicles taxed under s. 320.08(12) must be imprinted with
 102 the word "Florida" at the top and the word "Manufacturer" at the
 103 bottom. License plates issued for vehicles taxed under s.
 104 320.08(5) (d) or (e) must be imprinted with the word "Wrecker" at
 105 the bottom. Any county may, upon majority vote of the county
 106 commission, elect to have the county name removed from the
 107 license plates sold in that county. The state motto or the words
 108 "Sunshine State" shall be printed in lieu thereof. A license
 109 plate issued for a vehicle taxed under s. 320.08(6) may not be
 110 assigned a registration license number, or be issued with any
 111 other distinctive character or designation, that distinguishes
 112 the motor vehicle as a for-hire motor vehicle.

113 Section 2. Paragraph (b) of subsection (2) of section
 114 320.0657, Florida Statutes, is amended to read:

115 320.0657 Permanent registration; fleet license plates.—

116 (2)

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117 (b) The plates, which shall be of a distinctive color,
 118 shall have the word "Fleet" appearing at the bottom and the word
 119 "Florida" appearing at the top unless the license plate is a
 120 specialty license plate as authorized in s. 320.08056. The
 121 plates shall conform in all respects to the provisions of this
 122 chapter, except as specified herein. For additional fees as set
 123 forth in s. 320.08056, fleet companies may purchase specialty
 124 license plates in lieu of the standard fleet license plates.
 125 Fleet companies shall be responsible for all costs associated
 126 with the specialty license plates, including all annual use
 127 fees, processing fees, fees associated with switching license
 128 plate types, and any other applicable fees.

129 Section 3. Subsection (12) of section 320.08, Florida
 130 Statutes, is amended to read:

131 320.08 License taxes.—Except as otherwise provided herein,
 132 there are hereby levied and imposed annual license taxes for the
 133 operation of motor vehicles, mopeds, motorized bicycles as
 134 defined in s. 316.003(4), tri-vehicles as defined in s. 316.003,
 135 and mobile homes as defined in s. 320.01, which shall be paid to
 136 and collected by the department or its agent upon the
 137 registration or renewal of registration of the following:

138 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
 139 motor vehicle dealer, independent motor vehicle dealer, marine
 140 boat trailer dealer, or mobile home dealer and manufacturer
 141 license plate: \$17 flat. For additional fees as set forth in s.
 142 320.08056, dealer companies may purchase specialty license
 143 plates in lieu of the standard dealer license plates. Dealer
 144 companies shall be responsible for all costs associated with the
 145 specialty license plates, including all annual use fees,

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146 processing fees, fees associated with switching license plate
 147 types, and any other applicable fees.

148 Section 4. Section 320.08053, Florida Statutes, is amended
 149 to read:

150 320.08053 ~~Establishment of Requirements for requests to~~
 151 ~~establish~~ specialty license plates.—

152 (1) If a specialty license plate requested by an
 153 organization is approved by law, the organization must submit
 154 the proposed art design for the specialty license plate to the
 155 department, in a medium prescribed by the department, as soon as
 156 practicable, but no later than 60 days after the act approving
 157 the specialty license plate becomes a law.

158 (2) (a) Within 20 days after following the specialty
 159 license plate becomes becoming law, the department shall
 160 establish a method to issue a specialty license plate voucher to
 161 allow for the presale of the specialty license plate. The
 162 processing fee as prescribed in s. 320.08056, the service charge
 163 and branch fee as prescribed in s. 320.04, and the annual use
 164 fee as prescribed in s. 320.08056 shall be charged for the
 165 voucher. All other applicable fees shall be charged at the time
 166 of issuance of the license plate plates.

167 (b) Within 24 months after the presale specialty license
 168 plate voucher is established, the approved specialty license
 169 plate organization must record with the department a minimum of
 170 3,000 4,000 voucher sales, or, in the case of an out-of-state
 171 college or university license plate, 4,000 voucher sales, before
 172 manufacture of the license plate may commence. If, at the
 173 conclusion of the 24-month presale period, the minimum sales
 174 requirement has requirements have not been met, the specialty

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175 plate is deauthorized and the department shall discontinue
 176 development of the plate and discontinue issuance of the presale
 177 vouchers. Upon deauthorization of the license plate, a purchaser
 178 of the license plate voucher may use the annual use fee
 179 collected as a credit towards any other specialty license plate
 180 or apply for a refund on a form prescribed by the department.

181 (3) (a) New specialty license plates that have been approved
 182 by law but are awaiting issuance under paragraph (b) must be
 183 issued in the order they appear in s. 320.08058 provided that
 184 they have met the presale requirement. All other provisions of
 185 this section must also be met before a plate is issued. If the
 186 next specialty license plate awaiting issuance has not met the
 187 presale requirement, the department shall proceed in the order
 188 provided in s. 320.08058 to identify the next qualified
 189 specialty license plate that has met the presale requirement.
 190 The department shall cycle through the list in statutory order.

191 (b) If the Legislature has approved 200 or more specialty
 192 license plates, the department may not make any new specialty
 193 license plates available for design or issuance until a
 194 sufficient number of plates are discontinued pursuant to s.
 195 320.08056(8) such that the number of plates being issued does
 196 not exceed 200. This paragraph does not apply to collegiate
 197 license plates established under s. 320.08058(3).

198 Section 5. Present subsection (12) of section 320.08056,
 199 Florida Statutes, is redesignated as subsection (13), paragraphs
 200 (c) through (f) are added to subsection (8) of that section, a
 201 new subsection (12) is added to that section, and subsections
 202 (2) and (4), paragraph (a) of subsection (10), and subsection
 203 (11) of that section are amended, to read:

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204 320.08056 Specialty license plates.-

205 (2) (a) The department shall issue a specialty license plate
 206 to the owner or lessee of any motor vehicle, except a vehicle
 207 registered under the International Registration Plan, a
 208 commercial truck required to display two license plates pursuant
 209 to s. 320.0706, or a truck tractor, upon request and payment of
 210 the appropriate license tax and fees.

211 (b) The department may authorize dealer and fleet specialty
 212 license plates. With the permission of the sponsoring specialty
 213 license plate organization, a dealer or fleet company may
 214 purchase specialty license plates to be used on dealer and fleet
 215 vehicles.

216 (c) Notwithstanding s. 320.08058, a dealer or fleet
 217 specialty license plate must include the letters "DLR" or "FLT"
 218 on the right side of the license plate. Dealer and fleet
 219 specialty license plates must be ordered directly through the
 220 department.

221 (4) The following license plate annual use fees shall be
 222 collected for the appropriate specialty license plates:

223 (a) ~~Manatee license plate, \$25-~~

224 ~~(b)~~ Challenger/Columbia license plate, \$25, except that a
 225 person ~~who that~~ purchases 1,000 or more of such license plates
 226 shall pay an annual use fee of \$15 per plate.

227 ~~(c)~~ Collegiate license plate, ~~\$25-~~

228 ~~(b)~~ ~~(d)~~ Florida Salutes Veterans license plate, \$15.

229 ~~(c)~~ ~~(e)~~ Florida panther license plate, ~~\$25-~~

230 ~~(c)~~ ~~(f)~~ Florida United States Olympic Committee license
 231 plate, \$15.

232 ~~(d)~~ ~~(g)~~ Florida Special Olympics license plate, \$15.

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233 (e)~~(h)~~ Florida educational license plate, \$20.
 234 ~~(i) Florida Professional Sports Team license plate, \$25.~~
 235 (f)~~(j)~~ Florida Indian River Lagoon license plate, \$15.
 236 (g)~~(k)~~ Invest in Children license plate, \$20.
 237 (h)~~(l)~~ Florida arts license plate, \$20.
 238 ~~(m) Bethune-Cookman University license plate, \$25.~~
 239 (i)~~(n)~~ Florida Agricultural license plate, \$20.
 240 (j)~~(o)~~ Police Athletic League license plate, \$20.
 241 (k)~~(p)~~ Boy Scouts of America license plate, \$20.
 242 ~~(q) Largemouth Bass license plate, \$25.~~
 243 (l)~~(r)~~ Sea Turtle license plate, \$23.
 244 (m)~~(s)~~ Protect Wild Dolphins license plate, \$20.
 245 ~~(t) Barry University license plate, \$25.~~
 246 (n)~~(u)~~ Everglades River of Grass license plate, \$20.
 247 ~~(v) Keep Kids Drug-Free license plate, \$25.~~
 248 ~~(w) Florida Sheriffs Youth Ranches license plate, \$25.~~
 249 ~~(x) Conserve Wildlife license plate, \$25.~~
 250 ~~(y) Florida Memorial University license plate, \$25.~~
 251 (o)~~(z)~~ Tampa Bay Estuary license plate, \$15.
 252 (p)~~(aa)~~ Florida Wildflower license plate, \$15.
 253 (q)~~(bb)~~ United States Marine Corps license plate, \$15.
 254 (r)~~(cc)~~ Choose Life license plate, \$20.
 255 (s)~~(dd)~~ Share the Road license plate, \$15.
 256 ~~(ee) American Red Cross license plate, \$25.~~
 257 ~~(ff) United We Stand license plate, \$25.~~
 258 ~~(gg) Breast Cancer Research license plate, \$25.~~
 259 ~~(hh) Protect Florida Whales license plate, \$25.~~
 260 ~~(ii) Florida Golf license plate, \$25.~~
 261 (t)~~(jj)~~ Florida Firefighters license plate, \$20.

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262 (u)~~(kk)~~ Police Benevolent Association license plate, \$20.
 263 (v)~~(ll)~~ Military Services license plate, \$15.
 264 ~~(mm) Protect Our Reefs license plate, \$25.~~
 265 (w)~~(nn)~~ Fish Florida license plate, \$22.
 266 ~~(oo) Child Abuse Prevention and Intervention license plate,~~
 267 ~~\$25.~~
 268 ~~(pp) Hospice license plate, \$25.~~
 269 ~~(qq) Stop Heart Disease license plate, \$25.~~
 270 (x)~~(rr)~~ Save Our Seas license plate, \$25, except that for
 271 an owner purchasing the specialty license plate for more than 10
 272 vehicles registered to that owner, the annual use fee shall be
 273 \$10 per plate.
 274 (y)~~(ss)~~ Aquaculture license plate, \$25, except that for an
 275 owner purchasing the specialty license plate for more than 10
 276 vehicles registered to that owner, the annual use fee shall be
 277 \$10 per plate.
 278 ~~(tt) Family First license plate, \$25.~~
 279 ~~(uu) Wildlife Foundation of Florida license plate, \$25.~~
 280 ~~(vv) Live the Dream license plate, \$25.~~
 281 ~~(ww) Florida Food Banks license plate, \$25.~~
 282 ~~(xx) Discover Florida's Oceans license plate, \$25.~~
 283 ~~(yy) Family Values license plate, \$25.~~
 284 ~~(zz) Parents Make A Difference license plate, \$25.~~
 285 ~~(aaa) Support Soccer license plate, \$25.~~
 286 ~~(bbb) Kids Deserve Justice license plate, \$25.~~
 287 ~~(ccc) Animal Friend license plate, \$25.~~
 288 ~~(ddd) Future Farmers of America license plate, \$25.~~
 289 ~~(eee) Donate Organs Pass It On license plate, \$25.~~
 290 ~~(fff) A State of Vision license plate, \$25.~~

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291 ~~(ggg) Homeownership For All license plate, \$25.~~
 292 ~~(hhh) Florida NASCAR license plate, \$25.~~
 293 ~~(iii) Protect Florida Springs license plate, \$25.~~
 294 ~~(jjj) Trees Are Cool license plate, \$25.~~
 295 ~~(kkk) Support Our Troops license plate, \$25.~~
 296 ~~(lll) Florida Tennis license plate, \$25.~~
 297 ~~(mmm) Lighthouse Association license plate, \$25.~~
 298 ~~(nnn) In God We Trust license plate, \$25.~~
 299 ~~(ooo) Horse Country license plate, \$25.~~
 300 ~~(ppp) Autism license plate, \$25.~~
 301 ~~(qqq) St. Johns River license plate, \$25.~~
 302 ~~(rrr) Hispanic Achievers license plate, \$25.~~
 303 ~~(sss) Endless Summer license plate, \$25.~~
 304 ~~(ttt) Fraternal Order of Police license plate, \$25.~~
 305 ~~(uuu) Protect Our Oceans license plate, \$25.~~
 306 ~~(vvv) Florida Horse Park license plate, \$25.~~
 307 ~~(www) Florida Biodiversity Foundation license plate, \$25.~~
 308 ~~(xxx) Freemasonry license plate, \$25.~~
 309 ~~(yyy) American Legion license plate, \$25.~~
 310 ~~(zzz) Lauren's Kids license plate, \$25.~~
 311 ~~(aaaa) Big Brothers Big Sisters license plate, \$25.~~
 312 ~~(bbbb) Fallen Law Enforcement Officers license plate, \$25.~~
 313 ~~(cccc) Florida Sheriffs Association license plate, \$25.~~
 314 ~~(dddd) Keiser University license plate, \$25.~~
 315 ~~(eeee) Moffitt Cancer Center license plate, \$25.~~
 316 (8)
 317 (c) A vehicle owner or lessee issued a specialty license
 318 plate that has been discontinued by the department may keep the
 319 discontinued specialty license plate for the remainder of the

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320 10-year license plate replacement period and shall pay all other
 321 applicable registration fees. However, such owner or lessee is
 322 exempt from paying the applicable specialty license plate fee
 323 under paragraph (3) (d) or subsection (4) for the remainder of
 324 the 10-year license plate replacement period.
 325 (d) If the department discontinues issuance of a specialty
 326 license plate, all annual use fees held or collected by the
 327 department must be distributed within 180 days after the date on
 328 which the specialty license plate is discontinued. Of those
 329 fees, the department shall retain an amount sufficient to defray
 330 the applicable administrative and inventory closeout costs
 331 associated with discontinuance of the plate. The remaining funds
 332 must be distributed to the appropriate organization or
 333 organizations pursuant to s. 320.08058.
 334 (e) If an organization that is the intended recipient of
 335 the funds pursuant to s. 320.08058 no longer exists, the
 336 department shall deposit any undisbursed funds into the Highway
 337 Safety Operating Trust Fund.
 338 (f) Notwithstanding paragraph (a), on January 1 of each
 339 year, the department shall discontinue the specialty license
 340 plate with the fewest number of plates in circulation, including
 341 license plates exempt from a statutory sales requirement. A
 342 warning letter must be mailed to the sponsoring organizations of
 343 the 10 percent of the total number of specialty license plates
 344 with the fewest valid, active registrations as of December 1 of
 345 each year.
 346 (10) (a) A specialty license plate annual use fee collected
 347 and distributed under this chapter, or any interest earned from
 348 those fees, may not be used for commercial or for-profit

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349 activities nor for general or administrative expenses, except as
 350 authorized by s. 320.08058 or to pay the cost of the audit or
 351 report required by s. 320.08062(1). The fees and any interest
 352 earned from the fees may be expended only for use in this state
 353 unless the annual use fee is derived from the sale of United
 354 States Armed Forces and veterans-related specialty license
 355 plates pursuant to paragraph (3) (d) for the Support Our Troops
 356 and American Legion license plates; paragraphs (4) (b), (q), and
 357 (v) for the Florida Salutes Veterans, United States Marine
 358 Corps, and Military Services license plates, respectively;
 359 paragraphs (4) (d), (bb), (ll), (kkk), and (yyy) and s. 320.0891
 360 for the U.S. Paratroopers license plate.

361 (11) The annual use fee from the sale of specialty license
 362 plates, the interest earned from those fees, or any fees
 363 received by any entity an agency as a result of the sale of
 364 specialty license plates may not be used for the purpose of
 365 marketing to, or lobbying, entertaining, or rewarding, an
 366 employee of a governmental agency that is responsible for the
 367 sale and distribution of specialty license plates, or an elected
 368 member or employee of the Legislature.

369 (12) For out-of-state college or university license plates
 370 created pursuant to this section, the recipient organization
 371 shall meet both of the following requirements:

372 (a) Have an established endowment, based in this state, for
 373 the purpose of providing scholarships to Florida residents
 374 meeting the requirements of this chapter.

375 (b) Provide documentation to the department that the
 376 organization and the department have the college's or
 377 university's consent to use an appropriate image on a license

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378 plate.

379 Section 6. Effective July 1, 2022, paragraph (a) of
 380 subsection (8) of section 320.08056, Florida Statutes, is
 381 amended to read:

382 320.08056 Specialty license plates.—

383 (8) (a) The department must discontinue the issuance of an
 384 approved specialty license plate if the number of valid
 385 specialty plate registrations falls below 3,000, or, in the case
 386 of an out-of-state college or university license plate, below
 387 4,000, ~~1,000~~ plates for at least 12 consecutive months. A
 388 warning letter shall be mailed to the sponsoring organization
 389 following the first month in which the total number of valid
 390 specialty plate registrations is below 3,000, or, in the case of
 391 an out-of-state college or university license plate, below 4,000
 392 ~~1,000~~ plates. This paragraph does not apply to in-state
 393 collegiate license plates established under s. 320.08058(3),
 394 license plates of institutions in and entities of the State
 395 University System, specialty license plates that have statutory
 396 eligibility limitations for purchase, specialty license plates
 397 for which annual use fees are distributed by a foundation for
 398 student and teacher leadership programs and teacher recruitment
 399 and retention, or Florida Professional Sports Team license
 400 plates established under s. 320.08058(9).

401 Section 7. Subsections (7) and (31), present subsections
 402 (48) and (57), paragraph (b) of present subsection (66), present
 403 subsections (69) and (70), and paragraph (b) of present
 404 subsection (80) of section 320.08058, Florida Statutes, are
 405 amended, and new subsections (81) through (84) and subsections
 406 (85) through (113) are added to that section, to read:

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407 320.08058 Specialty license plates.-
 408 (7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.-
 409 (a) Special Olympics Florida license plates must contain
 410 the official Special Olympics Florida logo and must bear the
 411 ~~colors and a design and colors that are~~ approved by the
 412 department. The word "Florida" must be centered at the top
 413 ~~bottom~~ of the plate, and the words "Be a Fan" "Everyone Wins"
 414 must be centered at the bottom ~~top~~ of the plate.
 415 (b) The license plate annual use fees must ~~are to be~~ be
 416 annually distributed as follows:
 417 1. The first \$5 million collected annually must be
 418 forwarded to Special Olympics Florida ~~the private nonprofit~~
 419 ~~corporation as described in s. 393.002 and must be used solely~~
 420 ~~for Special Olympics purposes as approved by the private~~
 421 ~~nonprofit corporation.~~
 422 2. Any additional fees must be deposited into the General
 423 Revenue Fund.
 424 ~~(31) AMERICAN RED CROSS LICENSE PLATES.-~~
 425 ~~(a) Notwithstanding the provisions of s. 320.08053, the~~
 426 ~~department shall develop an American Red Cross license plate as~~
 427 ~~provided in this section. The word "Florida" must appear at the~~
 428 ~~top of the plate, and the words "American Red Cross" must appear~~
 429 ~~at the bottom of the plate.~~
 430 ~~(b) The department shall retain all revenues from the sale~~
 431 ~~of such plates until all startup costs for developing and~~
 432 ~~issuing the plates have been recovered. Thereafter, 50 percent~~
 433 ~~of the annual use fees shall be distributed to the American Red~~
 434 ~~Cross Chapter of Central Florida, with statistics on sales of~~
 435 ~~license plates, which are tabulated by county. The American Red~~

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436 ~~Cross Chapter of Central Florida must distribute to each of the~~
 437 ~~chapters in this state the moneys received from sales in the~~
 438 ~~counties covered by the respective chapters, which moneys must~~
 439 ~~be used for education and disaster relief in Florida. Fifty~~
 440 ~~percent of the annual use fees shall be distributed~~
 441 ~~proportionately to the three statewide approved poison control~~
 442 ~~centers for purposes of combating bioterrorism and other poison-~~
 443 ~~related purposes.-~~
 444 ~~(47)-(48) LIVE THE DREAM LICENSE PLATES.-~~
 445 (a) The department shall develop a Live the Dream license
 446 plate as provided in this section. Live the Dream license plates
 447 must bear the colors and design approved by the department. The
 448 word "Florida" must appear at the top of the plate, and the
 449 words "Live the Dream" must appear at the bottom of the plate.
 450 (b) The proceeds of the annual use fee shall be distributed
 451 to the Dream Foundation, Inc., to The Dream Foundation, Inc.,
 452 ~~shall retain the first \$60,000 in proceeds from the annual use~~
 453 ~~fees as reimbursement for administrative costs, startup costs,~~
 454 ~~and costs incurred in the approval process. Thereafter, up to 25~~
 455 ~~percent shall be used for continuing promotion and marketing of~~
 456 ~~the license plate and concept. The remaining funds shall be used~~
 457 ~~in the following manner:~~
 458 1. Up to 5 percent may be used to administer, promote, and
 459 market the license plate.
 460 2.1- At least 60 ~~Twenty-five~~ percent shall be distributed
 461 equally among the sickle cell organizations that are Florida
 462 members of the Sickle Cell Disease Association of America, Inc.,
 463 for programs that provide research, care, and treatment for
 464 sickle cell disease.

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465 ~~2. Twenty-five percent shall be distributed to the Florida~~
 466 ~~chapter of the March of Dimes for programs and services that~~
 467 ~~improve the health of babies through the prevention of birth~~
 468 ~~defects and infant mortality.~~

469 ~~3. Ten percent shall be distributed to the Florida~~
 470 ~~Association of Healthy Start Coalitions to decrease racial~~
 471 ~~disparity in infant mortality and to increase healthy birth~~
 472 ~~outcomes. Funding will be used by local Healthy Start Coalitions~~
 473 ~~to provide services and increase screening rates for high-risk~~
 474 ~~pregnant women, children under 4 years of age, and women of~~
 475 ~~childbearing age.~~

476 3.4. At least 30 ~~Ten~~ percent shall be distributed to
 477 Chapman the Community Partnership for Homeless, Inc., for
 478 programs that provide relief from poverty, hunger, and
 479 homelessness.

480 4. Up to 5 percent may be distributed by the department on
 481 behalf of the Dream Foundation, Inc., to the Martin Luther King,
 482 Jr., Center for Nonviolent Social Change, Inc., as a royalty for
 483 the use of the image of Dr. Martin Luther King, Jr.

484 ~~5. Five percent of the proceeds shall be used by the~~
 485 ~~foundation for administrative costs directly associated with~~
 486 ~~operations as they relate to the management and distribution of~~
 487 ~~the proceeds.~~

488 ~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.-~~

489 ~~(a) The department shall develop a Donate Organs-Pass It On~~
 490 ~~license plate as provided in this section. The word "Florida"~~
 491 ~~must appear at the top of the plate, and the words "Donate~~
 492 ~~Organs Pass It On" must appear at the bottom of the plate.~~

493 ~~(b) The annual use fees shall be distributed to Transplant~~

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494 ~~Foundation, Inc., and shall use up to 10 percent of the proceeds~~
 495 ~~from the annual use fee for marketing and administrative costs~~
 496 ~~that are directly associated with the management and~~
 497 ~~distribution of the proceeds. The remaining proceeds shall be~~
 498 ~~used to provide statewide grants for patient services, including~~
 499 ~~preoperative, rehabilitative, and housing assistance; organ~~
 500 ~~donor education and awareness programs; and statewide medical~~
 501 ~~research.~~

502 ~~(64)(66) IN GOD WE TRUST LICENSE PLATES.-~~

503 (b) The license plate annual use fees shall be distributed
 504 to the In God We Trust Foundation, Inc., which may use a maximum
 505 of 10 percent of the proceeds to offset marketing,
 506 administration, and promotion, and the balance of the fees to
 507 address the needs of the military community and the needs of the
 508 public safety community, to provide educational grants and
 509 scholarships to foster self-reliance and stability in Florida's
 510 children, and to provide education in public and private schools
 511 regarding the historical significance of religion in American
 512 and Florida history to fund educational scholarships for the
 513 children of Florida residents who are members of the United
 514 States Armed Forces, the National Guard, and the United States
 515 Armed Forces Reserve and for the children of public safety
 516 employees who have died in the line of duty who are not covered
 517 by existing state law. Funds shall also be distributed to other
 518 s. 501(c)(3) organizations that may apply for grants and
 519 scholarships and to provide educational grants to public and
 520 private schools to promote the historical and religious
 521 significance of American and Florida history. The In God We
 522 Trust Foundation, Inc., shall distribute the license plate

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523 ~~annual use fees in the following manner:~~

524 ~~1. The In God We Trust Foundation, Inc., shall retain all~~
 525 ~~revenues from the sale of such plates until all startup costs~~
 526 ~~for developing and establishing the plate have been recovered.~~

527 ~~2. Ten percent of the funds received by the In God We Trust~~
 528 ~~Foundation, Inc., shall be expended for administrative costs,~~
 529 ~~promotion, and marketing of the license plate directly~~
 530 ~~associated with the operations of the In God We Trust~~
 531 ~~Foundation, Inc.~~

532 ~~3. All remaining funds shall be expended by the In God We~~
 533 ~~Trust Foundation, Inc., for programs.~~

534 ~~(69) ST. JOHNS RIVER LICENSE PLATES.~~

535 ~~(a) The department shall develop a St. Johns River license~~
 536 ~~plate as provided in this section. The St. Johns River license~~
 537 ~~plates must bear the colors and design approved by the~~
 538 ~~department. The word "Florida" must appear at the top of the~~
 539 ~~plate, and the words "St. Johns River" must appear at the bottom~~
 540 ~~of the plate.~~

541 ~~(b) The requirements of s. 320.08053 must be met prior to~~
 542 ~~the issuance of the plate. Thereafter, the license plate annual~~
 543 ~~use fees shall be distributed to the St. Johns River Alliance,~~
 544 ~~Inc., a s. 501(c)(3) nonprofit organization, which shall~~
 545 ~~administer the fees as follows:~~

546 ~~1. The St. Johns River Alliance, Inc., shall retain the~~
 547 ~~first \$60,000 of the annual use fees as direct reimbursement for~~
 548 ~~administrative costs, startup costs, and costs incurred in the~~
 549 ~~development and approval process. Thereafter, up to 10 percent~~
 550 ~~of the annual use fee revenue may be used for administrative~~
 551 ~~costs directly associated with education programs, conservation,~~

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552 ~~research, and grant administration of the organization, and up~~
 553 ~~to 10 percent may be used for promotion and marketing of the~~
 554 ~~specialty license plate.~~

555 ~~2. At least 30 percent of the fees shall be available for~~
 556 ~~competitive grants for targeted community based or county based~~
 557 ~~research or projects for which state funding is limited or not~~
 558 ~~currently available. The remaining 50 percent shall be directed~~
 559 ~~toward community outreach and access programs. The competitive~~
 560 ~~grants shall be administered and approved by the board of~~
 561 ~~directors of the St. Johns River Alliance, Inc. A grant advisory~~
 562 ~~committee shall be composed of six members chosen by the St.~~
 563 ~~Johns River Alliance board members.~~

564 ~~3. Any remaining funds shall be distributed with the~~
 565 ~~approval of and accountability to the board of directors of the~~
 566 ~~St. Johns River Alliance, Inc., and shall be used to support~~
 567 ~~activities contributing to education, outreach, and springs~~
 568 ~~conservation.~~

569 ~~(70) HISPANIC ACHIEVERS LICENSE PLATES.~~

570 ~~(a) Notwithstanding the requirements of s. 320.08053, the~~
 571 ~~department shall develop a Hispanic Achievers license plate as~~
 572 ~~provided in this section. The plate must bear the colors and~~
 573 ~~design approved by the department. The word "Florida" must~~
 574 ~~appear at the top of the plate, and the words "Hispanic~~
 575 ~~Achievers" must appear at the bottom of the plate.~~

576 ~~(b) The proceeds from the license plate annual use fee~~
 577 ~~shall be distributed to National Hispanic Corporate Achievers,~~
 578 ~~Inc., a nonprofit corporation under s. 501(c)(3) of the Internal~~
 579 ~~Revenue Code, to fund grants to nonprofit organizations to~~
 580 ~~operate programs and provide scholarships and for marketing the~~

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581 ~~Hispanic Achievers license plate. National Hispanic Corporate~~
 582 ~~Achievers, Inc., shall establish a Hispanic Achievers Grant~~
 583 ~~Council that shall provide recommendations for statewide grants~~
 584 ~~from available Hispanic Achievers license plate proceeds to~~
 585 ~~nonprofit organizations for programs and scholarships for~~
 586 ~~Hispanic and minority Floridians. National Hispanic Corporate~~
 587 ~~Achievers, Inc., shall also establish a Hispanic Achievers~~
 588 ~~License Plate Fund. Moneys in the fund shall be used by the~~
 589 ~~grant council as provided in this paragraph. All funds received~~
 590 ~~under this subsection must be used in this state.~~

591 ~~(c) National Hispanic Corporate Achievers, Inc., may retain~~
 592 ~~all proceeds from the annual use fee until documented startup~~
 593 ~~costs for developing and establishing the plate have been~~
 594 ~~recovered. Thereafter, the proceeds from the annual use fee~~
 595 ~~shall be used as follows:~~

596 ~~1. Up to 5 percent of the proceeds may be used for the cost~~
 597 ~~of administration of the Hispanic Achievers License Plate Fund,~~
 598 ~~the Hispanic Achievers Grant Council, and related matters.~~

599 ~~2. Funds may be used as necessary for annual audit or~~
 600 ~~compliance affidavit costs.~~

601 ~~3. Up to 20 percent of the proceeds may be used to market~~
 602 ~~and promote the Hispanic Achievers license plate.~~

603 ~~4. Twenty-five percent of the proceeds shall be used by the~~
 604 ~~Hispanic Corporate Achievers, Inc., located in Seminole County,~~
 605 ~~for grants.~~

606 ~~5. The remaining proceeds shall be available to the~~
 607 ~~Hispanic Achievers Grant Council to award grants for services,~~
 608 ~~programs, or scholarships for Hispanic and minority individuals~~
 609 ~~and organizations throughout Florida. All grant recipients must~~

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610 ~~provide to the Hispanic Achievers Grant Council an annual~~
 611 ~~program and financial report regarding the use of grant funds.~~
 612 ~~Such reports must be available to the public.~~

613 ~~(d) Effective July 1, 2014, the Hispanic Achievers license~~
 614 ~~plate will shift into the presale voucher phase, as provided in~~
 615 ~~s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc.,~~
 616 ~~shall have 24 months to record a minimum of 1,000 sales. Sales~~
 617 ~~include existing active plates and vouchers sold subsequent to~~
 618 ~~July 1, 2014. During the voucher period, new plates may not be~~
 619 ~~issued, but existing plates may be renewed. If, at the~~
 620 ~~conclusion of the 24-month presale period, the requirement of a~~
 621 ~~minimum of 1,000 sales has been met, the department shall resume~~
 622 ~~normal distribution of the Hispanic Achievers license plate. If,~~
 623 ~~after 24 months, the minimum of 1,000 sales has not been met,~~
 624 ~~the department shall discontinue the Hispanic Achievers license~~
 625 ~~plate. This subsection is repealed June 30, 2016.~~

626 ~~(76)(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-~~

627 ~~(b) The annual use fees must ~~shall~~ be distributed to the~~
 628 ~~Police and Kids Foundation, Inc., which may use up to a maximum~~
 629 ~~of 10 percent of the proceeds for marketing to promote and~~
 630 ~~market the plate. All remaining proceeds must be used by the~~
 631 ~~Police and Kids Foundation, Inc., for its operations,~~
 632 ~~activities, programs, and projects The remainder of the proceeds~~
 633 ~~shall be used by the Police and Kids Foundation, Inc., to invest~~
 634 ~~and reinvest, and the interest earnings shall be used for the~~
 635 ~~operation of the Police and Kids Foundation, Inc.~~

636 ~~(81) DUCKS UNLIMITED LICENSE PLATES.-~~

637 ~~(a) The department shall develop a Ducks Unlimited license~~
 638 ~~plate as provided in this section and s. 320.08053. Ducks~~

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639 Unlimited license plates must bear the colors and design
 640 approved by the department. The word "Florida" must appear at
 641 the top of the plate, and the words "Conserving Florida
 642 Wetlands" must appear at the bottom of the plate.

643 (b) The annual use fees from the sale of the plate must be
 644 distributed to Ducks Unlimited, Inc., a nonprofit corporation
 645 under s. 501(c)(3) of the Internal Revenue Code, to be used as
 646 follows:

647 1. Up to 5 percent may be used for administrative costs and
 648 the marketing of the plate.

649 2. At least 95 percent must be used in this state to
 650 support the mission and efforts of Ducks Unlimited, Inc., to
 651 conserve, restore, and manage Florida wetlands and associated
 652 habitats for the benefit of waterfowl, other wildlife, and
 653 people.

654 (82) DAN MARINO CAMPUS LICENSE PLATES.—

655 (a) The department shall develop a Dan Marino Campus
 656 license plate as provided in this section and s. 320.08053. The
 657 plate must bear the colors and design approved by the
 658 department. The word "Florida" must appear at the top of the
 659 plate, and the words "Marino Campus" must appear at the bottom
 660 of the plate.

661 (b) The annual use fees from the sale of the plate must be
 662 distributed to the Dan Marino Foundation, a Florida nonprofit
 663 corporation, which may use up to 10 percent of such fees for
 664 administrative costs and the marketing of the plate. The balance
 665 of the fees must be used by the Dan Marino Foundation to assist
 666 Floridians with developmental disabilities in becoming employed,
 667 independent, and productive and to promote and fund education

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668 scholarships and awareness of these services.

669 (83) DONATE LIFE FLORIDA LICENSE PLATES.—

670 (a) The department shall develop a Donate Life Florida
 671 license plate as provided in this section and s. 320.08053. The
 672 plate must bear the colors and design approved by the
 673 department. The word "Florida" must appear at the top of the
 674 plate, and the words "Donors Save Lives" must appear at the
 675 bottom of the plate.

676 (b) The annual use fees from the sale of the plate must be
 677 distributed to Donate Life Florida, which may use up to 10
 678 percent of the proceeds for marketing and administrative costs.
 679 The remaining proceeds must be used by Donate Life Florida to
 680 educate Florida residents on the importance of organ, tissue,
 681 and eye donation and for the continued maintenance of the Joshua
 682 Abbott Organ and Tissue Donor Registry.

683 (84) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.—

684 (a) The department shall develop a Florida State Beekeepers
 685 Association license plate as provided in this section and s.
 686 320.08053. The plate must bear the colors and design approved by
 687 the department. The word "Florida" must appear at the top of the
 688 plate, and the words "Save the Bees" must appear at the bottom
 689 of the plate.

690 (b) The annual use fees must be distributed to the Florida
 691 State Beekeepers Association, a Florida nonprofit corporation.
 692 The Florida State Beekeepers Association may use up to 18
 693 percent of the annual use fees for:

694 1. Direct reimbursement for administrative costs, startup
 695 costs, and costs incurred in the development and approval
 696 process of the license plate. All vendors associated with the

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697 administrative costs must be selected by competitive bid.
 698 2. Promotion and marketing costs of the license plate.
 699 (c) The remaining funds must be distributed to the Florida
 700 State Beekeepers Association and used to raise awareness of the
 701 importance of beekeeping to Florida agriculture by funding
 702 honeybee research, education, outreach, and husbandry. The
 703 Florida State Beekeepers Association board of managers shall
 704 approve, and is accountable for, all such expenditures.
 705 (85) BEAT CHILDHOOD CANCER LICENSE PLATES.—
 706 (a) The department shall develop a Beat Childhood Cancer
 707 license plate as provided in this section and s. 320.08053. The
 708 plate must bear the colors and design approved by the
 709 department. The word “Florida” must appear at the top of the
 710 plate, and the words “Beat Childhood Cancer” must appear at the
 711 bottom of the plate.
 712 (b) The annual use fees from the sale of the plate shall be
 713 distributed as follows:
 714 1. Eighty percent shall be distributed to Beat Nb, Inc.,
 715 which may use up to 10 percent of the proceeds for
 716 administrative costs directly associated with the operation of
 717 the corporation and for marketing and promoting the plate. The
 718 remaining proceeds shall be used by the corporation to fund
 719 pediatric cancer treatment and research.
 720 2. Twenty percent shall be distributed to No Kid Should
 721 Know Cancer, Inc., a nonprofit corporation under s. 501(c)(3) of
 722 the Internal Revenue Code, which may use up to 5 percent of the
 723 proceeds for administrative costs and for the marketing of the
 724 plate. The balance of the fees shall be used by No Kid Should
 725 Know Cancer, Inc., to:

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726 a. Support families who have a child recently diagnosed
 727 with cancer;
 728 b. Hold events that raise awareness about childhood cancer;
 729 and
 730 c. Support clinical trials that work to provide better
 731 treatment plans for children diagnosed with cancer and,
 732 ultimately, a better prognosis.
 733 (86) UNIVERSITY OF ALABAMA LICENSE PLATES.—
 734 (a) The department shall develop a University of Alabama
 735 license plate as provided in this section and s. 320.08053. The
 736 plate must bear the colors and design approved by the
 737 department. The word “Florida” must appear at the top of the
 738 plate, and the words “Roll Tide” must appear at the bottom of
 739 the plate.
 740 (b) The annual use fees from the sale of the plate shall be
 741 distributed to the Pensacola Bama Club, which must use the
 742 moneys for the purpose of awarding scholarships to Florida
 743 residents attending the University of Alabama. Students
 744 receiving these scholarships must be eligible for the Florida
 745 Bright Futures Scholarship Program pursuant to s. 1009.531 and
 746 shall use the scholarship funds for tuition and other expenses
 747 related to attending the University of Alabama.
 748 (87) ROTARY LICENSE PLATES.—
 749 (a) The department shall develop a Rotary license plate as
 750 provided in this section and s. 320.08053. The plate must bear
 751 the colors and design approved by the department. The word
 752 “Florida” must appear at the top of the plate, and the word
 753 “Rotary” must appear on the bottom of the plate. The license
 754 plate must bear the Rotary International wheel emblem.

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755 (b) The annual use fees shall be distributed to the
 756 Community Foundation of Tampa Bay, Inc., to be used as follows:
 757 1. Up to 10 percent may be used for administrative costs
 758 and for marketing of the plate.
 759 2. Ten percent shall be distributed to Rotary's Camp
 760 Florida for direct support to all programs and services provided
 761 to children with special needs who attend the camp.
 762 3. The remainder shall be distributed, proportionally based
 763 on sales, to each Rotary district in the state in support of
 764 Rotary youth programs in Florida.
 765 (88) FLORIDA BAY FOREVER LICENSE PLATES.—
 766 (a) The department shall develop a Florida Bay Forever
 767 license plate as provided in this section and s. 320.08053. The
 768 plate must bear the colors and design approved by the
 769 department. The word "Florida" must appear at the top of the
 770 plate, and the words "Florida Bay Forever" must appear at the
 771 bottom of the plate.
 772 (b) The annual use fees from the sale of the plate shall be
 773 distributed to the Florida National Parks Association, Inc.,
 774 which may use up to 10 percent of the proceeds for
 775 administrative costs and marketing of the plate. The remainder
 776 of the funds shall be used to supplement the Everglades National
 777 Park's budgets and to support educational, interpretive,
 778 historical, and scientific research relating to the Everglades
 779 National Park.
 780 (89) BONEFISH AND TARPON TRUST LICENSE PLATES.—
 781 (a) The department shall develop a Bonefish and Tarpon
 782 Trust license plate as provided in this section and s.
 783 320.08053. The plate must bear the colors and design approved by

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784 the department. The word "Florida" must appear at the top of the
 785 plate, and the words "Bonefish and Tarpon Trust" must appear at
 786 the bottom of the plate.
 787 (b) The annual use fees from the sale of the plate shall be
 788 distributed to the Bonefish and Tarpon Trust, which may use up
 789 to 10 percent of the proceeds to promote and market the license
 790 plate. The remainder of the proceeds shall be used to conserve
 791 and enhance Florida bonefish and tarpon fisheries and their
 792 respective environments through stewardship, research,
 793 education, and advocacy.
 794 (90) MEDICAL PROFESSIONALS WHO CARE LICENSE PLATES.—
 795 (a) The department shall develop a Medical Professionals
 796 Who Care license plate as provided in this section and s.
 797 320.08053. The plate must bear the colors and design approved by
 798 the department. The word "Florida" must appear at the top of the
 799 plate, and the words "Medical Professionals Who Care" must
 800 appear at the bottom of the plate.
 801 (b) The annual use fees from the sale of the plate shall be
 802 distributed to Florida Benevolent Group, Inc., a Florida
 803 nonprofit corporation, which may use up to 10 percent of such
 804 fees for administrative costs, marketing, and promotion of the
 805 plate. The remainder of the revenues shall be used by Florida
 806 Benevolent Group, Inc., to assist low-income individuals in
 807 obtaining a medical education and career through scholarships,
 808 support, and guidance.
 809 (91) UNIVERSITY OF GEORGIA LICENSE PLATES.—
 810 (a) The department shall develop a University of Georgia
 811 license plate as provided in this section and s. 320.08053. The
 812 plate must bear the colors and design approved by the

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813 department. The word "Florida" must appear at the top of the
 814 plate, and the words "The University of Georgia" must appear at
 815 the bottom of the plate.

816 (b) The annual use fees from the sale of the plate shall be
 817 distributed to the Georgia Bulldog Club of Jacksonville, which
 818 must use the moneys for the purpose of awarding scholarships to
 819 Florida residents attending the University of Georgia. Students
 820 receiving these scholarships must be eligible for the Florida
 821 Bright Futures Scholarship Program pursuant to s. 1009.531 and
 822 shall use the scholarship funds for tuition and other expenses
 823 related to attending the University of Georgia.

824 (92) HIGHWAYMEN LICENSE PLATES.-

825 (a) The department shall develop a Highwaymen license plate
 826 as provided in this section and s. 320.08053. The plate must
 827 bear the colors and design approved by the department. The word
 828 "Florida" must appear at the top of the plate, and the word
 829 "Highwaymen" must appear at the bottom of the plate.

830 (b) The annual use fees shall be distributed to the City of
 831 Fort Pierce, subject to a city resolution designating the city
 832 as the fiscal agent of the license plate. The city may use up to
 833 10 percent of the fees for administrative costs and marketing of
 834 the plate and shall use the remainder of the fees as follows:

835 1. Before completion of construction of the Highwaymen
 836 Museum and African-American Cultural Center, the city shall
 837 distribute at least 15 percent to the St. Lucie County Education
 838 Foundation, Inc., to fund art education and art projects in
 839 public schools within St. Lucie County. The remainder of the
 840 fees shall be used by the city to fund the construction of the
 841 Highwaymen Museum and African-American Cultural Center.

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842 2. Upon completion of construction of the Highwaymen Museum
 843 and African-American Cultural Center, the city shall distribute
 844 at least 10 percent to the St. Lucie County Education
 845 Foundation, Inc., to fund art education and art projects in
 846 public schools within St. Lucie County. The remainder of the
 847 fees shall be used by the city to fund the day-to-day operations
 848 of the Highwaymen Museum and African-American Cultural Center.

849 (93) ORLANDO CITY SOCCER CLUB LICENSE PLATES.-

850 (a) The department shall develop an Orlando City Soccer
 851 Club license plate as provided in paragraph (9) (a).

852 (b) The annual use fees from the sale of the plate shall be
 853 distributed and used as provided in paragraph (9) (b).

854 (94) COASTAL CONSERVATION ASSOCIATION LICENSE PLATES.-

855 (a) The department shall develop a Coastal Conservation
 856 Association license plate as provided in this section and s.
 857 320.08053. The plate must bear the colors and design approved by
 858 the department. The word "Florida" must appear at the top of the
 859 plate, and the words "Conserve Florida's Fisheries" must appear
 860 at the bottom of the plate.

861 (b) The annual use fees from the sale of the plate shall be
 862 distributed to Coastal Conservation Association Florida, a
 863 nonprofit corporation under s. 501(c) (3) of the Internal Revenue
 864 Code, to be used as follows:

865 1. Up to 10 percent of the proceeds may be used for
 866 administrative costs and to promote and market the plate.

867 2. The remainder of the proceeds shall be used to support
 868 the mission and efforts of Coastal Conservation Association
 869 Florida for habitat enhancement and restoration, saltwater
 870 fisheries conservation, and education; to advise the public on

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871 the conservation of marine resources; and to promote and enhance
 872 the present and future availability of those coastal resources
 873 for the benefit and enjoyment of the general public.

874 (95) PALM BEACH ZOO AND CONSERVATION SOCIETY LICENSE
 875 PLATES.-

876 (a) The department shall develop a Palm Beach Zoo and
 877 Conservation Society license plate as provided in this section
 878 and s. 320.08053. Palm Beach Zoo and Conservation Society
 879 license plates must bear the colors and design approved by the
 880 department. The word "Florida" must appear at the top of the
 881 plate, and the words "Palm Beach Zoo and Conservation Society"
 882 must appear at the bottom of the plate.

883 (b) The license plate annual use fees shall be distributed
 884 to the Palm Beach Zoo and Conservation Society to fund
 885 educational programs for students in pre-K through grade 12,
 886 conservation projects to protect endangered or threatened
 887 species, and services for the health and welfare of animals in
 888 the zoo's care. The Palm Beach Zoo and Conservation Society may
 889 retain all revenue from the annual use fees until all startup
 890 costs for developing and establishing the plate have been
 891 recovered. Thereafter, up to 10 percent of the annual use fee
 892 revenue may be used for promotion and marketing of the specialty
 893 license plate and administrative costs directly associated with
 894 the programs of the society and the specialty license plate.

895 (96) ETHICAL ECOTOURISM LICENSE PLATES.-

896 (a) The department shall develop an Ethical Ecotourism
 897 license plate as provided in this section and s. 320.08053. The
 898 word "Florida" must appear at the top of the plate, and words
 899 that are approved by the department must appear at the bottom of

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900 the plate.

901 (b) The annual use fees from the sale of the plate must be
 902 distributed equally between the Florida Society for Ethical
 903 Ecotourism and Paddle Florida, Inc., each of which may use up to
 904 10 percent of such proceeds for administrative costs and the
 905 marketing of the plate. The remaining proceeds must be used by
 906 the Florida Society for Ethical Ecotourism to provide
 907 environmental education and awareness that encourage behaviors
 908 that contribute to the sustainability of Florida's natural
 909 ecosystems and resources, and by Paddle Florida, Inc., to raise
 910 awareness about water conservation, wildlife preservation,
 911 restoration of springs, and protection of waterways in this
 912 state.

913 (97) KNIGHTS OF COLUMBUS LICENSE PLATES.-

914 (a) The department shall develop a Knights of Columbus
 915 license plate as provided in this section and s. 320.08053. The
 916 plate must bear the colors and design approved by the
 917 department. The word "Florida" must appear at the top of the
 918 plate, and the words "In God We Trust" must appear at the bottom
 919 of the plate.

920 (b) The license plate annual use fees shall be distributed
 921 to Florida KofC Charities, Inc., which may use a maximum of 10
 922 percent of the proceeds to promote and market the plate. The
 923 remainder of the proceeds shall be used by Florida KofC
 924 Charities, Inc., a Knights of Columbus organization under s.
 925 501(c) (3) of the Internal Revenue Code, to fund its charitable
 926 activities, including, but not limited to, the Christian Refugee
 927 Relief Fund, disaster relief, Ultrasound Initiative, Food for
 928 Families, and Coats for Kids.

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929 (98) DAUGHTERS OF THE AMERICAN REVOLUTION LICENSE PLATES.-

930 (a) The department shall develop a Daughters of the
 931 American Revolution license plate as provided in this section
 932 and s. 320.08053. The plate must bear the colors and design
 933 approved by the department. The word "Florida" must appear at
 934 the top of the plate, and the word "Daughters of the American
 935 Revolution" must appear at the bottom of the plate.

936 (b) The annual use fees from the sale of the plate shall be
 937 distributed to the Daughters of the American Revolution, a
 938 nonprofit organization under s. 501(c)(3) of the Internal
 939 Revenue Code. Up to 10 percent of the proceeds may be used for
 940 the promotion and marketing of the plate. The remainder of the
 941 proceeds shall be used within this state by the Daughters of the
 942 American Revolution, a nonpolitical volunteer women's service
 943 organization, to promote patriotism, preserve American history,
 944 and secure America's future through educational programs for
 945 local public and private K-12 students and scholarships and
 946 other educational funding for underprivileged children.

947 (99) GUARDIAN AD LITEM LICENSE PLATES.-

948 (a) The department shall develop a Guardian Ad Litem
 949 license plate as provided in this section and s. 320.08053. The
 950 plate must bear the colors and design approved by the
 951 department. The word "Florida" must appear at the top of the
 952 plate, and the words "Heartfelt Child Advocacy" must appear at
 953 the bottom of the plate.

954 (b) The annual use fees from the sale of the plate shall be
 955 distributed to the Florida Guardian Ad Litem Foundation, Inc., a
 956 direct-support organization and a nonprofit corporation under s.
 957 501(c)(3) of the Internal Revenue Code. Up to 10 percent of the

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958 proceeds may be used for administrative costs and the marketing
 959 of the plate. The remainder of the proceeds must be used in this
 960 state to support the mission and efforts of the statewide
 961 Guardian Ad Litem Program to represent abused, abandoned, and
 962 neglected children and advocate for their best interests;
 963 recruit and retain volunteer child advocates; and meet the
 964 unique needs of the dependent children the program serves.

965 (100) JUMBO SHRIMP LICENSE PLATES.-

966 (a) The department shall develop a Jumbo Shrimp license
 967 plate as provided in this section and s. 320.08053. The plate
 968 must bear the colors and design approved by the department. The
 969 word "Florida" must appear at the top of the plate, and the
 970 words "Jumbo Shrimp" must appear at the bottom of the plate.

971 (b) The annual use fees from the sale of the plate shall be
 972 distributed to St. Johns Riverkeeper, Inc., a nonprofit
 973 organization under s. 501(c)(3) of the Internal Revenue Code. Up
 974 to 10 percent of the proceeds may be used for the promotion and
 975 marketing of the plate. The remainder of the proceeds shall be
 976 used by St. Johns Riverkeeper, Inc., for programs and activities
 977 related to fulfilling its mission to protect and restore the
 978 health of the St. Johns River.

979 (101) GADSDEN FLAG LICENSE PLATES.-

980 (a) The department shall develop a Gadsden Flag license
 981 plate as provided in this section and s. 320.08053. The design
 982 of the plate must replicate the color, layout, and design of the
 983 Gadsden Flag. The word "Florida" must appear at the top of the
 984 plate, and the words "Don't Tread on Me" must appear at the
 985 bottom of the plate.

986 (b) The annual use fees shall be distributed to the Florida

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987 Veterans Foundation, a direct-support organization of the
 988 Department of Veterans' Affairs, and must be used to benefit
 989 veterans. Up to 10 percent of the proceeds may be used for
 990 continuing promotion and marketing of the plate.

991 (102) K9S UNITED LICENSE PLATES.-

992 (a) The department shall develop a K9s United license plate
 993 as provided in this section and s. 320.08053. The plate must
 994 bear the colors and design approved by the department. The word
 995 "Florida" must appear at the top of the plate, and the words
 996 "K9s United" must appear at the bottom of the plate.

997 (b) The annual use fees from the sale of the plate shall be
 998 distributed to K9s United, Inc., a nonprofit organization under
 999 s. 501(c)(3) of the Internal Revenue Code. Up to 10 percent of
 1000 the proceeds may be used for the promotion and marketing of the
 1001 plate. The remainder of the proceeds shall be used by K9s
 1002 United, Inc., to support K9 units throughout the state.

1003 (103) EXPLORE OFF ROAD FLORIDA LICENSE PLATES.-

1004 (a) The department shall develop an Explore Off Road
 1005 Florida license plate as provided in this section and s.
 1006 320.08053. The plate must bear the colors and design approved by
 1007 the department. The word "Florida" must appear at the top of the
 1008 plate, and the words "Explore Off Road" must appear at the
 1009 bottom of the plate.

1010 (b) The annual use fees from the sale of the plate shall be
 1011 distributed to the Florida Off Road Foundation, Inc., a
 1012 nonprofit corporation under s. 501(c)(3) of the Internal Revenue
 1013 Code. Up to 10 percent of the funds may be used for marketing of
 1014 the plate, costs directly associated with creation of the plate,
 1015 and administrative costs related to distribution of proceeds,

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1016 including annual audit services and compliance affidavit costs.
 1017 The remainder of the funds shall be used by the Florida Off Road
 1018 Foundation, Inc., to fund qualified nonprofit organizations that
 1019 protect and preserve Florida's natural off-road habitat; educate
 1020 Floridians about responsible use of the off-road environment;
 1021 support civilian volunteer programs to promote the use of off-
 1022 road vehicles to assist law enforcement in situations such as
 1023 search and rescue; support organized cleanups, trail
 1024 maintenance, and restoration; or preserve Florida's off-road
 1025 culture.

1026 (104) SOLAR POWER LICENSE PLATES.-

1027 (a) The department shall develop a Solar Power license
 1028 plate as provided in this section and s. 320.08053. The plate
 1029 must bear the colors and design approved by the department. The
 1030 word "Florida" must appear at the top of the plate, and the
 1031 words "Powered by the Sun" must appear at the bottom of the
 1032 plate.

1033 (b) The annual fees from the sale of the plate must be
 1034 distributed to the Florida Solar Energy Research and Education
 1035 Foundation, Inc., a nonprofit Florida corporation under s.
 1036 501(c)(3) of the Internal Revenue Code, to fund its activities,
 1037 programs, and projects aimed at solar workforce training,
 1038 employment, internships, and related programs. The Florida Solar
 1039 Energy Research and Education Foundation, Inc., may retain all
 1040 revenue from the annual use fees until all startup costs for
 1041 developing and establishing the plate have been recovered.
 1042 Thereafter, up to 10 percent of the annual use fee revenue may
 1043 be used for promotion and marketing of the specialty license
 1044 plate and administrative costs directly associated with the

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1045 corporation's programs and the specialty license plate. The
 1046 Florida Solar Energy Research and Education Foundation, Inc.,
 1047 shall use the remaining funds as follows:

1048 1. To provide funds to the Florida Solar Energy Center for
 1049 the purpose of developing and administering solar energy
 1050 industry workforce training programs.

1051 2. To provide funds to veteran support facilities for solar
 1052 demonstration projects that will lower energy costs to the
 1053 veteran support facilities.

1054 3. To provide funds to nonprofit, educational, or
 1055 charitable organizations for projects or promotional campaigns
 1056 which further the goal of solar energy development in this
 1057 state.

1058 (105) FLORIDA NATIVE LICENSE PLATES.—

1059 (a) The department shall develop a Florida Native license
 1060 plate as provided in this section and s. 320.08053. The word
 1061 "Florida" must appear at the top of the plate, and the word
 1062 "Native" must appear at the bottom of the plate. The plate must
 1063 contain a camouflage background including leaves, flowers, or
 1064 fronds of a minimum of five different Florida native plants.

1065 (b)1. The department shall retain all annual use fees from
 1066 the sale of the plate until all startup costs for developing and
 1067 issuing the plate have been recovered.

1068 2. Thereafter, the annual use fees from the sale of the
 1069 plate shall be distributed to the Florida Native Plant Society,
 1070 a Florida nonprofit corporation, which may use a maximum of 10
 1071 percent of the fees for administrative costs and to market and
 1072 promote the plate. The balance of the fees shall be used by the
 1073 Florida Native Plant Society to fulfill the mission of the

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1074 Florida Native Plant Society, which is to restore and preserve
 1075 native Florida plants on private and public lands through
 1076 grants, education, and community projects.

1077 (106) FLORIDA 4-H LICENSE PLATES.—

1078 (a) The department shall develop a Florida 4-H license
 1079 plate as provided in this section and s. 320.08053. The plate
 1080 must bear the colors and design approved by the department. The
 1081 word "Florida" must appear at the top of the plate, and the word
 1082 "4-H" must appear at the bottom of the plate.

1083 (b) The annual use fees from the sale of the plate shall be
 1084 distributed to Florida 4-H and used for the following purposes:

1085 1. A maximum of 10 percent of the fees may be used by
 1086 Florida 4-H for administrative and marketing costs of the plate.

1087 2. Twenty percent must be used to support leadership
 1088 development in this state, including leadership development
 1089 programs operated by 4-H University, state agencies, and the
 1090 Legislature.

1091 3. Twenty percent must be used to support competitive teams
 1092 in this state.

1093 4. The remainder must be used to support Florida 4-H camps
 1094 under the Florida 4-H program as designated by the University of
 1095 Florida.

1096 (107) GIVE KIDS THE WORLD LICENSE PLATES.—

1097 (a) The department shall develop a Give Kids The World
 1098 license plate as provided in this section and s. 320.08053. The
 1099 plate must bear the colors and design approved by the
 1100 department. The word "Florida" must appear at the top of the
 1101 plate, and the words "Give Kids The World" must appear at the
 1102 bottom of the plate.

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1103 (b) The annual use fees from the sale of the plate shall be
 1104 distributed to Give Kids The World, Inc., a nonprofit
 1105 organization under s. 501(c)(3) of the Internal Revenue Code. Up
 1106 to 10 percent of the proceeds may be used for the promotion and
 1107 marketing of the plate. The remainder of the proceeds shall be
 1108 used by Give Kids The World, Inc., to support their mission of
 1109 providing weeklong, cost-free vacations to children with
 1110 critical illnesses and their families.

1111 (108) JOHNSON AND WALES UNIVERSITY LICENSE PLATES.—

1112 (a) The department shall develop a Johnson and Wales
 1113 University license plate as provided in this section and s.
 1114 320.08053. The plate must bear the colors and design approved by
 1115 the department. The word "Florida" must appear at the top of the
 1116 plate, the words "Johnson and Wales University" must appear at
 1117 the bottom of the plate, and the official Johnson and Wales
 1118 University logo must appear on the left side of plate.

1119 (b) The license plate annual use fees shall be distributed
 1120 to Johnson and Wales University-North Miami, which may use a
 1121 maximum of 10 percent of the proceeds to promote and market the
 1122 plate. The remainder of the proceeds shall be used by Johnson
 1123 and Wales University-North Miami, a Johnson and Wales University
 1124 organization under s. 501(c)(3) of the Internal Revenue Code, to
 1125 fund its charitable activities, including, but not limited to,
 1126 student need-based scholarships.

1127 (109) MARGARITAVILLE LICENSE PLATES.—

1128 (a) The department shall develop a Margaritaville license
 1129 plate as provided in s. 320.08053 and this section. The plate
 1130 must bear the colors and design approved by the department. The
 1131 word "Florida" must appear at the top of the plate, and the word

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1132 "Margaritaville" must appear at the bottom or side of the plate.

1133 (b) The annual use fees must be distributed to the SFC
 1134 Charitable Foundation, Inc., a Florida nonprofit corporation
 1135 doing business as the Singing for Change Foundation, to fund its
 1136 activities, programs, and projects. The Singing for Change
 1137 Foundation shall retain all revenue from the annual use fees
 1138 until all startup costs for developing and establishing the
 1139 plate have been recovered.

1140 (c) Thereafter, the annual use fees shall be distributed as
 1141 follows:

1142 1. Up to 10 percent of the annual use fee revenue may be
 1143 used for administration, promotion, and marketing of the
 1144 specialty license plate.

1145 2. The remaining proceeds must be used by the Singing for
 1146 Change Foundation for its educational, economic, and cultural
 1147 programs that assist local communities impacted by natural and
 1148 manmade disasters with recovery, rebuilding, and future
 1149 sustainability efforts, and that promote and inspire local
 1150 grassroots leadership that works to improve the quality of life
 1151 in those communities and other communities in this state.

1152 (110) FLORIDA STANDS WITH ISRAEL LICENSE PLATES.—

1153 (a) The department shall develop a Florida Stands with
 1154 Israel license plate as provided in s. 320.08053 and this
 1155 section. The plate must bear the colors and design approved by
 1156 the department. The word "Florida" must appear at the top of the
 1157 plate, and the words "Florida Stands with Israel" must appear at
 1158 the bottom of the plate.

1159 (b) The annual use fees from the sale of the plate must be
 1160 distributed to the Hatzalah of Miami-Dade, Inc., to be used as

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1161 follows:

1162 1. Ten percent must be used solely for the promotion and
 1163 marketing of the plate.

1164 2. Ninety percent must be used by Hatzalah of Miami-Dade,
 1165 Inc., to assist in training and deploying first responders to
 1166 expedite emergency response.

1167 (111) WALT DISNEY WORLD LICENSE PLATES.-

1168 (a) The department shall develop a Walt Disney World
 1169 license plate as provided in this section. The plate must bear
 1170 the colors and design approved by the department. The word
 1171 "Florida" must appear at the top of the plate, and the words
 1172 "Walt Disney World" must appear at the bottom of the plate.

1173 (b) The annual use fees from the sale of the plate shall be
 1174 distributed to the Make-A-Wish Foundation of Central and
 1175 Northern Florida, Inc., a nonprofit organization under s.
 1176 501(c)(3) of the Internal Revenue Code. A maximum of 10 percent
 1177 of the proceeds from the sale of such plates may be used for
 1178 administrative and marketing costs.

1179 (112) THANK A LINEMAN LICENSE PLATES.-

1180 (a) The department shall develop a Thank a Lineman license
 1181 plate as provided in this section and s. 320.08053. The plate
 1182 must bear the colors and design approved by the department. The
 1183 word "Florida" must appear at the top of the plate, and the
 1184 words "Thank a Lineman" must appear at the bottom of the plate.

1185 (b) The annual use fees from the sale of the plate shall be
 1186 distributed to the Lake-Sumter State College Foundation, Inc., a
 1187 nonprofit Florida corporation under s. 501(c)(3) of the Internal
 1188 Revenue Code, to fund scholarships for students enrolled in the
 1189 Electrical Distribution Technology Program at Lake-Sumter State

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1190 College. Up to 10 percent of the funds received by the Lake-
 1191 Sumter State College Foundation, Inc., may be used for marketing
 1192 of the plate and costs directly associated with the
 1193 administration of the foundation.

1194 (113) BEST BUDDIES LICENSE PLATES.-

1195 (a) The department shall develop a Best Buddies license
 1196 plate as provided in this section and s. 320.08053. The plate
 1197 must bear the colors and design approved by the department. The
 1198 word "Florida" must appear at the top of the plate, and the
 1199 words "BestBuddies.org" must appear at the bottom of the plate.

1200 (b) The annual use fees from the sale of the plate shall be
 1201 distributed to Best Buddies International, Inc., a nonprofit
 1202 corporation under s. 501(c)(3) of the Internal Revenue Code,
 1203 which may use up to 10 percent of the fees for administrative
 1204 costs and marketing of the plate. The balance of the fees shall
 1205 be used by Best Buddies International, Inc., to create
 1206 opportunities for one-to-one friendships, integrated employment,
 1207 leadership development, and inclusive living for individuals
 1208 with intellectual and developmental disabilities.

1209 Section 8. Subsection (1) of section 320.08062, Florida
 1210 Statutes, is amended to read:

1211 320.08062 Audits and attestations required; annual use fees
 1212 of specialty license plates.-

1213 (1)(a) All organizations that receive annual use fee
 1214 proceeds from the department are responsible for ensuring that
 1215 proceeds are used in accordance with ss. 320.08056 and
 1216 320.08058.

1217 (b) Any organization not subject to audit pursuant to s.
 1218 215.97 shall annually attest, under penalties of perjury, that

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1219 such proceeds were used in compliance with ss. 320.08056 and
 1220 320.08058. The attestation shall be made annually in a form and
 1221 format determined by the department. In addition, the department
 1222 shall audit any such organization every 3 years to ensure that
 1223 proceeds have been used in compliance with ss. 320.08056 and
 1224 320.08058.

1225 (c) Any organization subject to audit pursuant to s. 215.97
 1226 shall submit an audit report in accordance with rules adopted
 1227 ~~promulgated~~ by the Auditor General. The annual attestation shall
 1228 be submitted to the department for review within 9 months after
 1229 the end of the organization's fiscal year.

1230 Section 9. Paragraph (b) of subsection (4) of section
 1231 320.08068, Florida Statutes, is amended to read:

1232 320.08068 Motorcycle specialty license plates.—

1233 (4) A license plate annual use fee of \$20 shall be
 1234 collected for each motorcycle specialty license plate. Annual
 1235 use fees shall be distributed as follows:

1236 (b) Twenty percent to Preserve Vision ~~Prevent Blindness~~
 1237 Florida, Inc.

1238 Section 10. Section 320.0875, Florida Statutes, is created
 1239 to read:

1240 320.0875 Purple Heart special motorcycle license plate.—

1241 (1) Upon application to the department and payment of the
 1242 license tax for the motorcycle as provided in s. 320.08, a
 1243 resident of this state who owns or leases a motorcycle that is
 1244 not used for hire or commercial use shall be issued a Purple
 1245 Heart special motorcycle license plate if he or she provides
 1246 documentation acceptable to the department that he or she is a
 1247 recipient of the Purple Heart medal.

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1248 (2) The Purple Heart special motorcycle license plate must
 1249 be stamped with the term "Combat-wounded Veteran" followed by
 1250 the serial number of the license plate. The Purple Heart special
 1251 motorcycle license plate may have the term "Purple Heart"
 1252 stamped on the plate and the likeness of the Purple Heart medal
 1253 appearing on the plate.

1254 Section 11. Paragraph (a) of subsection (1) of section
 1255 320.089, Florida Statutes, is amended to read:

1256 320.089 Veterans of the United States Armed Forces; members
 1257 of National Guard; survivors of Pearl Harbor; Purple Heart medal
 1258 recipients; Bronze Star recipients; active or retired United
 1259 States Armed Forces reservists; Combat Infantry Badge, Combat
 1260 Medical Badge, or Combat Action Badge recipients; Combat Action
 1261 Ribbon recipients; Air Force Combat Action Medal recipients;
 1262 Distinguished Flying Cross recipients; former prisoners of war;
 1263 Korean War Veterans; Vietnam War Veterans; Operation Desert
 1264 Shield Veterans; Operation Desert Storm Veterans; Operation
 1265 Enduring Freedom Veterans; Operation Iraqi Freedom Veterans;
 1266 Women Veterans; World War II Veterans; and Navy Submariners;
 1267 special license plates; fee.—

1268 (1) (a) Each owner or lessee of an automobile or truck for
 1269 private use or recreational vehicle as specified in s.
 1270 320.08(9)(c) or (d), which is not used for hire or commercial
 1271 use, who is a resident of the state and a veteran of the United
 1272 States Armed Forces, a Woman Veteran, a World War II Veteran, a
 1273 Navy Submariner, an active or retired member of the Florida
 1274 National Guard, a survivor of the attack on Pearl Harbor, a
 1275 recipient of the Purple Heart medal, a recipient of the Bronze
 1276 Star, an active or retired member of any branch of the United

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1277 States Armed Forces Reserve, or a recipient of the Combat
 1278 Infantry Badge, Combat Medical Badge, Combat Action Badge,
 1279 Combat Action Ribbon, Air Force Combat Action Medal, or
 1280 Distinguished Flying Cross, upon application to the department,
 1281 accompanied by proof of release or discharge from any branch of
 1282 the United States Armed Forces, proof of active membership or
 1283 retired status in the Florida National Guard, proof of
 1284 membership in the Pearl Harbor Survivors Association or proof of
 1285 active military duty in Pearl Harbor on December 7, 1941, proof
 1286 of being a Purple Heart medal recipient, proof of being a Bronze
 1287 Star recipient, proof of active or retired membership in any
 1288 branch of the United States Armed Forces Reserve, or proof of
 1289 membership in the Combat Infantrymen's Association, Inc., proof
 1290 of being a recipient of the Combat Infantry Badge, Combat
 1291 Medical Badge, Combat Action Badge, Combat Action Ribbon, Air
 1292 Force Combat Action Medal, or Distinguished Flying Cross, and
 1293 upon payment of the license tax for the vehicle as provided in
 1294 s. 320.08, shall be issued a license plate as provided by s.
 1295 320.06 which, in lieu of the serial numbers prescribed by s.
 1296 320.06, is stamped with the words "Veteran," "Woman Veteran,"
 1297 "WWII Veteran," "Navy Submariner," "National Guard," "Pearl
 1298 Harbor Survivor," "Combat-wounded veteran," "Bronze Star," "U.S.
 1299 Reserve," "Combat Infantry Badge," "Combat Medical Badge,"
 1300 "Combat Action Badge," "Combat Action Ribbon," "Air Force Combat
 1301 Action Medal," or "Distinguished Flying Cross," as appropriate,
 1302 and a likeness of the related campaign medal or badge, followed
 1303 by the serial number of the license plate. Additionally, the
 1304 Purple Heart plate may have the words "Purple Heart" stamped on
 1305 the plate and the likeness of the Purple Heart medal appearing

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1306 on the plate.

1307 Section 12. By November 1, 2020, the annual use fees
 1308 withheld by the Department of Highway Safety and Motor Vehicles
 1309 from the sale of the Live the Dream specialty license plate
 1310 shall be used first to satisfy all outstanding royalty payments
 1311 due to the Martin Luther King, Jr., Center for Nonviolent Social
 1312 Change, Inc., for the use of the image of Dr. Martin Luther
 1313 King, Jr. All remaining funds shall be distributed to the
 1314 subrecipients on a pro rata basis according to the percentages
 1315 specified in s. 320.08058(47), Florida Statutes.

1316 Section 13. Except as otherwise expressly provided in this
 1317 act, this act shall take effect October 1, 2020, but only if SB
 1318 414 or similar legislation takes effect, if such legislation is
 1319 adopted in the same legislative session or an extension thereof
 1320 and becomes a law.

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The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 3, 2020

I respectfully request that **Senate Bill # 412**, relating to License Plates, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

SB 412
Bill Number (if applicable)

Topic Specialty License plates

Amendment Barcode (if applicable)

Name Michael Dobson

Job Title President / CEO

Address 4005 Brandon Hill Dr

Phone (850) 241-5896

Street

Tallahassee

City

FL

State

32309

Zip

Email Michael@live.thedreamfoundation.org

Speaking: For Against Information

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

Representing The Dream Foundation

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)

2/3/20

Meeting Date

SB 412C1

Bill Number (if applicable)

Topic SPECIALTY LICENSE PLATE

Amendment Barcode (if applicable)

Name JEFFREY SHARKEY

Job Title President Capital Alliance Group

Address 106 E Collyer Ave, Suite 640

Phone 850 224 1660

Street

Tallah

City

FL

State

32301

Zip

Email jeffrey@capitalalliancegroup.com

Speaking: For Against Information

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

Representing MARGARITAVILLE / SINGING FOR CHANGE

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)

3-3-20

Meeting Date

CS/SB 412

Bill Number (if applicable)

Topic SPECIAL TRGS

Amendment Barcode (if applicable)

Name TAYLOR BIEHL

Job Title Dir. Govt AFFAIRS

Address 106 E COLLEGE AVE STE 640

Phone 850-224-1660

City TLH State FL Zip 32301

Email Taylor@CapitolRelianceGroup.com

Speaking: For Against Information

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

Representing SINGLY FOR CHANGE

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)

3/3/2020

Meeting Date

412

Bill Number (if applicable)

Topic LICENSE PLATES

Amendment Barcode (if applicable)

Name RYAN MATTHEWS

Job Title _____

Address 301 S. BRONOUGH ST. SUITE 500 Phone 850 294 8591

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email RYAN@PSMFL.NET

Speaking: For Against Information

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

Representing FLORIDA MUNICIPAL ELECTRIC 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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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)

3/3/20
Meeting Date

412
Bill Number (if applicable)

Topic Solar Energy License Plate

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E. College Ave. #1200 Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

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

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

3/3/2020

Meeting Date

SB 412

Bill Number (if applicable)

Topic LICENSE TAX BILL

Amendment Barcode (if applicable)

Name KEYNA COEY

Job Title LOBBYIST

Address 730 E. PARK AVE

Phone 800 681 1065

Street

TAMMANSSEE

FL

32301

Email keynacoeypaconsultants.com

City

State

Zip

Speaking: For Against Information

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

Representing PALM BEACH ZOO

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 3 20

Meeting Date

412

Bill Number (if applicable)

Topic LICENSE PLATES

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title vol pres, Tallahassee Veterans Legal Collaborative

Address PO Box 1201

Phone 850/570-1967

Street

Tallahassee

Fl

32302

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20

Meeting Date

412

Bill Number (if applicable)

Topic LICENSE PLATES

Amendment Barcode (if applicable)

Name JOHN HAYNES

Job Title CHAIRMAN EMERITUS

Address 424 HIAWATHA FARMS RD

Phone 850-443-3451

Street

MONTICELLO, FL 32344

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing FLA, VETERANS FOUNDATION + TVLC

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)

3-3-20

Meeting Date

412

Bill Number (if applicable)

Topic Licency Plates

Amendment Barcode (if applicable)

Name Trip Aukeman

Job Title Dir. of Advocacy

Address _____
Street

Phone 559-0060

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.

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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)

3/3/20

Meeting Date

412

Bill Number (if applicable)

Topic LICENSE PLATES

Amendment Barcode (if applicable)

Name KEVIN NOONAN

Job Title DIRECTOR, LEGISLATIVE AFFAIRS

Address 100 W. ANDERSON ST

Phone 407.466.1287

Street

ORLANDO

FL

32801

Email KNOONAN@OUC.COM

City

State

Zip

Speaking: For Against Information

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

Representing ORLANDO UTILITIES COMMISSION

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)

912

Meeting Date

Bill Number (if applicable)

Topic License Rates

Amendment Barcode (if applicable)

Name Beth Labasley

Job Title Consultant

Address 1400 Village Sq Blvd

Phone 850 322 7335

Street

Jelley Fla 32712

Email bethlabasley@out.com

City

State

Zip

Speaking: For Against Information

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

Representing Self - GO DAWGS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

no compensation on this issue

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 Appropriations

BILL: PCS/CS/SB 414 (627258)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senators Bean and Harrell

SUBJECT: Fees/Specialty License Plates

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|------------|--------------------------|
| 1. | <u>Knight</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 414 establishes a standard annual use fee for specialty license plates of \$25, unless the amount is otherwise specified. The bill also establishes an annual use fee of \$50 for University of Alabama, University of Georgia, and Auburn University specialty license plates.

SB 412 (2020), to which this bill is linked, authorizes the creation of numerous specialty license plates, including the Alabama and Georgia collegiate plates; and provides for the design of the plates and the use of the annual fees associated with the specialty license plates.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill will have a negative, but insignificant fiscal impact associated with programming costs. These costs can be absorbed within existing resources.

The bill has an effective date on the same date that SB 412 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in statute.³

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁴ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁵

DHSMV Costs Defrayed

The DHSMV is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁶

University of Georgia

Founded in 1946 as the Georgia Alumni Association of Jacksonville, the Georgia Bulldog Club of Jacksonville is America's largest bulldog club.⁷ In 1988, the club established the Vince Dooley Scholarship Fund to award scholarships to attend the University of Georgia for students from Duval, Nassau, St. Johns, Clay, or Baker counties based on academic and economic need.⁸

University of Alabama

The Pensacola Bama Club is a chapter of the University of Alabama National Alumni Association. The club is a 501(c)(3) non-profit, fan-based organization representing the University of Alabama National Alumni Association in Pensacola, Florida, open to alumni, friends, and fans of the university. The organization's primary mission is to provide scholarships to deserving local high school students as well as play host to an annual kick-off event and game watching parties.⁹

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited February 6, 2020).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

⁴ Section 320.08056(10)(a), F.S.

⁵ Section 320.08062, F.S.

⁶ Section 320.08056(7), F.S.

⁷ Georgia Bulldog Club of Jacksonville, *Welcome to the Home of the Georgia Bulldog Club of Jacksonville*, <https://jaxbulldogs.com/> (last visited February 6, 2020)

⁸ Georgia Bulldog Club of Jacksonville, *Scholarship*, <https://jaxbulldogs.com/scholarship-fund/> (last visited February 6, 2020).

⁹ Pensacola Bama Club, *About*, <https://www.pensacolabamaclub.org/about> (last visited February 6, 2020).

III. Effect of Proposed Changes:

The bill amends s. 320.08056, F.S., to provide that, unless the amount of an annual use fee is otherwise specified for a particular specialty license plate, the annual use fee is \$25 for any specialty license plate that is required to be developed under s. 320.08058, F.S.

The bill also establishes an annual use fee of \$50 for University of Alabama, University of Georgia, and Auburn University specialty license plates.

The bill has an effective date on the same date that SB 412 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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:

Article VII, s.19 of the Florida Constitution requires “a supermajority vote” of two-thirds of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.¹⁰ A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹¹ A state tax or fee imposed or authorized must be contained in a separate bill that contains no other subject.¹²

The \$25 annual use fee that will be charged for any specialty license plate that the DHSMV is required to develop and the \$50 annual use fee for University of Alabama, University of Georgia, and Auburn University specialty license plates may be new state fees subject to the constitutional requirements.

E. Other Constitutional Issues:

None.

¹⁰ FLA. CONST. art. VII, s. 19(a).

¹¹ FLA. CONST. art. VII, s. 19(d)(1).

¹² FLA. CONST. art. VII, s. 19(e).

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

Individuals who choose to purchase a specialty license plate created in SB 412 will pay an additional use fee of \$25 in addition to required vehicle license taxes and fees.

Individuals who choose to purchase a University of Alabama or University of Georgia specialty license plate will pay an additional use fee of \$50 in addition to required vehicle license taxes and fees.

B. Private Sector Impact:

Revenue from the sale of the specialty license plates created in SB 412 will benefit numerous organizations listed in that bill.

Revenue from the sale of the University of Alabama specialty license plate created in SB 412 will benefit the Pensacola Bama Club, which must use the moneys for the purpose of awarding scholarships to Florida residents attending the University of Alabama.

Revenue from the sale of the University of Georgia specialty license plate created in SB 412 will benefit the Georgia Bulldog Club of Jacksonville, which must distribute the moneys received for the purpose of awarding scholarships to Florida residents attending the University of Georgia.

C. Government Sector Impact:

The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹³

VI. Technical Deficiencies:

This bill creates an annual use fee for a new specialty license plate for Auburn University, however the linked bill, SB 412, does not create a specialty license plate for Auburn University at this time.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.08056 of the Florida Statutes.

¹³ Section 320.08056(7), F.S.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 13, 2020:

The committee substitute adds a \$50 annual use fee for specialty license plates for Auburn University.

CS by Infrastructure and Security on February 3, 2020:

- Incorporates the linked bill number of SB 412.

- B. **Amendments:**

None.



627258

576-03604-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to fees; amending s. 320.08056, F.S.;
creating a uniform annual use fee collected for a
specialty license plate unless otherwise specified;
adding annual use fees for certain specialty license
plates; providing a contingent effective date.

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

Section 1. Paragraph (d) of subsection (3) of section
320.08056, Florida Statutes, is amended, and paragraphs (z),
(aa), and (bb) are added to subsection (4) of that section, as
amended by SB 412, 2020 Regular Session, to read:

320.08056 Specialty license plates.—

(3) Each request must be made annually to the department or
an authorized agent serving on behalf of the department,
accompanied by the following tax and fees:

(d) Unless the amount of an annual use fee is otherwise
specified A license plate annual use fee as required in
subsection (4) for a particular specialty license plate, an
annual use fee of \$25 for any specialty license plate that is
required to be developed under s. 320.08058.

A request may be made any time during a registration period. If
a request is made for a specialty license plate to replace a
current valid license plate, the specialty license plate must be



627258

576-03604-20

issued with appropriate decals attached at no tax for the plate,
but all fees and service charges must be paid. If a request is
made for a specialty license plate at the beginning of the
registration period, the tax, together with all applicable fees
and service charges, must be paid.

(4) The following license plate annual use fees shall be
collected for the appropriate specialty license plates:

(z) University of Alabama license plate, \$50.

(aa) University of Georgia license plate, \$50.

(bb) Auburn University license plate, \$50.

Section 2. This act shall take effect on the same date that
SB 412 or similar legislation takes effect, if such legislation
is adopted in the same legislative session or an extension
thereof and becomes a law.

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 Appropriations

BILL: CS/CS/SB 414

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senators Bean and Harrell

SUBJECT: Fees/Specialty License Plates

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|------------|--------------------------|
| 1. | <u>Knight</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 414 establishes a standard annual use fee for specialty license plates of \$25, unless the amount is otherwise specified. The bill also establishes an annual use fee of \$50 for University of Alabama, University of Georgia, and Auburn University specialty license plates.

SB 412 (2020), to which this bill is linked, authorizes the creation of numerous specialty license plates, including the Alabama and Georgia collegiate plates; and provides for the design of the plates and the use of the annual fees associated with the specialty license plates.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill will have a negative, but insignificant fiscal impact associated with programming costs. These costs can be absorbed within existing resources.

The bill has an effective date on the same date that SB 412 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in statute.³

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁴ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁵

DHSMV Costs Defrayed

The DHSMV is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁶

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Founded in 1946 as the Georgia Alumni Association of Jacksonville, the Georgia Bulldog Club of Jacksonville is America's largest bulldog club.⁷ In 1988, the club established the Vince Dooley Scholarship Fund to award scholarships to attend the University of Georgia for students from Duval, Nassau, St. Johns, Clay, or Baker counties based on academic and economic need.⁸

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The Pensacola Bama Club is a chapter of the University of Alabama National Alumni Association. The club is a 501(c)(3) non-profit, fan-based organization representing the University of Alabama National Alumni Association in Pensacola, Florida, open to alumni, friends, and fans of the university. The organization's primary mission is to provide scholarships to deserving local high school students as well as play host to an annual kick-off event and game watching parties.⁹

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited February 6, 2020).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

⁴ Section 320.08056(10)(a), F.S.

⁵ Section 320.08062, F.S.

⁶ Section 320.08056(7), F.S.

⁷ Georgia Bulldog Club of Jacksonville, *Welcome to the Home of the Georgia Bulldog Club of Jacksonville*, <https://jaxbulldogs.com/> (last visited February 6, 2020)

⁸ Georgia Bulldog Club of Jacksonville, *Scholarship*, <https://jaxbulldogs.com/scholarship-fund/> (last visited February 6, 2020).

⁹ Pensacola Bama Club, *About*, <https://www.pensacolabamaclub.org/about> (last visited February 6, 2020).

III. Effect of Proposed Changes:

The bill amends s. 320.08056, F.S., to provide that, unless the amount of an annual use fee is otherwise specified for a particular specialty license plate, the annual use fee is \$25 for any specialty license plate that is required to be developed under s. 320.08058, F.S.

The bill also establishes an annual use fee of \$50 for University of Alabama, University of Georgia, and Auburn University specialty license plates.

The bill has an effective date on the same date that SB 412 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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:

Article VII, s.19 of the Florida Constitution requires “a supermajority vote” of two-thirds of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.¹⁰ A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹¹ A state tax or fee imposed or authorized must be contained in a separate bill that contains no other subject.¹²

The \$25 annual use fee that will be charged for any specialty license plate that the DHSMV is required to develop and the \$50 annual use fee for University of Alabama, University of Georgia, and Auburn University specialty license plates may be new state fees subject to the constitutional requirements.

E. Other Constitutional Issues:

None.

¹⁰ FLA. CONST. art. VII, s. 19(a).

¹¹ FLA. CONST. art. VII, s. 19(d)(1).

¹² FLA. CONST. art. VII, s. 19(e).

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

Individuals who choose to purchase a specialty license plate created in SB 412 will pay an additional use fee of \$25 in addition to required vehicle license taxes and fees.

Individuals who choose to purchase a University of Alabama or University of Georgia specialty license plate will pay an additional use fee of \$50 in addition to required vehicle license taxes and fees.

B. Private Sector Impact:

Revenue from the sale of the specialty license plates created in SB 412 will benefit numerous organizations listed in that bill.

Revenue from the sale of the University of Alabama specialty license plate created in SB 412 will benefit the Pensacola Bama Club, which must use the moneys for the purpose of awarding scholarships to Florida residents attending the University of Alabama.

Revenue from the sale of the University of Georgia specialty license plate created in SB 412 will benefit the Georgia Bulldog Club of Jacksonville, which must distribute the moneys received for the purpose of awarding scholarships to Florida residents attending the University of Georgia.

C. Government Sector Impact:

The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹³

VI. Technical Deficiencies:

This bill creates an annual use fee for a new specialty license plate for Auburn University, however the linked bill, SB 412, does not create a specialty license plate for Auburn University at this time.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.08056 of the Florida Statutes.

¹³ Section 320.08056(7), F.S.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute adds a \$50 annual use fee for specialty license plates for Auburn University.

CS by Infrastructure and Security on February 3, 2020:

- Incorporates the linked bill number of SB 412.

- B. **Amendments:**

None.

By the Committee on Infrastructure and Security; and Senators
Bean and Harrell

596-03034-20

2020414c1

1 A bill to be entitled
2 An act relating to fees; amending s. 320.08056, F.S.;
3 creating a uniform annual use fee collected for a
4 specialty license plate unless otherwise specified;
5 adding annual use fees for certain specialty license
6 plates; providing a contingent effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (d) of subsection (3) of section
11 320.08056, Florida Statutes, is amended, and paragraphs (z) and
12 (aa) are added to subsection (4) of that section, as amended by
13 SB 412, 2020 Regular Session, to read:
14 320.08056 Specialty license plates.—
15 (3) Each request must be made annually to the department or
16 an authorized agent serving on behalf of the department,
17 accompanied by the following tax and fees:
18 (d) Unless the amount of an annual use fee is otherwise
19 specified ~~A license plate annual use fee as required~~ in
20 subsection (4) for a particular specialty license plate, an
21 annual use fee of \$25 for any specialty license plate that is
22 required to be developed under s. 320.08058.
23
24 A request may be made any time during a registration period. If
25 a request is made for a specialty license plate to replace a
26 current valid license plate, the specialty license plate must be
27 issued with appropriate decals attached at no tax for the plate,
28 but all fees and service charges must be paid. If a request is
29 made for a specialty license plate at the beginning of the

Page 1 of 2

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

596-03034-20

2020414c1

30 registration period, the tax, together with all applicable fees
31 and service charges, must be paid.
32 (4) The following license plate annual use fees shall be
33 collected for the appropriate specialty license plates:
34 (z) University of Alabama license plate, \$50.
35 (aa) University of Georgia license plate, \$50.
36 Section 2. This act shall take effect on the same date that
37 SB 412 or similar legislation takes effect, if such legislation
38 is adopted in the same legislative session or an extension
39 thereof and becomes a law.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 13, 2020

I respectfully request that **Senate Bill # 414**, relating to Fees/Specialty License Plates, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

3-3-20

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

Meeting Date

414

Bill Number (if applicable)

Topic LICENSE PLATES / FEES

Amendment Barcode (if applicable)

Name JOHN HAYNES

Job Title CHAIRMAN EMERITUS

Address 424 HIAWATHA FARMS RD

Phone 850-443-3451

MONTICELLO, FL 32394

Email _____

Speaking: For Against Information

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

Representing FLA. VETERANS FOUNDATION / + TVLC

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 3 20

Meeting Date

414

Bill Number (if applicable)

Topic LICENSE PLATES/ FEES

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title vol pres, Tallahassee Veterans Legal Collaborative

Address PO Box 1201

Phone 850/570-1967

Street

Tallahassee

FL

32302

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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 Appropriations

BILL: CS/CS/SB 506

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee; and Senator Perry

SUBJECT: Public Procurement of Services

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------------|----------------|------------|-----------------------------|
| 1. | <u>Ponder</u> | <u>McVaney</u> | <u>GO</u> | <u>Fav/CS</u> |
| 2. | <u>Davis/Betta</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Favorable</u> |
| 3. | <u>Davis</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 506 amends the definition of “continuing contract” under the Consultants’ Competitive Negotiation Act (CCNA) to increase the maximum dollar amount for each individual project and each individual study under the contract for construction projects. The maximum dollar amount for each individual project is increased from \$2 million to \$4 million, and the maximum dollar amount for each individual study is increased from \$200,000 to \$500,000.

The bill makes conforming revisions to section 255.103(4), Florida Statutes (authorizing local governmental entities to use the CCNA selection process), increasing the maximum dollar amount for continuing contracts of local governments from \$2 million to \$4 million.

With the enactment of a higher monetary threshold for these continuing contracts, the state and local governments may have fewer procurements of these services, resulting in lower overall costs.

The bill takes effect July 1, 2020.

II. Present Situation:

State Agency Construction and Department of Management Services (DMS)

Section 255.29, F.S., authorizes the DMS to adopt rules pursuant to Chapter 120, F.S., for bidding on building construction contracts. Specifically, the DMS is required to establish procedures:

- Determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts, including procedures for the rejection of bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract.
- Awarding each state agency construction project to the lowest qualified bidder as well as procedures for waiver of the rules in an emergency.
- Negotiating and modifying construction contracts.
- Entering into performance-based contracts for the development of public facilities when determined to be in the best interest of the state.¹

Competitive Procurement Generally

Chapter 255, F.S., provides the procurement process for public construction works.² Section 255.103, F.S., authorizes a “governmental entity”³ to select a construction management entity or program management entity pursuant to s. 287.055, F.S., and at the option of the governmental entity, to require a guaranteed maximum price or a guaranteed completion date.⁴ If a project includes a grouping of substantially similar construction, rehabilitation, or renovation activities, the public subdivision may require a separate guaranteed maximum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities.⁵

Section 255.103(4), F.S., authorizes a governmental entity to enter into a continuing contract for construction projects, in accordance with s. 287.055, F.S., in which the estimated contract does not exceed \$2 million. The term “continuing contract” is defined in s. 255.103(4), F.S., to mean “a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract.”

Part I of ch. 287, F.S., provides “a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services” to protect the public by promoting “fair and open competition,” thereby reducing the appearance and opportunity for favoritism and misconduct.⁶ The term “agency” is defined to mean “any of the various state officers, departments, board commissions, divisions, bureaus, and councils and any other unit of

¹ Section 255.29, F.S.

² Section 255.065(2), F.S.

³ Section 255.103(1), F.S. defines the term “governmental entity” to mean “a county, municipality, school district, special district, special district as defined in chapter 189, or political subdivision of the state.”

⁴ Section 255.103(2), F.S.

⁵ *Id.*

⁶ Section 287.001, F.S.

organization, however designated, of the executive boards of state government.⁷ University and college boards of trustees, and the state universities and colleges are excluded from this definition.⁸ Agencies, pursuant to s. 287.057, F.S., may procure commodities and contractual services via competitive solicitation processes that include: (i) the invitation to bid; (ii) the request for proposals; and (iii) the invitation to negotiate.

The Consultants' Competitive Negotiation Act

The CCNA, s. 287.055, F.S., deviates from the remainder of part I chapter 287 in two ways. First, unlike the competitive solicitation process outlined in s. 287.057, F.S., the CCNA creates a qualifications based process - for the procurement of professional architectural, engineering, landscape architectural, or registered surveyor and mapper services.⁹ Additionally, the CCNA applies to local governments as well as state agencies and defines providing its own definition of agency.¹⁰ "Agency" is defined by the CCNA to mean the "state, a state agency, a municipality, a political subdivision, a school district or a school board."¹¹

The CCNA permits the use of continuing contracts for professional services defining the term "continuing contract" as:

A contract for professional services entered into in accordance with all procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another."¹²

The qualifications based selection process of the CCNA contemplates a three-step process: public announcement of the project, qualifications-based selection of the professional firm, and arms-length competitive negotiations with the most qualified firm.¹³

The public announcement is to be conducted by agencies in a consistent and uniform manner and is to occur on each occasion when professional services are required to be purchased for:

⁷ Section 287.012(1), F.S.

⁸ *Id.*

⁹ *See* Section 287.055, F.S.

¹⁰ *See* Section 287.055(1)(b), F.S.

¹¹ Section 287.055(2)(b), F.S. *See* Section 1.01(8), F.S., defining "political subdivision" to include "counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state."

¹² Section 287.055(2)(g), F.S.

¹³ *See* Section 287.055, F.S.

- A project when the basic construction cost of which is estimated by the agency to exceed \$325,000;¹⁴ or
- A planning or study activity for professional services that exceeds \$35,000.¹⁵

The public notice must provide a general description of the project and describe how the interested consultants are to apply for consideration.

A consultant who wishes to provide professional services to an agency must first be certified by the agency as qualified to provide the needed services pursuant to law and the agency's regulations.¹⁶ In determining a firm or individual to be qualified, the agency must consider the capabilities, adequacy of personnel, past record, experience as well as whether the firm or individual is a certified minority business enterprise.¹⁷

During the competitive selection phase, the agency must evaluate current statements of qualifications and performance data of the bidders.¹⁸ The agency must select no fewer than three firms deemed to be the most highly qualified to perform the required services.¹⁹ The statute directs agencies to consider the following when determining whether a firm is qualified:

- The ability of professional personnel;
- Whether a firm is a certified minority business enterprise;
- Past performance;
- Willingness to meet time and budget requirements;
- Location;
- Recent, current, and projected workloads of the firms; and
- The volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.²⁰

The agency is prohibited from requesting, accepting and considering proposals for the compensation to be paid during the competitive selection process.²¹ Section 287.055(d), F.S., defines "compensation" to mean "the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated."

Next, the agency negotiates compensation to be paid under the contract with the most qualified of the three selected firms.²² Should the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations may be made with the second most qualified firm.²³

¹⁴ The amount provided in Category Five from the purchasing categories in s. 287.017, F.S.

¹⁵ The amount provide in Category Two from the purchasing categories in s. 287.017, F.S.

¹⁶ Section 287.055(3)(c) F.S.

¹⁷ Section 287.055(3)(d), F.S.

¹⁸ Section 287.055(4)(a), F.S.

¹⁹ Section 287.055(4)(b), F.S.

²⁰ *Id.*

²¹ *Id.*

²² Section 287.055(5)(a), F.S.

²³ Section 287.055(5)(b), F.S.

The agency may negotiate with the third most qualified firm if the negotiation with the second fails to produce a satisfactory contract.²⁴ If a satisfactory contract cannot be negotiated with any of the three firms selected, the agency must begin the qualifications-based selection process again.²⁵

III. Effect of Proposed Changes:

The bill revises the maximum dollar amount for continuing contracts for construction projections.

Section 1 amends s. 255.103, F.S., to increase the maximum dollar amount for a continuing contract for construction projects from \$2 million to \$4 million.

Section 2 revises s. 287.055, F.S., to increase the maximum dollar amount for a continuing contract for professional services from \$2 million to \$4 million. Additionally, the bill increases the maximum amount for professional services for each individual study under the contract from \$200,000 to \$500,000.

Section 3 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impact state or local taxes or fees.

E. Other Constitutional Issues:

None identified.

²⁴ *Id.*

²⁵ Section 287.055(5)(c), F.S.

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

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on the private sector. The increased maximum dollar amount for continuing contracts for construction projects would theoretically allow for more projects to be covered under a continuing contract and reduce the frequency in which a firm must undergo the lengthy CCNA qualification process.

C. Government Sector Impact:

The competitive selection and negotiation process is time consuming and costly for the government sector. The bill, by increasing the maximum dollar amount for continuing contracts, captures more related services and may reduce costs with a more efficient delivery of services to market. Thus, the bill may have an indeterminate positive fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Because ss. 287.055 and 255.103, F.S., are substantially similar, and Part 1 of ch. 287, F.S., generally applies only state agencies, it is suggested consideration be given to moving s. 287.055, F.S., to ch. 255, F.S.

Section 255.32, F.S., authorizes the DMS to select and contract with a construction management entity pursuant to the process provided in s. 287.055, F.S. and to enter into continuing contracts²⁶ for projects in which construction costs do not exceed \$2 million. It is suggested that the monetary limitation for a continuing contract in s. 255.32(3), F.S., be revised to conform to the maximum dollar amount provided for in the bill for continuing contracts.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 255.103 and 287.055.

²⁶ Section 255.32, F.S., defines “continuing contract” as “a contract with a construction management entity for work during a defined time period on construction projects described by type, which may or may not be identified at the time of entering into the contract.”

IX. Additional Information:

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

CS/CS/ by Appropriations on March 3, 2020:

The committee substitute revises the maximum dollar amounts included in the bill for continuing contracts covered by the CCNA by reducing the estimated per-project construction cost from \$5 million to \$4 million.

CS by Governmental Oversight and Accountability on January 13, 2020:

The committee substitute eliminates a provision allowing the statutory cap for continuing contracts procured under the CCNA to be adjusted annually and removes the accompanying language requiring DMS to engage in annual rulemaking to adjust the statutory maximum dollar amount based on the Engineering News-Record's Construction Cost Index.

- B. **Amendments:**

None.



174496

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment

Delete lines 21 - 39
and insert:
individual project under the contract does not exceed \$4 ~~\$2~~
million. For purposes of this subsection, the term "continuing
contract" means a contract with a construction management or
program management entity for work during a defined period on
construction projects described by type which may or may not be
identified at the time of entering into the contract.



174496

11 Section 2. Paragraph (g) of subsection (2) of section
12 287.055, Florida Statutes, is amended to read:

13 287.055 Acquisition of professional architectural,
14 engineering, landscape architectural, or surveying and mapping
15 services; definitions; procedures; contingent fees prohibited;
16 penalties.—

17 (2) DEFINITIONS.—For purposes of this section:

18 (g) A “continuing contract” is a contract for professional
19 services entered into in accordance with all the procedures of
20 this act between an agency and a firm whereby the firm provides
21 professional services to the agency for projects in which the
22 estimated construction cost of each individual project under the
23 contract does not exceed \$4 ~~\$2~~ million, for study activity if

By the Committee on Governmental Oversight and Accountability;
and Senator Perry

585-02223-20

2020506c1

1 A bill to be entitled
2 An act relating to the public procurement of services;
3 amending s. 255.103, F.S.; revising the maximum dollar
4 amount for continuing contracts for construction
5 projects; amending s. 287.055, F.S.; revising the term
6 "continuing contract" to increase certain maximum
7 dollar amounts for professional architectural,
8 engineering, landscape architectural, and surveying
9 and mapping services; providing an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Subsection (4) of section 255.103, Florida
14 Statutes, is amended to read:
15 255.103 Construction management or program management
16 entities.—
17 (4) A governmental entity's authority under subsections (2)
18 and (3) includes entering into a continuing contract for
19 construction projects, pursuant to the process provided in s.
20 287.055, in which the estimated construction cost of each
21 individual project under the contract does not exceed \$5 ~~\$2~~
22 million. For purposes of this subsection, the term "continuing
23 contract" means a contract with a construction management or
24 program management entity for work during a defined period on
25 construction projects described by type which may or may not be
26 identified at the time of entering into the contract.
27 Section 2. Paragraph (g) of subsection (2) of section
28 287.055, Florida Statutes, is amended to read:
29 287.055 Acquisition of professional architectural,

Page 1 of 2

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

585-02223-20

2020506c1

30 engineering, landscape architectural, or surveying and mapping
31 services; definitions; procedures; contingent fees prohibited;
32 penalties.—
33 (2) DEFINITIONS.—For purposes of this section:
34 (g) A "continuing contract" is a contract for professional
35 services entered into in accordance with all the procedures of
36 this act between an agency and a firm whereby the firm provides
37 professional services to the agency for projects in which the
38 estimated construction cost of each individual project under the
39 contract does not exceed \$5 ~~\$2~~ million, for study activity if
40 the fee for professional services for each individual study
41 under the contract does not exceed \$500,000, ~~\$200,000~~, or for
42 work of a specified nature as outlined in the contract required
43 by the agency, with the contract being for a fixed term or with
44 no time limitation except that the contract must provide a
45 termination clause. Firms providing professional services under
46 continuing contracts shall not be required to bid against one
47 another.
48 Section 3. This act shall take effect July 1, 2020.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

506
Bill Number (if applicable)

174496
Amendment Barcode (if applicable)

Topic Public Procurement of Services

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Pkwy, JK 200 Phone (954) 465-1084
Street

Coconut Creek FL 33066 Email cbowen@pubeasthonda.com
City State Zip

Speaking: For Against Information

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

Representing Associated Builders and Contractors

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)

3/3/20
Meeting Date

506
Bill Number (if applicable)

Topic Public Procurement of Services

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Parkway, Ste 200
Street

Phone (954) 465-6811

Coconut Creek, FL 33066
City State Zip

Email cbowen@abcahonda.com

Speaking: For Against Information

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

Representing Associated Builders and Contractors

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)

3/3/20

Meeting Date

506

Bill Number (if applicable)

Topic Public Procurement

Amendment Barcode (if applicable)

Name Allen Douglas

Job Title Exec. Director

Address 125 S. Gadsden St

Phone 850 224 7121

Street

Tallahassee FL 32301

Email allen@fieng.org

City

State

Zip

Speaking: For Against Information

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

Representing American Council of Engineering Companies

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 Appropriations

BILL: CS/CS/SB 728

INTRODUCER: Criminal Justice Committee; Infrastructure and Security Committee; and Senators Stargel and Hutson

SUBJECT: Threats

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|-----------|------------------|
| 1. | <u>Price</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Cellon</u> | <u>Jones</u> | <u>CJ</u> | <u>Fav/CS</u> |
| 3. | <u>Forbes</u> | <u>Kynoch</u> | <u>AP</u> | <u>Favorable</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 728 amends section 790.162, Florida Statutes, to prohibit threatening to use a firearm or weapon at certain locations with intent to do bodily harm to any person or to do damage to any of the designated properties, if the threat is sufficient to cause alarm in a reasonable person. The crime is punishable as a third degree felony. The bill also amends the current degree of the offense of threatening to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person from a second degree felony to a third degree felony.

The bill provides that a person is not in violation of the new law prohibiting threatening to use a firearm or weapon at certain locations if he or she uses or threatens to use a firearm or any other weapon in lawful self-defense, lawful defense of others, or lawful defense of property.

The Criminal Punishment Code offense severity ranking chart is amended to include the new crime of threatening to use a firearm or weapon with intent to do bodily harm to any person or to do damage to any property of any person, if the threat is sufficient to cause alarm in a reasonable person as a Level 5 and to incorporate changes made by the bill.

The Criminal Justice Impact Conference considered the previous version of this bill (CS/SB 728) on January 27, 2020, and determined that it would have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds). See Section V.

The bill takes effect October 1, 2020.

II. Present Situation:

Definitions

Chapter 790, F.S., relating to weapons and firearms defines the following terms for purposes of that chapter:

- “Destructive device” means any bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms;¹ any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device.²
- “Firearm” means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun.³
- “Weapon” means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife.⁴

¹ For the purposes of the National Firearms Act, the term “destructive device” means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10, United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes. 26 U.S.C. 5845(f).

² Section 790.001(4), F.S. The term under Florida law does not include a device which is not designed, redesigned, used, or intended for use as a weapon; any destructive device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device; any shotgun other than a short-barreled shotgun; or any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

³ Section 790.001(6), F.S. The term does not include an antique firearm unless the antique firearm is used in the commission of a crime.

⁴ Section 790.001(13), F.S.

Threat to Throw, Project, Place, or Discharge Any Destructive Device

Section 790.162, F.S., currently makes it unlawful for any person to threaten to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person. A violation is a second degree felony, punishable by an imprisonment term not exceeding 15 years and up to a \$10,000 fine.⁵

The courts have construed s. 790.162, F.S., determining that whether an offender intended to carry out a threat is irrelevant,⁶ and there need not be proof that an actual destructive device existed.⁷

Criminal Punishment Code

The Criminal Punishment Code (Code) is Florida's primary sentencing policy.⁸ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁹ 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 offense 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.¹⁰ Absent mitigation,¹¹ 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.

III. Effect of Proposed Changes:

The bill amends s. 790.162, F.S., to expand that section's applicability to include threats involving the use of a firearm or any weapon.

Specifically, the bill makes it a third degree felony¹² for any person to threaten the use of a firearm or any weapon at a child care facility as defined in s. 402.302, F.S., a school as defined

⁵ Sections 775.082, and 775.083, F.S.

⁶ "[T]he threat must convey an intent to do bodily harm or damage to property. Here, appellant's threat obviously conveyed this intent. Therefore, under our construction of the statute, whether appellant intended to follow through with his threat was irrelevant." *Reid v. State*, 405 So.2d 500, 501 (Fla. 2d DCA 1981).

⁷ "[T]he State need not prove the existence of an actual destructive device. It is sufficient that the State prove that the defendant threatened to throw, place, or discharge a destructive device with the stated intent to do bodily harm to any person or with the stated intent to do damage to any property of any person, regardless of whether the defendant had the actual ability to carry out that threat." *Valdes v. State*, 443 So.2d 221, 222 (Fla. 1st DCA 1983).

⁸ 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.

⁹ 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.

¹⁰ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

¹¹ 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.

¹² A third degree felony is punishable by up to 5 years' imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

in s. 790.115(2)(a), F.S., a religious institution as defined in s. 496.404(23), F.S., a theme park complex as defined in s. 817.361(1)(c), F.S., or any building owned by a federal, state, county, municipality, or other local government or political subdivision, with intent to do bodily harm to any person or with intent to do damage to any of the designated properties, if the threat is sufficient to cause alarm in a reasonable person.

The bill provides that a person does not violate the prohibition against threatening to use a firearm or any weapon if the person uses or threatens to use a firearm or any other weapon in lawful self-defense, lawful defense of others, or lawful defense of property.

The bill also changes the felony degree of the offense of threatening to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person from a second degree felony to a third degree felony.

The bill amends s. 921.0222, F.S., the offense severity ranking chart of the Criminal Punishment Code to revise the degree of crime for the violation of s. 790.162(1), F.S., as amended, from a second to a third degree felony. This is the crime of threatening to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person.

The bill also adds the crime of threat involving a firearm or weapon as a Level 5 to the Criminal Punishment Code offense severity ranking chart.

The bill takes effect October 1, 2020.

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:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference which provides the final, official estimate of the prison bed impact, if any, considered the previous version of this bill (CS/SB 728) on January 27, 2020, and determined that it would have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds).

According the Department of Corrections (DOC), there have only been an average of 4 probation and 3 prison admissions for this offense over the past 3 years. However, for a similar offense of Aggravated Assault with a Weapon, there have been an average of 1,048 probation admissions and 483 prison admissions over the past 3 years. The impact of adding the elements of firearms and weapons to this section is unknown, because currently these offenses would probably be captured in another offense such as Aggravated Assault with a Weapon, therefore the impact is indeterminate.¹³

The Public Defender Association, Inc. indicates the bill would have an indeterminate effect on public defender caseloads. The Association also notes that it is difficult to project how many cases would be filed under the new felony created in s. 790.162, F.S.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:**Threats**

The First Amendment to the U.S. Constitution does not protect “true threats” as free speech and states are not restricted from banning such threats.¹⁵ The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats “protect[s] individuals from the fear of violence” and “from the disruption that fear engenders,” in addition to protecting people “from the possibility that the threatened violence will occur.”¹⁶

¹³ The Department of Corrections, *2020 Agency Legislative Bill Analysis* for SB 728, (January 24, 2020), p. 2 (on file with the Senate Committee on Appropriations).

¹⁴ Florida Public Defender Association, Inc., *Fiscal Analysis of SB 728* (on file with the Senate Committee on Appropriations).

¹⁵ *Virginia v. Black*, 538 U.S. 343, 344 (2003) quoting *Watts v. United States*, 394 U.S. 705, 708 (1969).

¹⁶ *Id.*; see also *R.A.V. v. City of St. Paul, Minn.*, 505 U.S. 377, 388 (1992).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 790.162 and 921.0022.

IX. Additional Information:

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

CS/CS by Criminal Justice on February 4, 2020:

The committee substitute:

- Renumbers and reorganizes subsections in s. 790.162, F.S.
- Deletes the reference to the *future* throwing, projecting, placing, or discharging of any destructive device in s. 790.162, F.S.
- Deletes provisions related to the *future* threat to use a firearm or any weapon in s. 790.162, F.S.
- Changes the felony degree of the crime of threatening to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person to a third degree felony from a second degree felony and makes the corresponding changes in the Criminal Punishment Code offense severity ranking chart.
- Limits the application of s. 790.162(2), F.S., to the following locations:
 - A child care facility as defined in s. 402.302, F.S.;
 - A school as defined in s. 790.115(2)(a), F.S.;
 - A religious institution as defined in s. 496.404(23), F.S.;
 - A theme park complex as defined in s. 817.361(1)(c), F.S.; or
 - Any building owned by a federal, state, county, municipality, or other local government or political subdivision.
- Deletes sections 2 and 3 from the CS, which removes the provisions related to *current or future false reports* regarding the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction (s. 790.163, F.S.) and the use of firearms in a violent manner against a person (s. 790.164, F.S.).

CS by Infrastructure and Security on January 13, 2020:

The committee substitute:

- Includes as a violation of law a threat of *future* use of a firearm or any weapon if the threat is sufficient to cause alarm in a reasonable person;
- Includes the *future* throwing, projecting, placing, or discharging of any destructive device in the existing prohibition against such threats;
- Provides a person is not in violation if he or she threatens to use a firearm or any other weapon in lawful self-defense, or in lawful defense of others or of property; and
- Revises existing prohibitions against making a false report, with intent to deceive, mislead, or misinform any person, to apply to those reports concerning the *current or future* placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction, or concerning the *current or future* use of firearms in a violent manner against a person.

B. Amendments:

None.

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

By the Committees on Criminal Justice; and Infrastructure and Security; and Senators Stargel and Hutson

591-03085-20

2020728c2

1 A bill to be entitled
 2 An act relating to threats; amending s. 790.162, F.S.;
 3 decreasing the criminal penalty for threatening to
 4 throw, project, place, or discharge any destructive
 5 device with intent to do bodily harm to any person or
 6 with intent to do damage to any property of any
 7 person; prohibiting threats to use a firearm or weapon
 8 with specified intent; providing applicability;
 9 providing criminal penalties; amending s. 921.0022,
 10 F.S.; conforming provisions to changes made by the
 11 act; providing an effective date.

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

14
 15 Section 1. Section 790.162, Florida Statutes, is amended to
 16 read:

17 790.162 Threats involving a firearm, weapon, or Threat to
 18 throw, project, place, or discharge any destructive device,
 19 felony; penalty.-

20 (1) It is unlawful for any person to threaten to throw,
 21 project, place, or discharge any destructive device with intent
 22 to do bodily harm to any person or with intent to do damage to
 23 any property of any person. A person who violates this
 24 subsection, and any person convicted thereof commits a felony of
 25 the third ~~second~~ degree, punishable as provided in s. 775.082,
 26 s. 775.083, or s. 775.084.

27 (2) It is unlawful for any person to threaten the use of a
 28 firearm or any weapon at a child care facility as defined in s.
 29 402.302, a school as defined in s. 790.115(2)(a), a religious

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30 institution as defined in s. 496.404(23), a theme park complex
 31 as defined in s. 817.361(1)(c), or any building owned by a
 32 federal, state, county, municipality, or other local government
 33 or political subdivision, with intent to do bodily harm to any
 34 person or with intent to do damage to any of the listed
 35 properties, if the threat is sufficient to cause alarm in a
 36 reasonable person. A person who violates this subsection commits
 37 a felony of the third degree, punishable as provided in s.
 38 775.082, s. 775.083, or s. 775.084.

39 (3) A person does not violate subsection (2) if he or she
 40 uses or threatens to use a firearm or any other weapon in lawful
 41 self-defense, lawful defense of others, or lawful defense of
 42 property.

43 Section 2. Paragraph (e) of subsection (3) of section
 44 921.0022, Florida Statutes, is amended to read:

45 921.0022 Criminal Punishment Code; offense severity ranking
 46 chart.-

47 (3) OFFENSE SEVERITY RANKING CHART

48 (e) LEVEL 5

49

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|---|
| 316.027(2)(a) | 3rd | Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene. |
| 316.1935(4)(a) | 2nd | Aggravated fleeing or eluding. |

50
51

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52

316.80(2) 2nd Unlawful conveyance of fuel;
obtaining fuel fraudulently.

53

322.34(6) 3rd Careless operation of motor
vehicle with suspended license,
resulting in death or serious
bodily injury.

54

327.30(5) 3rd Vessel accidents involving
personal injury; leaving scene.

55

379.365(2)(c)1. 3rd Violation of rules relating to:
willful molestation of stone
crab traps, lines, or buoys;
illegal bartering, trading, or
sale, conspiring or aiding in
such barter, trade, or sale, or
supplying, agreeing to supply,
aiding in supplying, or giving
away stone crab trap tags or
certificates; making, altering,
forging, counterfeiting, or
reproducing stone crab trap
tags; possession of forged,
counterfeit, or imitation stone
crab trap tags; and engaging in
the commercial harvest of stone
crabs while license is

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

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56

suspended or revoked.

379.367(4)

3rd

Willful molestation of a
commercial harvester's spiny
lobster trap, line, or buoy.

57

379.407(5)(b)3.

3rd

Possession of 100 or more
undersized spiny lobsters.

58

381.0041(11)(b)

3rd

Donate blood, plasma, or organs
knowing HIV positive.

59

440.10(1)(g)

2nd

Failure to obtain workers'
compensation coverage.

60

440.105(5)

2nd

Unlawful solicitation for the
purpose of making workers'
compensation claims.

61

440.381(2)

3rd

Submission of false,
misleading, or incomplete
information with the purpose of
avoiding or reducing workers'
compensation premiums.

62

624.401(4)(b)2.

2nd

Transacting insurance without a
certificate or authority;
premium collected \$20,000 or
more but less than \$100,000.

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63

626.902(1)(c) 2nd Representing an unauthorized insurer; repeat offender.

64

790.01(2) 3rd Carrying a concealed firearm.

65

790.162(1) ~~3rd 2nd~~ Threat to throw or discharge destructive device.
~~790.162~~

66

790.162(2) 3rd Threat involving firearm or weapon.

67

790.163(1) 2nd False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.

68

790.221(1) 2nd Possession of short-barreled shotgun or machine gun.

69

790.23 2nd Felons in possession of firearms, ammunition, or electronic weapons or devices.

70

796.05(1) 2nd Live on earnings of a prostitute; 1st offense.

71

800.04(6)(c) 3rd Lewd or lascivious conduct; offender less than 18 years of

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72

age.

800.04(7)(b) 2nd Lewd or lascivious exhibition; offender 18 years of age or older.

73

806.111(1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

74

812.0145(2)(b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

75

812.015 3rd Retail theft; property stolen (8)(a) & (c)-(e) is valued at \$750 or more and one or more specified acts.

76

812.019(1) 2nd Stolen property; dealing in or trafficking in.

77

812.131(2)(b) 3rd Robbery by sudden snatching.

78

812.16(2) 3rd Owning, operating, or conducting a chop shop.

79

817.034(4)(a)2. 2nd Communications fraud, value \$20,000 to \$50,000.

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80

817.234(11)(b) 2nd Insurance fraud; property value
\$20,000 or more but less than
\$100,000.

81

817.2341(1), 3rd Filing false financial
(2)(a) & (3)(a) statements, making false
entries of material fact or
false statements regarding
property values relating to the
solvency of an insuring entity.

82

817.568(2)(b) 2nd Fraudulent use of personal
identification information;
value of benefit, services
received, payment avoided, or
amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
persons.

83

817.611(2)(a) 2nd Traffic in or possess 5 to 14
counterfeit credit cards or
related documents.

84

817.625(2)(b) 2nd Second or subsequent fraudulent
use of scanning device,
skimming device, or reencoder.

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85

825.1025(4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

86

827.071(4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a
child.

87

827.071(5) 3rd Possess, control, or
intentionally view any
photographic material, motion
picture, etc., which includes
sexual conduct by a child.

88

828.12(2) 3rd Tortures any animal with intent
to inflict intense pain,
serious physical injury, or
death.

89

839.13(2)(b) 2nd Falsifying records of an
individual in the care and
custody of a state agency
involving great bodily harm or
death.

90

843.01 3rd Resist officer with violence to

Page 8 of 11

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

591-03085-20 2020728c2

91 person; resist arrest with violence.

847.0135(5)(b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

92 847.0137 3rd Transmission of pornography by (2) & (3) electronic device or equipment.

93 847.0138 3rd Transmission of material (2) & (3) harmful to minors to a minor by electronic device or equipment.

94 874.05(1)(b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

95 874.05(2)(a) 2nd Encouraging or recruiting person under 13 years of age to join a criminal gang.

96 893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

97

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893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

98 893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.

99 893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a

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specified business site.

100

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.

101

893.13(4)(b) 2nd Use or hire of minor; deliver to minor other controlled substance.

102

893.1351(1) 3rd Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

103

104

Section 3. This act shall take effect October 1, 2020.



2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

| <u>BILL INFORMATION</u> | |
|--------------------------------|------------------------|
| BILL NUMBER: | <u>SB 728</u> |
| BILL TITLE: | <u>Threats</u> |
| BILL SPONSOR: | Senator Stargel |
| EFFECTIVE DATE: | <u>October 1, 2020</u> |

| <u>COMMITTEES OF REFERENCE</u> |
|---------------------------------------|
| 1) Infrastructure and Security |
| 2) Criminal Justice |
| 3) Appropriations |
| 4) |
| 5) |

| <u>CURRENT COMMITTEE</u> |
|---------------------------------|
| |

| <u>SIMILAR BILLS</u> | |
|-----------------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

| <u>PREVIOUS LEGISLATION</u> | |
|------------------------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |
| YEAR: | |
| LAST ACTION: | |

| <u>IDENTICAL BILLS</u> | |
|-------------------------------|-------------------------|
| BILL NUMBER: | HB 311 |
| SPONSOR: | Representative Massullo |

| <u>Is this bill part of an agency package?</u> |
|---|
| No |

| <u>BILL ANALYSIS INFORMATION</u> | |
|---|--------------------------------|
| DATE OF ANALYSIS: | January 24, 2020 |
| LEAD AGENCY ANALYST: | Joe Winkler |
| ADDITIONAL ANALYST(S): | Gregory Roberts, Sibyle Walker |
| LEGAL ANALYST: | Philip Fowler |
| FISCAL ANALYST: | Suzanne Hamilton |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill amends s. 790.162, F.S., prohibits the use of a firearm or weapon to threaten a person with intent to do bodily harm or to do damage to their property.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The current language of this statute reads, s. "790.162, F.S., Threat to throw, project, place, or discharge any destructive device, felony; penalty.—It is unlawful for any person to threaten to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person, and any person convicted thereof commits a felony of the second degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S."

S. 784.011, F.S., assault currently reads: "an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent."

In s. 784.021, F.S., "aggravated assault is an assault,

- (a) with a deadly weapon without intent to kill; or
- (b) with an intent to commit a felony".

Whoever commits an aggravated assault shall be guilty of a felony of the third degree.

2. EFFECT OF THE BILL:

This bill adds firearms and weapons with destructive devices to this section. Over the past 3 years there have only been an average of 4 probation and 3 prison admissions for this offense. However, for a similar offense of Aggravated Assault with a Weapon, there have been an average of 1,048 probation admissions and 483 prison admissions over the past 3 years. The impact of adding the elements of firearms and weapons to this section is unknown, because currently these offenses would probably be captured in another offense such as Aggravated Assault with a Weapon, therefore the impact is indeterminate.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

| | |
|--|---|
| If yes, explain: | |
| Is the change consistent with the agency's core mission? | Y <input type="checkbox"/> N <input type="checkbox"/> |
| Rule(s) impacted (provide references to F.A.C., etc.): | |

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

| | |
|-------------------------------------|---------|
| Proponents and summary of position: | Unknown |
| Opponents and summary of position: | Unknown |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

| | |
|--|--|
| | |
|--|--|

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appoints: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

| | |
|---|---------|
| Revenues: | Unknown |
| Expenditures: | Unknown |
| Does the legislation increase local taxes or fees? If yes, explain. | No |
| If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase? | |

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

| | |
|--|---|
| Revenues: | N/A |
| Expenditures: | <p>Overall inmate and community supervision population fiscal impact is indeterminate.</p> <p>When inmate population is impacted in small increments statewide, the inmate variable per diem of \$20.04 is the most appropriate to use. This per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The Department's FY 17-18 average per diem for community supervision was \$5.47.</p> |
| Does the legislation contain a State Government appropriation? | No |
| If yes, was this appropriated last year? | |

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

| | |
|---------------|---------|
| Revenues: | Unknown |
| Expenditures: | Unknown |
| Other: | |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

| | |
|-------------------------|--|
| If yes, explain impact. | |
| Bill Section Number: | |

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

| | |
|--|--|
| If yes, describe the anticipated impact to the agency including any fiscal impact. | The technology impact is indeterminate at this time. |
|--|--|

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

| | |
|--|--|
| If yes, describe the anticipated impact including any fiscal impact. | |
|--|--|

ADDITIONAL COMMENTS

N/A.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|---------------------------|------|
| Issues/concerns/comments: | N/A. |
|---------------------------|------|



Florida Public Defender Association, Inc.

Fiscal Analysis of SB 728

PUBLIC DEFENDERS

*Bruce Miller
First Circuit*

*Andrew Thomas
Second Circuit*

*Blair Payne
Third Circuit*

*Charles Cofer
Fourth Circuit*

*Mike Graves
Fifth Circuit*

*Bob H. Dillinger
Sixth Circuit*

*James S. Purdy
Seventh Circuit*

*Stacy A. Scott
Eighth Circuit
Secretary*

*Rex Dimmig
Tenth Circuit
President-Elect*

*Carlos J. Martinez
Eleventh Circuit*

*Larry L. Eger
Twelfth Circuit*

*Julianne M. Holt
Thirteenth Circuit*

*Mark Sims
Fourteenth Circuit*

*Carey Haughwout
Fifteenth Circuit
President*

*Robert Lockwood
Sixteenth Circuit
Treasurer*

*Howard Finkelstein
Seventeenth Circuit*

*Blaise Trettis
Eighteenth Circuit*

*Diamond R. Litty
Nineteenth Circuit*

*Kathleen A. Smith
Twentieth Circuit*

EXECUTIVE DIRECTOR
Kristina Wiggins, MPA

GENERAL COUNSEL
Robert Trammell

LEGISLATIVE CONSULTANT
Nancy Daniels

Bill Analysis- This bill adds language to section 790.162 to make it a second-degree felony to threaten the use of a firearm or any weapon with intent to harm a person or property. It is already a second-degree felony to threaten to throw, place, project or discharge any destructive device with intent to harm a person or property.

Public Defenders have concerns about bills that make threatening speech into a crime that could send a person to prison for up to 15 years. Youthful offenders particularly are prone to make ill-considered threatening statements without the ability or true criminal intent to carry them out.

Fiscal Analysis- The bill would have an indeterminate effect on public defender caseloads. It is difficult to project how many cases would be filed under the new language in this bill that are not already charged under existing statutes.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Education, *Chair*
Appropriations
Education
Ethics and Elections
Finance and Tax
Judiciary
Rules

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR KELLI STARGEL

22nd District

February 10, 2020

The Honorable Rob Bradley
Senate Committee on Appropriations, Chair
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I respectfully request that SB 728, related to *Threats*, be placed on the Appropriations meeting agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Cynthia Sauls Kynoch/Staff Director
Alicia Weiss/AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

728

Bill Number (if applicable)

Topic Threats

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581-4250

Street

Lakeland FL 33802

City

State

Zip

Email shepp@thesoutherngroup.com

Speaking: For Against Information

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

Representing Polk County Sheriff

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)

03/03/2020

Meeting Date

SB 728

Bill Number (if applicable)

Topic Threats

Amendment Barcode (if applicable)

Name Gary W. HESTER

Job Title Cooperation Affairs

Address P.O. Box 14038

Phone 863-287-8438

Street

Tallahassee

FL

32317

City

State

Zip

Email garywhester@gmail.com

Speaking: For Against Information

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

Representing Florida Police chiefs 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
APPEARANCE RECORD

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

3/3/2020

Meeting Date

728

Bill Number (if applicable)

Topic Threats

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone (850) 877-2165

Street

Tallahassee

FL

32308

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Sheriffs 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 852 (703954)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senators Pizzo, Taddeo, Braynon, and others

SUBJECT: Incarcerated Pregnant Women

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|--------------------------|
| 1. | <u>Cox</u> | <u>Jones</u> | <u>CJ</u> | <u>Fav/CS</u> |
| 2. | <u>Jameson</u> | <u>Jameson</u> | <u>ACJ</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Jameson</u> | <u>Jameson</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 852 amends section 944.241, Florida Statutes, which currently addresses the use of restraints on pregnant prisoners in Florida’s correctional institutions, to expand the prohibition on the use of restraints on pregnant prisoners. Additionally, the bill prescribes when a corrections officer may conduct an invasive body cavity search and when a pregnant prisoner may be placed in restrictive housing.

The bill expands the prohibition of using restraints on a pregnant prisoner under current law to cover when a pregnant prisoner is being transported. This applies to a pregnant prisoner at any point in her known pregnancy. The bill prescribes certain circumstances in which restraints may not be used, which are substantively similar to the exceptions provided for in current law.

The bill provides that an invasive body cavity search of a pregnant prisoner may only be conducted by a medical professional, unless a correctional officer has a reasonable belief that the prisoner is concealing contraband and such correctional officer submits a written report to the corrections official within 72 hours after the search including specified information supporting the need for the search.

The bill prohibits a pregnant prisoner from being involuntarily placed in restrictive housing unless specified correctional staff determine that an extraordinary circumstance exists such that restrictive housing is necessary and there are no less restrictive means available.

The bill requires the corrections official to write a report documenting the need for the use of restrictive housing prior to placing the prisoner in restrictive housing. The corrections official is required to review the report at least every 24 hours to confirm that the extraordinary circumstance still exists. A copy of the report and each review must be provided to the prisoner.

Additionally, the bill requires a pregnant prisoner who is placed in restrictive housing to be seen at least every 24 hours, housed in the least restrictive setting consistent with the health and safety of the individual, and given an intensive treatment plan for prenatal care and medical treatment at the facility.

In the case that a pregnant prisoner needs infirmary care, the bill requires a primary care nurse practitioner or obstetrician to provide an order for the prisoner to be admitted to the infirmary and requires that a prisoner who is passed her due date be admitted to the infirmary until labor begins or until the obstetrician makes other housing arrangements.

The bill has a significant negative fiscal impact. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Pregnancy in Prison

Reports predict that an estimated four to ten percent of women are pregnant upon being committed to prison or jail.¹ However, documentation of pregnancies and pregnancy care while incarcerated is sparse. The most recent data from the Bureau of Justice Statistics (BJS) was collected more than 15 years ago. In 2002, the BJS found that five percent of women in local jails were pregnant when admitted. In 2004, the BJS reported that four percent of women in state prisons and three percent of women in federal prisons were pregnant upon admission. The government has not released any further national data since.²

The American College of Obstetricians and Gynecologists (ACOG) report that pregnancies among incarcerated women are often higher risk due to a number of factors, including that such

¹ Ferszt, G., Palmer, M., and McGrane, C., Nursing for Women's Health, *Where Does Your State Stand on Shackling of Pregnant Incarcerated Women?*, February 2018, available at [https://nwhjournal.org/article/S1751-4851\(17\)30335-5/pdf](https://nwhjournal.org/article/S1751-4851(17)30335-5/pdf) (hereinafter cited as "Nursing for Women's Health Report"); Daniel, R., Prison Policy Initiative, *Prisons neglect pregnant women in their healthcare policies*, December 5, 2019, available at <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/> (hereinafter cited as "Prison Policy Initiative report") (all sites last visited January 3, 2020).

² Prison Policy Initiative Report. See also Sufrin, C., Beal, L., Clarke, J., Jones, R., and Mosher, W., *The American Journal of Public Health, Pregnancy Outcomes in US Prison, 2016-2017*, January 15, 2019, available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305006> (hereinafter cited as "Pregnancy Outcomes Report") (last visited on January 3, 2020).

pregnancies are often unplanned and are compromised by a lack of prenatal care, poor nutrition, domestic violence, mental illness, and drug and alcohol abuse.³

Further, the ACOG reports a number of risks that are directly related to a pregnant inmate being restrained, including:

- Added discomfort during the common pregnancy symptoms of nausea and vomiting.
- The inability of a pregnant inmate to break a fall and protect herself and the fetus in the case of a forward fall.
- The inability for healthcare providers to perform a number of tests to evaluate for conditions such as appendicitis, preterm labor, or kidney infection if a pregnant inmate has abdominal pain during pregnancy.
- A delay in diagnosing issues after vaginal bleeding during pregnancy.
- The inability to safely treat a pregnant inmate who is suffering from seizures related to hypertensive disease and preeclampsia,⁴ which are common in pregnancy.
- Interference with normal labor and delivery, such as prohibiting the pregnant inmate from:
 - Ambulating during labor, which increases the likelihood for adequate pain management, successful cervical dilation, and a successful vaginal delivery.
 - Moving or being moved in preparation for emergencies of labor and delivery, including shoulder dystocia, hemorrhage, or abnormalities of the fetal heart rate requiring intervention, including urgent cesarean delivery.⁵

The Florida Department of Corrections (DOC) has five female correctional institutions statewide.⁶ The DOC assigns female prisoners to institutions based on current classification procedures while facilitating the individual risk and needs of prisoners to the extent possible considering security, medical and mental health needs, programmatic needs, geographic realities, and prohibitive monetary factors. The Lowell Correctional Institution houses all pregnant prisoners for the duration of the pregnancy and prisoners within six weeks post-delivery. Lowell Correctional Institution is the only institution in the state designed and staffed to care for expectant and early postpartum prisoners.

Upon confirmation of pregnancy, the prisoner's medical grade is changed and the pregnant prisoner is referred to a licensed physician for obstetrical care to provide prenatal care and follow

³ The American College of Obstetricians and Gynecologists, Committee Opinion, *Health Care for Pregnancy and Postpartum Incarcerated Women and Adolescent Females*, November 2011, available at <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Health-Care-for-Pregnant-and-Postpartum-Incarcerated-Women-and-Adolescent-Females?IsMobileSet=false> (last visited January 3, 2020); See also Nursing for Women's Health Report.

⁴ Preeclampsia results in a pregnant woman exhibiting high blood pressure, protein in the urine, and swelling in the body. It also results in signs of damage to another organ system, most often the liver and kidneys. Preeclampsia usually begins after 20 weeks of pregnancy in women whose blood pressure had been normal. See Mayo Clinic, *Preeclampsia, Overview*, available at <https://www.mayoclinic.org/diseases-conditions/preeclampsia/symptoms-causes/syc-20355745>; WebMD, *What is Preeclampsia?*, available at <https://www.webmd.com/baby/preeclampsia-eclampsia#1> (all sites last visited January 6, 2020).

⁵ *Supra*, n. 3.

⁶ These facilities are Gadsden Correctional Facility in Quincy, Lowell Correctional Institution in Ocala, Florida Women's Reception Center in Ocala, Hernando Correctional Institution in Brooksville, and Homestead Correctional Institution in Florida City. The DOC, *Agency Analysis for SB 852*, January 10, 2020, p. 2 (on file with Senate Criminal Justice Committee)(hereinafter cited as "The DOC SB 852 Analysis").

them throughout the pregnancy. High risk patients are identified by obstetricians and given the necessary medical care. Inmates receive prenatal counseling, vitamins, and exams. They also are prescribed a prenatal diet that includes three fortified breakfast beverages per day and is adjusted for the caloric value and nutritional recommendations for pregnancy.⁷ Pregnant prisoners are transferred to a contract hospital for the actual delivery and then returned to the institution when discharged by the attending obstetrician. The DOC reports that postpartum care is provided at the institution according to the discharge orders of the attending obstetrician, but that the six-week checkup is provided by the obstetrician.⁸

The DOC reports that the pregnant prisoner population over the last three fiscal years is as follows:

- 101 prisoners in Fiscal Year 2018-2019.
- 98 in Fiscal Year 2017-2018.
- 109 in Fiscal Year 2016-2017.⁹

The Federal First Step Act's Prohibition on the Use of Restraints

In December, 2018, the United States Congress passed, and President Trump signed into law, the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act” (First Step Act).¹⁰ The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons (BOP), including, in part, imposing a prohibition on the use of restraints on pregnant prisoners in the custody of the BOP and the U.S. Marshalls Office.

The prohibition on the use of restraints begins on the date that pregnancy is confirmed by a healthcare professional and ends when postpartum recovery is completed. However, the First Step Act authorizes restraints to be used in limited circumstances, including when the:

- Pregnant inmate is determined to be an immediate and credible flight risk;
- Pregnant inmate poses an immediate and serious threat of harm to herself or others that cannot be reasonably prevented by other means; or
- Healthcare professional determines that the use of restraints is appropriate for the medical safety of the inmate.¹¹

If one of the above-mentioned exceptions apply, the BOP or U.S. Marshall Service still may not:

- Use restraints around the ankles, legs, or waist of an inmate;
- Restrain an inmate's hands behind her back;
- Use four-point restraints; or
- Attach an inmate to another inmate.¹²

⁷ The DOC SB 852 Analysis, p. 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ The First Step Act of 2018, Pub. L. No. 115-391 (2018).

¹¹ Congressional Research Service, *The First Step Act of 2018: An Overview*, March 4, 2019, available at <https://crsreports.congress.gov/product/pdf/R/R45558> (last visited January 2, 2020). The Act provides that only the least restrictive restraints necessary to prevent escape or harm may be used if one of the exceptions applies.

¹² *Id.*

Additionally, upon the request of a healthcare professional, correctional officials or deputy marshals must refrain from using restraints on an inmate or must remove restraints used on an inmate. If restraints are used on a pregnant inmate, the correctional official or deputy marshal who used the restraints is required to submit a report within 30 days that describes the facts and circumstances surrounding the use of the restraints, including the reasons for using the restraints, the details of the use, including the type of restraint and length of time they were used, and any observable physical effects on the inmate.¹³

The First Step Act also requires the BOP and U.S. Marshall Service to develop training guidelines regarding the use of restraints on inmates during pregnancy, labor, and postpartum recovery. The guidelines are required to include:

- How to identify certain symptoms of pregnancy that require immediate referral to a healthcare professional;
- Circumstances under which exceptions to the prohibition on the use of restraints would apply;
- How to use restraints in a way that does not harm the inmate, the fetus, or the newborn in the case that an above-mentioned exception applies;
- Details on the information required to be reported when restraints are used; and
- The right of a healthcare professional to request that restraints not be used and the requirement to comply with such a request.¹⁴

The First Step Act does not include provisions related to various types of searches of or the use of restrictive housing for pregnant prisoners.

Florida's Prohibition on the Use of Restraints

Section 944.241, F.S., prohibits restraints¹⁵ from being used on a prisoner¹⁶ who is known to be pregnant during labor,¹⁷ delivery, and postpartum recovery,¹⁸ unless the corrections official¹⁹ makes an individualized determination that the prisoner presents an extraordinary

¹³ *Id.* The reports must be submitted to the BOP or U.S. Marshall Service and the healthcare provider responsible for the inmate's health and safety.

¹⁴ *Id.*

¹⁵ Section 944.241(2)(h), F.S., defines "restraints" to mean any physical restraint or mechanical device used to control the movement of a prisoner's body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

¹⁶ Section 944.241(2)(g), F.S., defines "prisoner" to mean any person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for a violation of criminal law or the terms and conditions of parole, probation, community control, pretrial release, or a diversionary program. Additionally, the term includes any woman detained under the immigration laws of the United States at any correctional institution.

¹⁷ Section 944.241(2)(e), F.S., defines "labor" to mean the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

¹⁸ Section 944.241(2)(f), F.S., defines "postpartum recovery" to mean, as determined by her physician, the period immediately following delivery, including the recovery period when a woman is in the hospital or infirmary following birth, up to 24 hours after delivery unless the physician after consultation with the DOC or correctional institution recommends a longer period of time.

¹⁹ Section 944.241(2)(b), F.S., defines "corrections official" to mean the official who is responsible for oversight of a correctional institution, or his or her designee.

circumstance.²⁰ This section applies to any facility under the authority of the DOC, the DJJ, a county or municipal detention facility, or a detention facility operated by a private entity.²¹

A physician may request that restraints not be used for documentable medical purposes. In that case, the correctional officer, correctional institution employee, or other officer accompanying the pregnant prisoner may consult with the medical staff and if the officer determines there is an extraordinary public safety risk, the officer is authorized to apply restraints. However, leg, ankle, or waist restraints may not be used on any pregnant prisoner who is in labor or delivery.²² If restraints are used on a pregnant prisoner, the:

- Type of restraint applied and the application of the restraint must be done in the least restrictive manner necessary; and
- Corrections official is required to make written findings within ten days after the use of restraints to document the extraordinary circumstance that required the use of the restraints.²³

Leg, ankle, and waist restraints may not be used during the third trimester of pregnancy or when requested by the physician treating a pregnant prisoner unless there are significant documentable security reasons noted by the correctional institution to the contrary that would threaten the safety of the prisoner, the unborn child, or the public in general. In addition, if wrist restraints are used, they must be applied in the front so the pregnant prisoner is able to protect herself in the event of a forward fall.²⁴ Any restraint of a prisoner who is known to be pregnant must be done in the least restrictive manner necessary in order to mitigate the possibility of adverse clinical consequences.²⁵

Section 944.241(4), F.S., provides that any prisoner who is restrained may file a grievance with the correctional institution and be granted a 45-day extension if requested in writing pursuant to rules promulgated by the correctional institution and that a woman harmed through the use of restraints in violation of s. 944.241, F.S., is not prohibited from filing a complaint under any other relevant provision of federal or state law.

The DOC and the DJJ are required to adopt rules to administer the provisions and must inform female prisoners of such rules upon admission to the correctional institution, including the policies and practices in the prisoner handbook, and post the policies and practices in locations in the correctional institution where such notices are commonly posted and will be seen by female prisoners, including common housing areas and medical care facilities.²⁶

The Florida Model Jail Standards (FMJS) are minimum standards that jails across Florida must meet to ensure the constitutional rights of those incarcerated are upheld. The FMJS Committee is

²⁰ Section 944.241(2)(d), F.S., defines “extraordinary circumstance” to mean a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, or the public.

²¹ See s. 944.241(2)(a), F.S.

²² Section 944.241(3)(a), F.S.

²³ Section 944.241(3)(b), F.S. The written findings must be kept on file by the DOC or correctional institution for at least five years.

²⁴ Section 244.241(3)(c), F.S.

²⁵ Section 944.241(3)(d), F.S.

²⁶ Section 944.241(5), F.S.

required to develop and continually enforce model standards adopted by the group.²⁷ The FMJS Rule 11.15 adopts the language of s. 944.241, F.S., related to the use of restraints on pregnant inmates.

Searches of Detained Persons in Florida's Prisons and Other Facilities

Department of Corrections

There are a number of searches of inmates that are utilized to control the introduction and movement of contraband and to prevent escapes of inmates, including searches while clothed, strip searches, and body cavity searches.²⁸

Rule 33-602.204, of the Florida Administrative Code (Rule 33-602.204), in part, requires that body cavity searches must be conducted only by appropriate Health Services staff, but allows authorized staff to be of the opposite sex from the inmates.²⁹ Body orifice and cavity searches must be conducted only when authorized by the warden, assistant warden, or the correctional officer chief upon a finding that there exists reasonable cause to believe that an inmate has contraband secreted in a body cavity.³⁰

Specified procedures and conditions must apply to body orifice and cavity searches, including, in part, that:

- The degree and intensity of the search must be the least required to bring the search to a conclusion.
- Oral cavity searches may be conducted visually as a routine element of any search of an inmate.³¹
- Physical intrusion into the inmate's body³² or physical isolation and observation may be utilized in specified circumstances.³³

²⁷ The Florida Sheriff's Association (FSA), *Florida Model Jail Standards as of 1/1/2019, What is FMJS?*, available at <https://www.flsheriffs.org/law-enforcement-programs/training/florida-model-jail-standards> (last visited January 10, 2020) (hereinafter cited as "FMJS Rule").

²⁸ Fla. Admin. Code R. 33-602.204.

²⁹ Fla. Admin. Code R. 33-602.204(3)(a).

³⁰ Fla. Admin. Code R. 33-602(3)(b). Reasonable cause may be established from specified evidence, including confidential information received from a reliable source, irregularities found in the area of the body during a strip search, or observed actions or behavior resulting in reasonable cause to believe that the individual has secreted contraband within a body cavity.

³¹ Additionally, if there are indications that an inmate is concealing contraband in his or her mouth, the Rule states that the inmate will be restrained or be placed under constant visual observation and no restraints or holds may be applied in any manner which inhibit breathing or swallowing. However, the inmate may be physically controlled and isolated from other inmates if necessary in order to avoid his or her disposal of the contraband. When there is reasonable cause to believe contraband has been swallowed, any attempt to retrieve the contraband will be accomplished by Health Service staff. No physical intrusion into the inmate's oral cavity will be attempted by any other person other than Health Service staff.

³² Fla. Admin. Code R. 33-602(3)(c)d.3. The specified circumstances allowing physical intrusion into the body include when: a member of the Health Services staff has determined that failure to remove the contraband presents an imminent danger to the health of the inmate; the contraband is clearly identified and is determined to be a clear and present danger to the security of the institution or the safety of the inmate or other persons; or the intrusion is necessary to retrieve the contraband for purposes of identification or to secure it as evidence and less intrusive means to retrieve such contraband are not feasible.

³³ Fla. Admin. Code R. 33-602(3)(c)d.4. Physical isolation and observation are authorized when the inmate cannot or will not voluntarily remove and surrender the contraband or in the event that a Medical Doctor has determined that the physical removal of contraband may be hazardous to the health and safety of the inmate. The isolation must occur in a medically approved isolated setting under constant visual supervision until the contraband can be retrieved through natural means. The

- Prior to the initiation of the first phase of the search, and before each successive escalation of the search, the individual must be given opportunities to voluntarily remove and surrender the contraband.³⁴
- A specified correctional officer of the same sex must be physically present when the search is conducted.³⁵
- The search must be made only by a physician or a designated member of the Health Services staff working under sanitary conditions and in a medically approved way using only the force necessary to ensure the person submits to the examination.³⁶
- Complete and detailed documentation of all body cavity searches other than visual or metal detector searches must be submitted to the warden and include specified information.³⁷

Department of Juvenile Justice

The DJJ has implemented procedures for conducting searches of juveniles who are in detention as well as those that have been committed to a residential facility. Rule 63G-2.019(11), F.A.C., which addresses detention services within the DJJ, and Rule 63E-7.107, F.A.C., which addresses residential placement, provide very similar procedures for when searches of juveniles may occur.

These rules provide, in part, that:

- The Superintendent must ensure that the primary function of any search is to locate contraband and to identify any item or situation that may be hazardous or otherwise compromise safety or security.³⁸
- All searches and the result of each search must be documented in specified documents.³⁹
- Any item or situation that may compromise safety or security must be immediately reported to the detention officer supervisor and law enforcement must be contacted if any item found would be considered illegal under Florida law or if there is evidence of any type of unlawful activity.⁴⁰

Further, the rules provide, in part, that:

- A frisk search must be conducted by an officer of the same sex as the youth being searched and such searches must be conducted:
 - During admission.
 - Following activities outside the secure area of the facility or visitation with a person from outside of the facility.
 - Prior to and after transportation.
 - When there is a reasonable suspicion that a youth is harboring contraband.⁴¹

natural process of waste elimination must be used as an alternative to forcible intrusion into the body cavities or surgery when a Medical Doctor determines that the natural method is feasible and does not pose a hazard to the inmate's health and safety.

³⁴ Fla. Admin. Code R. 33-602(3)(c)d.6.

³⁵ Fla. Admin. Code R. 33-602(3)(c)d.7.

³⁶ Fla. Admin. Code R. 33-602(3)(c)d.9.-10.

³⁷ Fla. Admin. Code R. 33-602(3)(c)d.12.

³⁸ Fla. Admin. Code R. 63G-2.019(11)(a); Fla. Admin. Code R. 63E-7.107(2)(b).

³⁹ Fla. Admin. Code R. 63G-2.019(11)(b); Fla. Admin. Code R. 63E-7.107(2)(a).

⁴⁰ Fla. Admin. Code R. 63G-2.019(11)(d). These provisions do not appear in Rule 63E-7.107.

⁴¹ Fla. Admin. Code R. 63G-2.019(11)(e); *See* Fla. Admin. Code R. 63E-7.107(2)(a) and (b).

- Strip searches must be conducted during admission or if there is a reasonable suspicion a youth is harboring contraband and the strip search must be conducted in a private area with two staff members present, both of the same sex as the youth being searched.⁴²
- Staff must explain the purpose and procedure of the search, assure the youth of his or her safety, avoid using unnecessary force, and treat the youth with dignity and respect to minimize the youth's stress and embarrassment.⁴³
- Staff may not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth's genital status.⁴⁴
- Cavity searches must be approved by the superintendent, conducted by trained medical personnel in a hospital setting, and only conducted when it is strongly suspected that a youth has concealed contraband in a body cavity.⁴⁵

County Detention Facilities

The FMJS also had model standards for conducting searches on inmates in the custody of a county detention facility. FMJS Rules 4.2 and 4.3, provide that inmates must be searched by certified staff when being admitted to a detention facility and that the provisions of s. 901.211, F.S., must apply to such searches. Additionally, a body cavity search is only authorized to be conducted by licensed medical personnel.⁴⁶

Section 901.211, F.S., in part, provides that a person arrested for a traffic, regulatory, or misdemeanor offense, except in a case that is violent in nature, which involves a weapon, or which involves a controlled substance, may not be strip searched⁴⁷ unless certain circumstances apply.⁴⁸ Each strip search is required to be performed by a person of the same gender as the arrested person and on premises where the search cannot be observed by persons not physically conducting or observing the search. Additionally, an observer must be of the same gender as the arrested person.⁴⁹ Any body cavity search must be performed under sanitary conditions.⁵⁰

⁴² See Fla. Admin. Code R. 63G-2.019(11)(e)4. and 5.; Fla. Admin. Code R. 63E-7.107(2)(a). A strip search is a visual check of a youth without clothing. Both of these Rules also provide that if two staff of the same sex as the youth are not available that one staff of the same sex as the youth may conduct the strip search while a staff of the opposite sex is positioned to observe the staff person conducting the search outside the view of the youth.

⁴³ Fla. Admin. Code R. 63G-2.019(11)(e)6.; Fla. Admin. Code R. 63E-7.107(2).

⁴⁴ Fla. Admin. Code R. 63G-2.019(11)(e)7. Further, if the youth's genital status is unknown, it may be determined during conversation with the youth, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. Rule 63E-7.107 is silent on this provision.

⁴⁵ Fla. Admin. Code R. 63G-2.019(11)(e)8.; Fla. Admin. Code R. 63E-7.107(2)(c).

⁴⁶ FMJS Rule 4.2 and 4.3. A written report documenting such action must be submitted to the officer-in-charge or designee.

⁴⁷ Section 901.211(1), F.S., defines the term "strip search" to mean having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual or manual inspection of the genitals; buttocks; anus; breasts, in the case of a female; or undergarments of such person.

⁴⁸ See s. 901.211(2), F.S.

⁴⁹ Section 901.211(3), F.S.

⁵⁰ Section 901.211(4), F.S.

Confinement in Florida's Correctional Facilities

Department of Corrections

Confinement - General

Inmates in the custody of the DOC may be placed in confinement status based on specified conditions, which are detailed in the DOC's rules. Confinement status types used by the DOC include administrative or disciplinary confinement and protective management. "Administrative confinement" means the temporary removal of an inmate from the general inmate population in order to provide for security and safety until such time as more permanent inmate management processes can be concluded.⁵¹ "Disciplinary confinement" means a form of punishment in which inmates found guilty of committing violations of the DOC rules are confined for specified periods of time to individual cells based upon authorized penalties for prohibited conduct.⁵² "Protective management" means a special management status for the protection of inmates from other inmates in an environment as representative of that of the general population as is safely possible.⁵³

All inmates are subject to the same consideration for placement in administrative or disciplinary confinement. These types of confinement may limit conditions and privileges to assist with promoting the security, order, and effective management of the institution, but otherwise the treatment of inmates in confinement is as near to that of the general population as assignment to confinement permits.⁵⁴ For protective management, the rule provides that other privileges may be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order, or effective management of the institution.⁵⁵

Certain procedures appear to apply consistently across all types of confinement, such as:

- Prior to placing the inmate in confinement, the inmate is given a pre-confinement health assessment or medical evaluation.⁵⁶
- The ability to house inmates in confinement with other inmates, subject to the inmates being interviewed by the housing supervisor to ensure that none of the inmates constitute a threat to each other prior to placing inmates in the same cell.⁵⁷

⁵¹ Fla. Admin. Code R. 33-602.220(1)(a).

⁵² Fla. Admin. Code R. 33-602.222(1)(f).

⁵³ Fla. Admin. Code R. 33-602.221(1)(j). Protective management is not disciplinary in nature and, to the extent possible, all less restrictive avenues to address protection needs must be employed.

⁵⁴ Fla. Admin. Code R. 33-602.220(5); Fla. Admin. Code R. 33-602.221(2)(a) and (4); and Fla. Admin. Code R. 33-602.222(4).

⁵⁵ Fla. Admin. Code R. 33-602.221(4)(t). All such restrictions must be documented on a specified form and reported to the Inmate Classification Team (ICT). The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order or effective management of the institution. The ICT's decision for continuing restriction must also be documented on a specified form.

⁵⁶ See Fla. Admin. Code R. 33-602.220(2)(b) and (c) and Fla. Admin. Code R. 33-602.222(2)(a). An inmate does not have to be given the pre-confinement evaluation if he or she is currently in another confinement status that required a pre-confinement medical assessment. Rule 33-602.221, related to protective management is silent on whether a pre-confinement evaluation is necessary.

⁵⁷ Fla. Admin. Code R. 33-602.220(4)(a); Fla. Admin. Code R. 33-602.221(3)(a); and Fla. Admin. Code R. 33-602.222(3).

- The number of inmates housed in an administrative confinement cell must not exceed the number of bunks in the cell.⁵⁸

Inmates in confinement retain certain modified privileges, as mentioned above. For example, such inmates are provided:

- Exercise, which occurs either in the inmate's cell, if confined on a 24-hour basis, or, if confinement extends beyond a 30-day period, three hours per week of exercise at a minimum outdoors.
- Showers at least three times per week and on days that the inmate works.
- Normal institution meals.⁵⁹
- The same clothing and clothing exchange as is provided to the general inmate population.⁶⁰
- Out of cell time is permitted for regularly scheduled mental health services, unless, within the past four hours, the inmate has displayed hostile, threatening, or other behavior that could present a danger to others.
- Correspondence opportunities that are the same as the general inmate population.
- Telephone privileges for emergency situations, when necessary to ensure the inmate's access to courts, or in any other circumstance when a call is authorized by the warden or duty warden.
- Visits, when authorized by the warden or his or her designated representative.
- Legal visits, unless there is evidence that the visit is a threat to security and order.⁶¹
- Legal materials in the same manner as in the general population as long as security concerns permit.^{62, 63}

Administrative Confinement

Florida Administrative Rule 33-602.220 provides that an inmate may be placed into administrative confinement for the following reasons:

- Disciplinary charges are pending and the inmate needs to be temporarily removed from the general inmate population in order to provide for security or safety until such time as the disciplinary hearing is held.
- Outside charges are pending against the inmate and the presence of the inmate in the general population would present a danger to the security or order of the institution.
- Pending review of an inmate's request for protection from other inmates.
- An inmate has presented a signed written statement alleging that they are in fear of staff and has provided specific information to support this claim.

⁵⁸ Fla. Admin. Code R. 33-602.220(4)(a) and (d); Fla. Admin. Code R. 33-602.221(3); and Fla. Admin. Code R. 33-602.222(3)(a).

⁵⁹ The exception to this is when an item on the normal menu creates a security problem in the confinement unit, in which case, another item of comparable quality is substituted. Utilization of the special management meal is authorized for any inmate in administrative confinement who uses food or food service equipment in a manner that is hazardous to him or herself, staff, or other inmates.

⁶⁰ The exception to this is when there is an individual factual basis that exceptions are necessary for the welfare of the inmate or the security of the institution.

⁶¹ The warden or his or her designee must approve all legal visits in advance.

⁶² An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps are taken to ensure the inmate is not denied needed access while in administrative confinement.

⁶³ Fla. Admin. Code R. 33-602.220(5); 33-602.221(4); and 33-602.222(4).

- An investigation, evaluation for change of status, or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution.
- An inmate is received from another institution when classification staff is not available to review the inmate file and classify the inmate into general population.⁶⁴

Staff are required to conduct regular visits to administrative confinement. These visits are to be conducted a minimum of:

- At least every 30 minutes by a correctional officer, but on an irregular schedule.
- Daily by the housing supervisor.
- Daily by the shift supervisor on duty for all shifts except in the case of riot or other institutional emergency.
- Weekly by the chief of security, when on duty at the facility, except in the case of riot or other institutional emergency.
- Daily by a clinical health care person.
- Weekly by the chaplain, warden, assistant wardens, a classification officer, and a member of the ICT.⁶⁵

An inmate is assessed weekly to determine the appropriateness of placement with the goal of returning the inmate to general population as soon as the facts of the case indicate that such return can be done safely.⁶⁶ Other assessment requirements that are applicable to inmates who have been confined for more than 30 days include:

- A psychological screening assessment by a mental health professional to determine his or her mental condition.⁶⁷
- An interview by the ICT, who must prepare a formal assessment and evaluation report after each 30 day period in administrative confinement.⁶⁸

Disciplinary Confinement

Staff are required to conduct regular visits to disciplinary confinement in the same frequency as mentioned above related to administrative confinement with the addition of specific visits as follows:

- As frequently as necessary, but not less than once every 30 days, by a member of the ICT to ensure that the inmate's welfare is properly provided for and to determine the time and method of release.

⁶⁴ Fla. Admin. Code R. 33-602.220(3).

⁶⁵ Fla. Admin. Code R. 33-602.220(4).

⁶⁶ Fla. Admin. Code R. 63-602.220(8)(a).

⁶⁷ Fla. Admin. Code R. 33.602.220(8)(b). The assessment includes a personal interview if determined necessary by mental health staff. All such assessments are documented in the inmate's mental health record. The psychologist or psychological specialist prepares a report and presents it to the ICT regarding the results of the assessment with recommendations. The ICT then makes the decision to continue administrative confinement. If the decision is to continue confinement, a psychological screening assessment is completed at least every 90-day period.

⁶⁸ Fla. Admin. Code R. 33-602.220(8)(c) and (d). Additionally, the state classification office (SCO) reviews the reports provided by mental health and the ICT, and may interview the inmate, to determine the final disposition of the inmate's administrative confinement status.

- As frequently as necessary by the SCO to ensure that the inmate's welfare is provided for and to determine if the inmate should be released if said inmate is housed in disciplinary confinement for longer than 60 consecutive days.⁶⁹

Department of Juvenile Justice

The DJJ does not use solitary confinement with youth that are in the custody of its secure detention centers⁷⁰ or residential commitment programs.⁷¹ Section 985.03(7), F.S., defines a "child" or "juvenile" or "youth" to 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.

The DJJ, in conjunction with the Annie E. Casey Foundation, has implemented the Juvenile Detention Alternatives Initiative (JDAI). JDAI is the most widely recognized set of national best practices on the practices and conditions inside juvenile justice facilities. The JDAI Standards provide that solitary confinement can never be used for purposes of punishment or discipline and must be limited to periods of less than four hours.⁷²

The DJJ does use short-term supervised confinement, precautionary observation, and secure and controlled observation for youth presenting an immediate danger to themselves or others in its detention and residential facilities. Additionally, medical confinement is used for youth who present with a communicable disease that may infect others.⁷³

Detention Facilities

The applicable DJJ Rules provide definitions related to types of confinement, including behavioral confinement and medical confinement. "Behavioral confinement" is defined to mean placement of a youth in a secure room during volatile situations in which a youth's sudden or unforeseen onset of behavior imminently and substantially threatens the physical safety of others or himself or herself.⁷⁴ "Medical confinement" is defined to mean the placement of a youth in a

⁶⁹ Fla. Admin. Code R. 33-602.222(7). Fla. Admin. Code R. 33-602.222(1)(l) provides that the SCO refers to the office or office staff at the central office level that is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying ICT recommendations.

⁷⁰ Section 985.03(19), F.S., defines "detention center or facility" to mean a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure custody. A facility used for the commitment of adjudicated delinquents is not considered a detention center or facility.

⁷¹ Section 985.43, F.S., provides that upon adjudication of a delinquency case a court may commit a youth to the DJJ for placement in a residential commitment program. Section 985.03(44), F.S., which defines "restrictiveness level," addresses the different levels of commitment programs, including, in part, "minimum-risk nonresidential," "nonsecure residential," and "high-risk residential."

⁷² See JDAI, A Project of the Annie E. Casey Foundation, *Revised JDAI Standards, Standards Instrument, 2014 Update*, p. 6, December 2014, available at <http://www.cclp.org/wp-content/uploads/2016/06/JDAI-Detention-Facility-Assessment-Standards.pdf> (last visited January 10, 2020).

⁷³ The DJJ, *SB 624 Agency Analysis*, p. 2, January 31, 2019 (on file with the Senate Committee on Criminal Justice)(hereinafter cited as "The DJJ SB 624 Analysis")[SB 624 (2019) addressed confinement for youth in the custody of the DOC, the DJJ, and county detention facilities]; See also Fla. Admin. Code Chs. 63E-7, 63G-2, and 63N-1.

⁷⁴ Fla. Admin. Code R. 63G-2.014(7).

secure room to allow the youth to rest and recover from illness and/or prevents the spread of a communicable illness (i.e. flu, H1N1 virus, etc.).⁷⁵

Additionally, confinement may not be used to harass, embarrass, demean, or otherwise abuse a youth. The use of confinement must be monitored by the superintendent or designee and the time limit for placement of a youth in confinement is no more than eight hours unless the superintendent or his or her designee grants an extension because release of the youth would imminently threaten his or her safety or the safety of others. The Regional Director or designee must review and grant any confinement extended beyond 24 hours, and, if granted, must notify the Assistant Secretary or designee.⁷⁶

A confinement report must be submitted by the detention officer as soon as possible, but no later than one hour after the youth's confinement. The confinement report must be reviewed by the detention officer's supervisor as soon as possible, but no later than two hours after the youth's confinement. The detention officer supervisor must evaluate and document the youth's status, at a minimum, every three hours to determine if the continued confinement of the youth is required. A youth is prohibited from being held in confinement beyond 72 hours without a confinement hearing.⁷⁷

Residential Commitment Facilities

The DJJ Rules applicable to residential facilities prohibits a residential commitment program's behavior management system from including disciplinary confinement, wherein a youth is isolated in a locked room, as discipline for misbehavior.⁷⁸ A residential commitment program may use room restriction, which is described to mean temporarily restricting the youth's participation in routine activities by requiring the youth to remain in his or her sleeping quarters, when:

- A youth is out of control or a suicide risk.
- A supervisor has given prior approval for each use of room restriction.
- It does not exceed four hours and the door to the room remains open to facilitate staff supervision.
- Staff engages, or attempts to engage, the youth in productive interactions at least every 30 minutes.
- The program does not deny a youth basic services, such as regular meals and physical or mental health services.
- The program staff uses strategies, such as conflict resolution and constructive dialogue, to facilitate the youth's reintegration into the general population.⁷⁹

The program documents certain details for each case of room restriction, including:

- A description of the behavior that resulted in room restriction;
- The date and time room restriction was implemented;

⁷⁵ Fla. Admin. Code R. 63G-2.014(50). The use of medical confinement is not intended as punishment or discipline and is ordered by the Designated Health Authority.

⁷⁶ Fla. Admin. Code R. 63G-2.022(4).

⁷⁷ Fla. Admin. Code R. 63G-2.022(4).

⁷⁸ Fla. Admin. Code R. 63E-7.009(3)(e).

⁷⁹ Fla. Admin. Code R. 63E-7.009(4).

- The name of the staff person who recommended the use of room restriction and the name of the approving supervisor;
- The name of the staff person removing the youth from room restriction;
- The date and time of removal and a description of the youth's behavior and attitude upon removal; and
- Follow-up actions taken or attempted to help re-integrate the youth back into the general population when released from room restriction.⁸⁰

A residential commitment program must ensure that staff observe a youth at least every ten minutes while in their sleeping quarters, including when on room restriction. Staff must conduct the observations in a manner to ensure the safety and security of each youth and document real time observations manually or electronically.⁸¹

Further, a residential commitment program may use controlled observation only when necessary and as a last resort.⁸² Controlled observation is defined to mean an immediate, short-term crisis management strategy, not authorized for use as punishment or discipline, wherein a youth in a residential commitment program is placed in a separate, identified, safe, and secure room.⁸³ Such specified programs are authorized to temporarily place a youth in a controlled observation room only in the following situations when non-physical interventions would not be effective:

- Emergency safety situations where there is imminent risk of the youth physically harming himself or herself, staff, or others; or
- When the youth is engaged in major property destruction that is likely to compromise the security of the program or jeopardize the youth's safety or the safety of others.⁸⁴

Controlled observation has a maximum time limit of two hours, that can be extended by the program director in two-hour increments for no longer than 24 hours. Youth who are in controlled observation receive the standard 10-minute sight and sound check along with documentation of their behavior in 15-minute intervals.⁸⁵

A supervisor with delegated authority must give prior authorization for each use of controlled observation unless the delay caused by seeking prior approval would further jeopardize the safety of others and the program's security. Staff is prohibited from leaving a youth alone in a controlled observation room until an inspection of the room is conducted and it is deemed safe, secure, and in compliance with specified guidelines.⁸⁶ The Rule further provides specific

⁸⁰ *Id.* Further, Rule 63E-7.011, F.A.C., provides that a youth is prohibited from large muscle exercise when he or she is temporarily separated from the general population, including when placed on controlled observation or room restriction status pursuant to Rule 63E-7.013, F.A.C. However, if a youth is restricted to a room, the program must give the youth an opportunity for large muscle exercise as soon as is reasonably possible after the youth is reintegrated into the general population.

⁸¹ Fla. Admin. Code R. 63E-7.013(3)(b).

⁸² Fla. Admin. Code R. 63E-7.013(16).

⁸³ Fla. Admin. Code R. 63E-7.002(20).

⁸⁴ Fla. Admin. Code R. 63E-7.013(16).

⁸⁵ The DJJ SB 624 Agency Analysis, p. 2.

⁸⁶ *Id.*

procedures for how to address a youth whose health or safety deteriorates once placed into controlled observation.⁸⁷

The Rule prohibits the use of controlled observation as punishment or discipline.⁸⁸

County Detention Facilities

The FMJS defines terms such as administrative confinement and disciplinary confinement. “Administrative confinement” is defined to mean the segregation of an inmate for investigation, protection, or some cause other than disciplinary action.⁸⁹ “Disciplinary confinement” is defined to mean the segregation of an inmate for disciplinary reasons.⁹⁰

The FMJS provides that inmates may be placed in administrative confinement for the purpose of ensuring immediate control and supervision when it is determined they constitute a threat to themselves, to others, or to the safety and security of the detention facility. The Rule requires an incident report or disciplinary report to follow the action that prompted placement in administrative confinement. Additionally, the time of release for inmates in disciplinary or administrative confinement must be recorded and filed in the inmate’s file.⁹¹

Each inmate in administrative confinement must receive housing, food, clothing, medical care, exercise, visitation, showers, and other services and privileges comparable to those available to the general population except as justified by his or her classification status or special needs inmate status.^{92, 93} Further, special needs inmates should be checked by medical staff at intervals not exceeding 72 hours and inmates in administrative or disciplinary confinement must bathe twice weekly.⁹⁴ The FMJS provides that the Officer-in-Charge or designee must see and talk to each inmate in disciplinary or administrative confinement at least once each morning and once each afternoon and document the inmate’s general condition and attitude at each visit.⁹⁵

Additionally, the FMJS requires that an inmate confined in an isolation cell used for medical purposes be examined by a physician or designee within 48 hours following his or her confinement in such area or cell. A physician or designee must determine when the inmate will be returned to the general population. The inmate must remain in isolation if the physician or designee:

- Finds that the inmate presents a serious risk to himself or others; or

⁸⁷ See Fla. Admin. Code R. 63E-7.013(16)(e)-(i). For example, a youth must be immediately removed from the controlled observation room and provided follow-up mental health services if he or she begins demonstrating acute psychological distress or suicide risk behaviors subsequent to placement in controlled observation.

⁸⁸ Fla. Admin. Code R. 63E-7.001(20).

⁸⁹ The FMJS Rule 1.2.

⁹⁰ The FMJS Rule 1.17.

⁹¹ The FMJS Rule 13.13.

⁹² *Id.*

⁹³ The FMJS Rule 5.4 defines “special needs inmates” as “inmates who have been determined by the health authority to be mentally ill, suicidal, alcoholic or drug addicted going through withdrawal and in need of close monitoring.”

⁹⁴ The FMJS Rule 13.13.

⁹⁵ The FMJS Rule 13.14.

- Continues to provide the inmate with follow-up medical care and treatment during the entire time that the inmate remains confined in such area or cell as deemed necessary.⁹⁶

Florida law and the rules of the DOC, the DJJ, and the FMJS do not appear to address restrictive housing of pregnant prisoners in separate provisions.

III. Effect of Proposed Changes:

The bill amends s. 944.241, F.S., modifying current provisions for using restraints on a pregnant prisoner and prescribing procedures for when a pregnant prisoner may be subject to an invasive body cavity search or placed in restrictive housing.

Additionally, the bill renames the Act the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act.”

Definitions

The bill amends the definitions section to:

- Expand the term “extraordinary circumstance” to apply to the exceptions of circumstances that dictate the use of restrictive housing in addition to the use of restraints.
- Add the definitions:
 - “Invasive body cavity search,” which means a search that involves a manual inspection using touch, insertion, or probing of the openings, cavities, and orifices of the human body, including, but not limited to the genitals, buttocks, anus, or breasts that is not conducted for a medical purpose; and
 - “Restrictive housing,” which means the placement of pregnant prisoners separately from the general population of a correctional institution and imposing restrictions on their movement, behavior, and privileges solely based on the condition of being pregnant. The term includes placing the prisoner in medical isolation or in the infirmary.

Use of Restraints

The bill expands the prohibition of using restraints on a pregnant prisoner under current law to cover when a pregnant prisoner, at any point in her known pregnancy, is being transported. The bill prescribes that restraints may not be used:

- If any doctor, nurse, or other health professional treating the prisoner in labor, in delivery, or in postpartum recovery requests that restraints not be used due to a documentable medical purpose. If the doctor, nurse, or other health professional makes such a request, the correctional officer or other law enforcement officer accompanying the prisoner must immediately remove all restraints.
- During transport, labor, delivery, and postpartum recovery, unless the corrections official makes an individualized determination that the prisoner presents an extraordinary circumstance.

⁹⁶ The FMJS Rule 7.23.

The bill provides an exception to the prohibition on the use of restraints, which specifically provides that:

- A restraint may be used on a pregnant prisoner or a prisoner who is in postpartum recovery only if all of the following apply:
 - The corrections official makes an individualized determination that the prisoner presents an extraordinary circumstance.
 - The restraints used are the least restrictive necessary.
 - If wrist restraints are used, the restraints are applied in the front of the prisoner so that she may protect herself in the event of a forward fall.
- A pregnant prisoner who is transported by a correctional institution must be transported using a restraint that is the least restrictive necessary.

Current law remains the same as it relates to the requirement that the corrections official must provide written findings when restraints are used on a pregnant prisoner due to an extraordinary circumstance that dictated the use of the restraints.

Invasive Body Cavity Searches

The bill provides that an invasive body cavity search of a pregnant prisoner may only be conducted by a medical professional, unless a correctional officer has a reasonable belief that the prisoner is concealing contraband. The bill requires that an officer who conducts an invasive body cavity search submit a written report to the corrections official within 72 hours after the search, which must:

- Explain the reasons for the search; and
- Identify any contraband recovered in the search.

Restrictive Housing

The bill prohibits, with limited exceptions, a pregnant prisoner from being involuntarily placed in restrictive housing. However, the bill provides that a corrections official is not prohibited from placing a pregnant prisoner in restrictive housing for disciplinary violations or to address security risks to the pregnant prisoner, other prisoners, or staff directly related to the pregnant prisoner, provided the corrections official complies with the requirements discussed below.

The only exception provided for in the bill authorizes a pregnant prisoner to be involuntarily placed in restrictive housing if the corrections official of the correctional institution, in consultation with the individual overseeing prenatal care and medical treatment at the correctional institution, determines that an extraordinary circumstance exists such that restrictive housing is necessary and that there are no less restrictive means available.

The bill requires the corrections official to, *before* placing a prisoner in restrictive housing, write a report that states:

- The extraordinary circumstance that is present; and
- The reason less restrictive means are not available.

The corrections official is required to review the report at least every 24 hours to confirm that the extraordinary circumstances cited in the report still exist and a copy of the report and each review must be provided to the prisoner.

A pregnant prisoner who is placed in restrictive housing under s. 944.241, F.S., must be:

- Seen at least every 24 hours by the person overseeing prenatal care and medical treatment in the facility;
- Housed in the least restrictive setting consistent with the health and safety of the individual; and
- Given an intensive treatment plan developed and approved by the person overseeing prenatal care and medical treatment at the facility.

In the case that a pregnant prisoner needs infirmary care, the bill requires an authorized medical staff to provide an order for the prisoner to be admitted to the infirmary. Further, if the prisoner has passed her due date, she must be admitted to the infirmary until labor begins or until the obstetrician makes other housing arrangements. The bill provides that a pregnant prisoner who has been placed in the infirmary must be provided:

- The same access to outdoor recreation, visitation, mail, and telephone calls as other prisoners; and
- The ability to continue to participate in other privileges and classes granted to the general population.

The bill amends s. 944.215(7), F.S., deleting a date related to the rulemaking authority, therefore providing the entities covered under the section with the necessary rulemaking authority to implement the changes made by the act.

The bill is effective July 1, 2020.

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:

None.

C. Government Sector Impact:

The bill requires that the DOC, DJJ, and county and municipal detention facilities comply with new standards for using restraints with, conducting invasive body cavity searches on, and placing in restrictive housing pregnant prisoners. These new standards require that specific staff document the extraordinary circumstance leading to the utilization of the enumerated exceptions to the use of restraints or restrictive housing with pregnant prisoners and to conduct reviews of the extraordinary circumstance that is the basis for the exception. The prisoner must be reviewed every 24 hours and must also be placed in the infirmary in certain circumstances.

According to the Department of Corrections and the Department of Juvenile Justice, changing the requirement for the frequency of interaction with medical staff from every eight hours to every 24 hours eliminates the fiscal impact.⁹⁷

Similarly, the Sheriffs' Association previously advised that the medical examinations every 8 hours is a concern. They report that many medium and small jails do not have 24/7 medical staff onsite and would not be able to conduct the medical examinations without hiring or contracting for additional staff.⁹⁸ It is anticipated that the impact to sheriffs will be reduced with this change.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁹⁷ Telephone call with Mark Talent at the Department of Corrections, and with Rachel Moscosco at the Department of Juvenile Justice. (February 18, 2020).

⁹⁸ Email from the Sheriffs' Association (February 7, 2020) (on file with the Senate Committee on Criminal and Civil Justice Appropriations).

VIII. Statutes Affected:

This bill substantially amends section 944.241 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.)

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 18, 2020:

The committee substitute revised the previous requirement that pregnant prisoners who are placed in restrictive housing be “examined” at least every eight hours, to require that they be “seen” at least every 24 hours.

CS by Criminal Justice on January 14, 2020:

The committee substitute:

- Renames the Act the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act”;
- Modifies the term “extraordinary circumstance” to apply to restraints and restrictive housing;
- Defines the terms “invasive body cavity search” and “restrictive housing”;
- Expands the prohibition on using restraints on pregnant prisoners to cover a pregnant prisoner at any point in her pregnancy if she is being transported;
- Provides an exception to when restraints can be used on a pregnant prisoner and requires the corrections official to document the reasons why restraints were necessary;
- Prohibits invasive body cavity searches on a pregnant prisoner and provides an exception for when a correctional officer can conduct such a search;
- Prohibits a corrections institution from placing a pregnant prisoner in restrictive housing just as a result of the condition of being pregnant;
- Provides exceptions to when restrictive housing can be used on a pregnant prisoner and requires the corrections official to document the reasons why restrictive housing was necessary;
- Requires a corrections official to examine a pregnant prisoner placed into restrictive housing every eight hours to ensure the restrictive housing is still necessary;
- Requires pregnant prisoners placed in the infirmary for restrictive housing to be provided the same rights as in the general population; and
- Provides rulemaking authority.

- B. **Amendments:**

None.



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576-03897-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to incarcerated pregnant women;
amending s. 944.241, F.S.; amending the short title;
redefining the term "extraordinary circumstance";
defining the terms "invasive body cavity search" and
"restrictive housing"; revising the circumstances
under which a prisoner who is known to be pregnant may
not be restrained; specifying conditions under which
restraints may be used; requiring that invasive body
cavity searches on a pregnant prisoner be conducted by
a medical professional; providing an exception;
prohibiting the involuntary placement of pregnant
prisoners in restrictive housing; providing
exceptions; requiring corrections officials to write a
specified report if an extraordinary circumstance
necessitates placing a pregnant prisoner in
restrictive housing; providing requirements for the
report; requiring corrections officials to review such
reports at specified intervals; requiring a copy of
such reports and reviews to be provided to pregnant
prisoners in restrictive housing; providing
requirements for the treatment of pregnant prisoners
placed in restrictive housing; requiring pregnant
prisoners to be admitted to the infirmary under
certain circumstances; providing certain rights for
pregnant prisoners admitted to the infirmary;
providing an effective date.



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576-03897-20

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

Section 1. Section 944.241, Florida Statutes, is amended to
read:

944.241 ~~Shackling of~~ Incarcerated pregnant women.—

(1) SHORT TITLE.—This section may be cited as the "Tammy
Jackson Healthy Pregnancies for Incarcerated Women Act."

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

(a) "Correctional institution" means any facility under the
authority of the department or the Department of Juvenile
Justice, a county or municipal detention facility, or a
detention facility operated by a private entity.

(b) "Corrections official" means the official who is
responsible for oversight of a correctional institution, or his
or her designee.

(c) "Department" means the Department of Corrections.

(d) "Extraordinary circumstance" means a substantial flight
risk or some other extraordinary medical or security
circumstance that dictates restraints or restrictive housing be
used to ensure the safety and security of the prisoner, the
staff of the correctional institution or medical facility, other
prisoners, or the public.

(e) "Invasive body cavity search" means a search that
involves a manual inspection using touch, insertion, or probing
of the openings, cavities, and orifices of the human body,
including, but not limited to, the genitals, buttocks, anus, or
breasts that is not conducted for a medical purpose.

(f) ~~(e)~~ "Labor" means the period of time before a birth



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57 during which contractions are of sufficient frequency,
58 intensity, and duration to bring about effacement and
59 progressive dilation of the cervix.

60 ~~(g)(f)~~ "Postpartum recovery" means, as determined by her
61 physician, the period immediately following delivery, including
62 the recovery period when a woman is in the hospital or infirmary
63 following birth, up to 24 hours after delivery unless the
64 physician after consultation with the department or correctional
65 institution recommends a longer period of time.

66 ~~(h)(g)~~ "Prisoner" means any person incarcerated or detained
67 in any correctional institution who is accused of, convicted of,
68 sentenced for, or adjudicated delinquent for a violation of
69 criminal law or the terms and conditions of parole, probation,
70 community control, pretrial release, or a diversionary program.
71 For purposes of this section, the term includes any woman
72 detained under the immigration laws of the United States at any
73 correctional institution.

74 ~~(i)(h)~~ "Restraints" means any physical restraint or
75 mechanical device used to control the movement of a prisoner's
76 body or limbs, including, but not limited to, flex cuffs, soft
77 restraints, hard metal handcuffs, a black box, chubb cuffs, leg
78 irons, belly chains, a security or tether chain, or a convex
79 shield.

80 ~~(j)~~ "Restrictive housing" means the placement of pregnant
81 prisoners separately from the general population of a
82 correctional institution and imposing restrictions on their
83 movement, behavior, and privileges solely based on the condition
84 of being pregnant. The term includes placing the prisoner in
85 medical isolation or in the infirmary.



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86 (3) RESTRAINT OF PRISONERS.—

87 (a) Except as provided in paragraph (b), restraints may not
88 be used on a prisoner who is known to be pregnant:

89 1. If any doctor, nurse, or other health professional
90 treating the prisoner in labor, in delivery, or in postpartum
91 recovery requests that restraints not be used due to a
92 documentable medical purpose. If the doctor, nurse, or other
93 health professional makes such a request, the correctional
94 officer or other law enforcement officer accompanying the
95 prisoner must immediately remove all restraints.

96 2. During transport, labor, delivery, or and postpartum
97 recovery, unless the corrections official makes an
98 individualized determination that the prisoner presents an
99 extraordinary circumstance, except that:

100 1. The physician may request that restraints not be used
101 for documentable medical purposes. The correctional officer,
102 correctional institution employee, or other officer accompanying
103 the pregnant prisoner may consult with the medical staff;
104 however, If the corrections official officer determines there is
105 an extraordinary public safety risk, the official may officer is
106 authorized to apply restraints as limited by paragraph (b)
107 subparagraph 2.

108 (b) A restraint may be used on a prisoner who is known to
109 be pregnant or in postpartum recovery only if all of the
110 following apply:

111 1. The corrections official makes an individualized
112 determination that the prisoner presents an extraordinary
113 circumstance.

114 2. The restraints used are the least restrictive necessary.



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115 3. If wrist restraints are used, the restraints are applied
116 in the front of the prisoner so that she may protect herself in
117 the event of a forward fall.

118 ~~4.2- Under no circumstances shall Leg, ankle, or waist~~
119 ~~restraints are not be used on any pregnant prisoner who is in~~
120 ~~labor or delivery.~~

121 ~~(b) If restraints are used on a pregnant prisoner pursuant~~
122 ~~to paragraph (a):~~

123 ~~1. The type of restraint applied and the application of the~~
124 ~~restraint must be done in the least restrictive manner~~
125 ~~necessary; and~~

126 ~~(c)2- The corrections official shall make written findings~~
127 ~~within 10 days after the use of restraints as to the~~
128 ~~extraordinary circumstance that dictated the use of the~~
129 ~~restraints. These findings shall be kept on file by the~~
130 ~~department or correctional institution for at least 5 years.~~

131 ~~(d) A pregnant prisoner who is transported by a~~
132 ~~correctional institution must be transported using a restraint~~
133 ~~that is the least restrictive necessary. A correctional~~
134 ~~institution that uses restraints on a pregnant prisoner during~~
135 ~~transport must comply with the written findings required in~~
136 ~~paragraph (c).~~

137 ~~(e) During the third trimester of pregnancy or when~~
138 ~~requested by the physician treating a pregnant prisoner, unless~~
139 ~~there are significant documentable security reasons noted by the~~
140 ~~department or correctional institution to the contrary that~~
141 ~~would threaten the safety of the prisoner, the unborn child, or~~
142 ~~the public in general:~~

143 ~~1. Leg, ankle, and waist restraints may not be used; and~~



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144 ~~2. If wrist restraints are used, they must be applied in~~
145 ~~the front so the pregnant prisoner is able to protect herself in~~
146 ~~the event of a forward fall.~~

147 ~~(d) In addition to the specific requirements of paragraphs~~
148 ~~(a)-(c), any restraint of a prisoner who is known to be pregnant~~
149 ~~must be done in the least restrictive manner necessary in order~~
150 ~~to mitigate the possibility of adverse clinical consequences.~~

151 ~~(4) INVASIVE BODY CAVITY SEARCHES.-~~

152 ~~(a) Except as provided under paragraph (b), an invasive~~
153 ~~body cavity search of a pregnant prisoner may be conducted only~~
154 ~~by a medical professional.~~

155 ~~(b) A correctional officer may conduct an invasive body~~
156 ~~cavity search of a pregnant prisoner only if the officer has a~~
157 ~~reasonable belief that the prisoner is concealing contraband. An~~
158 ~~officer who conducts an invasive body cavity search must submit~~
159 ~~a written report to the corrections official within 72 hours~~
160 ~~after the search. The report must:~~

- 161 ~~1. Explain the reasons for the search; and~~
162 ~~2. Identify any contraband recovered in the search.~~

163 ~~(5) RESTRICTIVE HOUSING.-~~

164 ~~(a) Except as provided in paragraph (b), a pregnant~~
165 ~~prisoner may not be involuntarily placed in restrictive housing.~~
166 ~~This subsection does not prohibit a corrections official from~~
167 ~~placing a pregnant prisoner in restrictive housing for~~
168 ~~disciplinary violations or to address security risks to the~~
169 ~~pregnant prisoner, other prisoners, or staff directly related to~~
170 ~~the pregnant prisoner provided the corrections official complies~~
171 ~~with the reporting requirements of subparagraph (b)1.~~

172 ~~(b) A pregnant prisoner may be involuntarily placed in~~



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173 restrictive housing only if the corrections official of the
174 correctional institution, in consultation with the medical staff
175 overseeing prenatal care and medical treatment at the
176 correctional institution, determines that an extraordinary
177 circumstance exists such that restrictive housing is necessary
178 and that there are no less restrictive means available.

179 1. The corrections official shall, before placing a
180 prisoner in restrictive housing, write a report that states:

181 a. The extraordinary circumstance that is present; and
182 b. The reason less restrictive means are not available.

183 2. The corrections official shall review the report at
184 least every 24 hours to confirm that the extraordinary
185 circumstance cited in the report still exists. A copy of the
186 report and each review must be provided to the pregnant
187 prisoner.

188 (c) A pregnant prisoner who is placed in restrictive
189 housing under this section shall be:

190 1. Seen at least every 24 hours by the medical staff
191 overseeing prenatal care and medical treatment in the facility;

192 2. Housed in the least restrictive setting consistent with
193 the health and safety of the pregnant prisoner; and

194 3. Given an intensive treatment plan developed and approved
195 by the medical staff overseeing prenatal care and medical
196 treatment at the facility.

197 (d) If a pregnant prisoner needs infirmary care, an
198 authorized medical staff must provide an order for the pregnant
199 prisoner to be admitted to the infirmary. If the pregnant
200 prisoner has passed her due date, she must be admitted to the
201 infirmary until labor begins or until other housing arrangements



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202 are made. A pregnant prisoner who has been placed in the
203 infirmary shall be provided:

204 1. The same access to outdoor recreation, visitation, mail,
205 and telephone calls as other prisoners; and

206 2. The ability to continue to participate in other
207 privileges and classes granted to the general population.

208 (6)-(4) ENFORCEMENT.-

209 (a) Notwithstanding any relief or claims afforded by
210 federal or state law, any prisoner who is restrained in
211 violation of this section may file a grievance with the
212 correctional institution, and be granted a 45-day extension if
213 requested in writing pursuant to rules promulgated by the
214 correctional institution.

215 (b) This section does not prevent a woman harmed through
216 the use of restraints under this section from filing a complaint
217 under any other relevant provision of federal or state law.

218 (7)-(5) NOTICE TO PRISONERS.-

219 (a) ~~By September 1, 2012,~~ The department and the Department
220 of Juvenile Justice shall adopt rules pursuant to ss. 120.536(1)
221 and 120.54 to administer this section.

222 (b) Each correctional institution shall inform female
223 prisoners of the rules developed pursuant to paragraph (a) upon
224 admission to the correctional institution, including the
225 policies and practices in the prisoner handbook, and post the
226 policies and practices in locations in the correctional
227 institution where such notices are commonly posted and will be
228 seen by female prisoners, including common housing areas and
229 medical care facilities.

230 Section 2. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 852

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senators Pizzo, Taddeo, Braynon, and others

SUBJECT: Incarcerated Pregnant Women

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|--------------------------|
| 1. | <u>Cox</u> | <u>Jones</u> | <u>CJ</u> | Fav/CS |
| 2. | <u>Jameson</u> | <u>Jameson</u> | <u>ACJ</u> | Recommend: Fav/CS |
| 3. | <u>Jameson</u> | <u>Jameson</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 852 amends section 944.241, Florida Statutes, which currently addresses the use of restraints on pregnant prisoners in Florida's correctional institutions, to expand the prohibition on the use of restraints on pregnant prisoners. Additionally, the bill prescribes when a corrections officer may conduct an invasive body cavity search and when a pregnant prisoner may be placed in restrictive housing.

The bill expands the prohibition of using restraints on a pregnant prisoner under current law to cover when a pregnant prisoner is being transported. This applies to a pregnant prisoner at any point in her known pregnancy. The bill prescribes certain circumstances in which restraints may not be used, which are substantively similar to the exceptions provided for in current law.

The bill provides that an invasive body cavity search of a pregnant prisoner may only be conducted by a medical professional, unless a correctional officer has a reasonable belief that the prisoner is concealing contraband and such correctional officer submits a written report to the corrections official within 72 hours after the search including specified information supporting the need for the search.

The bill prohibits a pregnant prisoner from being involuntarily placed in restrictive housing unless specified correctional staff determine that an extraordinary circumstance exists such that restrictive housing is necessary and there are no less restrictive means available.

The bill requires the corrections official to write a report documenting the need for the use of restrictive housing prior to placing the prisoner in restrictive housing. The corrections official is required to review the report at least every 24 hours to confirm that the extraordinary circumstance still exists. A copy of the report and each review must be provided to the prisoner.

Additionally, the bill requires a pregnant prisoner who is placed in restrictive housing to be seen at least every 24 hours, housed in the least restrictive setting consistent with the health and safety of the individual, and given an intensive treatment plan for prenatal care and medical treatment at the facility.

In the case that a pregnant prisoner needs infirmary care, the bill requires a primary care nurse practitioner or obstetrician to provide an order for the prisoner to be admitted to the infirmary and requires that a prisoner who is passed her due date be admitted to the infirmary until labor begins or until the obstetrician makes other housing arrangements.

The bill has a significant negative fiscal impact. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Pregnancy in Prison

Reports predict that an estimated four to ten percent of women are pregnant upon being committed to prison or jail.¹ However, documentation of pregnancies and pregnancy care while incarcerated is sparse. The most recent data from the Bureau of Justice Statistics (BJS) was collected more than 15 years ago. In 2002, the BJS found that five percent of women in local jails were pregnant when admitted. In 2004, the BJS reported that four percent of women in state prisons and three percent of women in federal prisons were pregnant upon admission. The government has not released any further national data since.²

The American College of Obstetricians and Gynecologists (ACOG) report that pregnancies among incarcerated women are often higher risk due to a number of factors, including that such

¹ Ferszt, G., Palmer, M., and McGrane, C., Nursing for Women's Health, *Where Does Your State Stand on Shackling of Pregnant Incarcerated Women?*, February 2018, available at [https://nwhjournal.org/article/S1751-4851\(17\)30335-5/pdf](https://nwhjournal.org/article/S1751-4851(17)30335-5/pdf) (hereinafter cited as "Nursing for Women's Health Report"); Daniel, R., Prison Policy Initiative, *Prisons neglect pregnant women in their healthcare policies*, December 5, 2019, available at <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/> (hereinafter cited as "Prison Policy Initiative report") (all sites last visited January 3, 2020).

² Prison Policy Initiative Report. See also Sufrin, C., Beal, L., Clarke, J., Jones, R., and Mosher, W., The American Journal of Public Health, *Pregnancy Outcomes in US Prison, 2016-2017*, January 15, 2019, available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305006> (hereinafter cited as "Pregnancy Outcomes Report") (last visited on January 3, 2020).

pregnancies are often unplanned and are compromised by a lack of prenatal care, poor nutrition, domestic violence, mental illness, and drug and alcohol abuse.³

Further, the ACOG reports a number of risks that are directly related to a pregnant inmate being restrained, including:

- Added discomfort during the common pregnancy symptoms of nausea and vomiting.
- The inability of a pregnant inmate to break a fall and protect herself and the fetus in the case of a forward fall.
- The inability for healthcare providers to perform a number of tests to evaluate for conditions such as appendicitis, preterm labor, or kidney infection if a pregnant inmate has abdominal pain during pregnancy.
- A delay in diagnosing issues after vaginal bleeding during pregnancy.
- The inability to safely treat a pregnant inmate who is suffering from seizures related to hypertensive disease and preeclampsia,⁴ which are common in pregnancy.
- Interference with normal labor and delivery, such as prohibiting the pregnant inmate from:
 - Ambulating during labor, which increases the likelihood for adequate pain management, successful cervical dilation, and a successful vaginal delivery.
 - Moving or being moved in preparation for emergencies of labor and delivery, including shoulder dystocia, hemorrhage, or abnormalities of the fetal heart rate requiring intervention, including urgent cesarean delivery.⁵

The Florida Department of Corrections (DOC) has five female correctional institutions statewide.⁶ The DOC assigns female prisoners to institutions based on current classification procedures while facilitating the individual risk and needs of prisoners to the extent possible considering security, medical and mental health needs, programmatic needs, geographic realities, and prohibitive monetary factors. The Lowell Correctional Institution houses all pregnant prisoners for the duration of the pregnancy and prisoners within six weeks post-delivery. Lowell Correctional Institution is the only institution in the state designed and staffed to care for expectant and early postpartum prisoners.

Upon confirmation of pregnancy, the prisoner's medical grade is changed and the pregnant prisoner is referred to a licensed physician for obstetrical care to provide prenatal care and follow

³ The American College of Obstetricians and Gynecologists, Committee Opinion, *Health Care for Pregnancy and Postpartum Incarcerated Women and Adolescent Females*, November 2011, available at <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Health-Care-for-Pregnant-and-Postpartum-Incarcerated-Women-and-Adolescent-Females?IsMobileSet=false> (last visited January 3, 2020); See also Nursing for Women's Health Report.

⁴ Preeclampsia results in a pregnant woman exhibiting high blood pressure, protein in the urine, and swelling in the body. It also results in signs of damage to another organ system, most often the liver and kidneys. Preeclampsia usually begins after 20 weeks of pregnancy in women whose blood pressure had been normal. See Mayo Clinic, *Preeclampsia, Overview*, available at <https://www.mayoclinic.org/diseases-conditions/preeclampsia/symptoms-causes/syc-20355745>; WebMD, *What is Preeclampsia?*, available at <https://www.webmd.com/baby/preeclampsia-eclampsia#1> (all sites last visited January 6, 2020).

⁵ *Supra*, n. 3.

⁶ These facilities are Gadsden Correctional Facility in Quincy, Lowell Correctional Institution in Ocala, Florida Women's Reception Center in Ocala, Hernando Correctional Institution in Brooksville, and Homestead Correctional Institution in Florida City. The DOC, *Agency Analysis for SB 852*, January 10, 2020, p. 2 (on file with Senate Criminal Justice Committee)(hereinafter cited as "The DOC SB 852 Analysis").

them throughout the pregnancy. High risk patients are identified by obstetricians and given the necessary medical care. Inmates receive prenatal counseling, vitamins, and exams. They also are prescribed a prenatal diet that includes three fortified breakfast beverages per day and is adjusted for the caloric value and nutritional recommendations for pregnancy.⁷ Pregnant prisoners are transferred to a contract hospital for the actual delivery and then returned to the institution when discharged by the attending obstetrician. The DOC reports that postpartum care is provided at the institution according to the discharge orders of the attending obstetrician, but that the six-week checkup is provided by the obstetrician.⁸

The DOC reports that the pregnant prisoner population over the last three fiscal years is as follows:

- 101 prisoners in Fiscal Year 2018-2019.
- 98 in Fiscal Year 2017-2018.
- 109 in Fiscal Year 2016-2017.⁹

The Federal First Step Act's Prohibition on the Use of Restraints

In December, 2018, the United States Congress passed, and President Trump signed into law, the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act” (First Step Act).¹⁰ The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons (BOP), including, in part, imposing a prohibition on the use of restraints on pregnant prisoners in the custody of the BOP and the U.S. Marshalls Office.

The prohibition on the use of restraints begins on the date that pregnancy is confirmed by a healthcare professional and ends when postpartum recovery is completed. However, the First Step Act authorizes restraints to be used in limited circumstances, including when the:

- Pregnant inmate is determined to be an immediate and credible flight risk;
- Pregnant inmate poses an immediate and serious threat of harm to herself or others that cannot be reasonably prevented by other means; or
- Healthcare professional determines that the use of restraints is appropriate for the medical safety of the inmate.¹¹

If one of the above-mentioned exceptions apply, the BOP or U.S. Marshall Service still may not:

- Use restraints around the ankles, legs, or waist of an inmate;
- Restrain an inmate's hands behind her back;
- Use four-point restraints; or
- Attach an inmate to another inmate.¹²

⁷ The DOC SB 852 Analysis, p. 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ The First Step Act of 2018, Pub. L. No. 115-391 (2018).

¹¹ Congressional Research Service, *The First Step Act of 2018: An Overview*, March 4, 2019, available at <https://crsreports.congress.gov/product/pdf/R/R45558> (last visited January 2, 2020). The Act provides that only the least restrictive restraints necessary to prevent escape or harm may be used if one of the exceptions applies.

¹² *Id.*

Additionally, upon the request of a healthcare professional, correctional officials or deputy marshals must refrain from using restraints on an inmate or must remove restraints used on an inmate. If restraints are used on a pregnant inmate, the correctional official or deputy marshal who used the restraints is required to submit a report within 30 days that describes the facts and circumstances surrounding the use of the restraints, including the reasons for using the restraints, the details of the use, including the type of restraint and length of time they were used, and any observable physical effects on the inmate.¹³

The First Step Act also requires the BOP and U.S. Marshall Service to develop training guidelines regarding the use of restraints on inmates during pregnancy, labor, and postpartum recovery. The guidelines are required to include:

- How to identify certain symptoms of pregnancy that require immediate referral to a healthcare professional;
- Circumstances under which exceptions to the prohibition on the use of restraints would apply;
- How to use restraints in a way that does not harm the inmate, the fetus, or the newborn in the case that an above-mentioned exception applies;
- Details on the information required to be reported when restraints are used; and
- The right of a healthcare professional to request that restraints not be used and the requirement to comply with such a request.¹⁴

The First Step Act does not include provisions related to various types of searches of or the use of restrictive housing for pregnant prisoners.

Florida's Prohibition on the Use of Restraints

Section 944.241, F.S., prohibits restraints¹⁵ from being used on a prisoner¹⁶ who is known to be pregnant during labor,¹⁷ delivery, and postpartum recovery,¹⁸ unless the corrections official¹⁹ makes an individualized determination that the prisoner presents an extraordinary

¹³ *Id.* The reports must be submitted to the BOP or U.S. Marshall Service and the healthcare provider responsible for the inmate's health and safety.

¹⁴ *Id.*

¹⁵ Section 944.241(2)(h), F.S., defines "restraints" to mean any physical restraint or mechanical device used to control the movement of a prisoner's body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

¹⁶ Section 944.241(2)(g), F.S., defines "prisoner" to mean any person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for a violation of criminal law or the terms and conditions of parole, probation, community control, pretrial release, or a diversionary program. Additionally, the term includes any woman detained under the immigration laws of the United States at any correctional institution.

¹⁷ Section 944.241(2)(e), F.S., defines "labor" to mean the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

¹⁸ Section 944.241(2)(f), F.S., defines "postpartum recovery" to mean, as determined by her physician, the period immediately following delivery, including the recovery period when a woman is in the hospital or infirmary following birth, up to 24 hours after delivery unless the physician after consultation with the DOC or correctional institution recommends a longer period of time.

¹⁹ Section 944.241(2)(b), F.S., defines "corrections official" to mean the official who is responsible for oversight of a correctional institution, or his or her designee.

circumstance.²⁰ This section applies to any facility under the authority of the DOC, the DJJ, a county or municipal detention facility, or a detention facility operated by a private entity.²¹

A physician may request that restraints not be used for documentable medical purposes. In that case, the correctional officer, correctional institution employee, or other officer accompanying the pregnant prisoner may consult with the medical staff and if the officer determines there is an extraordinary public safety risk, the officer is authorized to apply restraints. However, leg, ankle, or waist restraints may not be used on any pregnant prisoner who is in labor or delivery.²² If restraints are used on a pregnant prisoner, the:

- Type of restraint applied and the application of the restraint must be done in the least restrictive manner necessary; and
- Corrections official is required to make written findings within ten days after the use of restraints to document the extraordinary circumstance that required the use of the restraints.²³

Leg, ankle, and waist restraints may not be used during the third trimester of pregnancy or when requested by the physician treating a pregnant prisoner unless there are significant documentable security reasons noted by the correctional institution to the contrary that would threaten the safety of the prisoner, the unborn child, or the public in general. In addition, if wrist restraints are used, they must be applied in the front so the pregnant prisoner is able to protect herself in the event of a forward fall.²⁴ Any restraint of a prisoner who is known to be pregnant must be done in the least restrictive manner necessary in order to mitigate the possibility of adverse clinical consequences.²⁵

Section 944.241(4), F.S., provides that any prisoner who is restrained may file a grievance with the correctional institution and be granted a 45-day extension if requested in writing pursuant to rules promulgated by the correctional institution and that a woman harmed through the use of restraints in violation of s. 944.241, F.S., is not prohibited from filing a complaint under any other relevant provision of federal or state law.

The DOC and the DJJ are required to adopt rules to administer the provisions and must inform female prisoners of such rules upon admission to the correctional institution, including the policies and practices in the prisoner handbook, and post the policies and practices in locations in the correctional institution where such notices are commonly posted and will be seen by female prisoners, including common housing areas and medical care facilities.²⁶

The Florida Model Jail Standards (FMJS) are minimum standards that jails across Florida must meet to ensure the constitutional rights of those incarcerated are upheld. The FMJS Committee is

²⁰ Section 944.241(2)(d), F.S., defines “extraordinary circumstance” to mean a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, or the public.

²¹ See s. 944.241(2)(a), F.S.

²² Section 944.241(3)(a), F.S.

²³ Section 944.241(3)(b), F.S. The written findings must be kept on file by the DOC or correctional institution for at least five years.

²⁴ Section 244.241(3)(c), F.S.

²⁵ Section 944.241(3)(d), F.S.

²⁶ Section 944.241(5), F.S.

required to develop and continually enforce model standards adopted by the group.²⁷ The FMJS Rule 11.15 adopts the language of s. 944.241, F.S., related to the use of restraints on pregnant inmates.

Searches of Detained Persons in Florida's Prisons and Other Facilities

Department of Corrections

There are a number of searches of inmates that are utilized to control the introduction and movement of contraband and to prevent escapes of inmates, including searches while clothed, strip searches, and body cavity searches.²⁸

Rule 33-602.204, of the Florida Administrative Code (Rule 33-602.204), in part, requires that body cavity searches must be conducted only by appropriate Health Services staff, but allows authorized staff to be of the opposite sex from the inmates.²⁹ Body orifice and cavity searches must be conducted only when authorized by the warden, assistant warden, or the correctional officer chief upon a finding that there exists reasonable cause to believe that an inmate has contraband secreted in a body cavity.³⁰

Specified procedures and conditions must apply to body orifice and cavity searches, including, in part, that:

- The degree and intensity of the search must be the least required to bring the search to a conclusion.
- Oral cavity searches may be conducted visually as a routine element of any search of an inmate.³¹
- Physical intrusion into the inmate's body³² or physical isolation and observation may be utilized in specified circumstances.³³

²⁷ The Florida Sheriff's Association (FSA), *Florida Model Jail Standards as of 1/1/2019, What is FMJS?*, available at <https://www.flsheriffs.org/law-enforcement-programs/training/florida-model-jail-standards> (last visited January 10, 2020) (hereinafter cited as "FMJS Rule").

²⁸ Fla. Admin. Code R. 33-602.204.

²⁹ Fla. Admin. Code R. 33-602.204(3)(a).

³⁰ Fla. Admin. Code R. 33-602(3)(b). Reasonable cause may be established from specified evidence, including confidential information received from a reliable source, irregularities found in the area of the body during a strip search, or observed actions or behavior resulting in reasonable cause to believe that the individual has secreted contraband within a body cavity.

³¹ Additionally, if there are indications that an inmate is concealing contraband in his or her mouth, the Rule states that the inmate will be restrained or be placed under constant visual observation and no restraints or holds may be applied in any manner which inhibit breathing or swallowing. However, the inmate may be physically controlled and isolated from other inmates if necessary in order to avoid his or her disposal of the contraband. When there is reasonable cause to believe contraband has been swallowed, any attempt to retrieve the contraband will be accomplished by Health Service staff. No physical intrusion into the inmate's oral cavity will be attempted by any other person other than Health Service staff.

³² Fla. Admin. Code R. 33-602(3)(c)d.3. The specified circumstances allowing physical intrusion into the body include when: a member of the Health Services staff has determined that failure to remove the contraband presents an imminent danger to the health of the inmate; the contraband is clearly identified and is determined to be a clear and present danger to the security of the institution or the safety of the inmate or other persons; or the intrusion is necessary to retrieve the contraband for purposes of identification or to secure it as evidence and less intrusive means to retrieve such contraband are not feasible.

³³ Fla. Admin. Code R. 33-602(3)(c)d.4. Physical isolation and observation are authorized when the inmate cannot or will not voluntarily remove and surrender the contraband or in the event that a Medical Doctor has determined that the physical removal of contraband may be hazardous to the health and safety of the inmate. The isolation must occur in a medically approved isolated setting under constant visual supervision until the contraband can be retrieved through natural means. The

- Prior to the initiation of the first phase of the search, and before each successive escalation of the search, the individual must be given opportunities to voluntarily remove and surrender the contraband.³⁴
- A specified correctional officer of the same sex must be physically present when the search is conducted.³⁵
- The search must be made only by a physician or a designated member of the Health Services staff working under sanitary conditions and in a medically approved way using only the force necessary to ensure the person submits to the examination.³⁶
- Complete and detailed documentation of all body cavity searches other than visual or metal detector searches must be submitted to the warden and include specified information.³⁷

Department of Juvenile Justice

The DJJ has implemented procedures for conducting searches of juveniles who are in detention as well as those that have been committed to a residential facility. Rule 63G-2.019(11), F.A.C., which addresses detention services within the DJJ, and Rule 63E-7.107, F.A.C., which addresses residential placement, provide very similar procedures for when searches of juveniles may occur.

These rules provide, in part, that:

- The Superintendent must ensure that the primary function of any search is to locate contraband and to identify any item or situation that may be hazardous or otherwise compromise safety or security.³⁸
- All searches and the result of each search must be documented in specified documents.³⁹
- Any item or situation that may compromise safety or security must be immediately reported to the detention officer supervisor and law enforcement must be contacted if any item found would be considered illegal under Florida law or if there is evidence of any type of unlawful activity.⁴⁰

Further, the rules provide, in part, that:

- A frisk search must be conducted by an officer of the same sex as the youth being searched and such searches must be conducted:
 - During admission.
 - Following activities outside the secure area of the facility or visitation with a person from outside of the facility.
 - Prior to and after transportation.
 - When there is a reasonable suspicion that a youth is harboring contraband.⁴¹

natural process of waste elimination must be used as an alternative to forcible intrusion into the body cavities or surgery when a Medical Doctor determines that the natural method is feasible and does not pose a hazard to the inmate's health and safety.

³⁴ Fla. Admin. Code R. 33-602(3)(c)d.6.

³⁵ Fla. Admin. Code R. 33-602(3)(c)d.7.

³⁶ Fla. Admin. Code R. 33-602(3)(c)d.9.-10.

³⁷ Fla. Admin. Code R. 33-602(3)(c)d.12.

³⁸ Fla. Admin. Code R. 63G-2.019(11)(a); Fla. Admin. Code R. 63E-7.107(2)(b).

³⁹ Fla. Admin. Code R. 63G-2.019(11)(b); Fla. Admin. Code R. 63E-7.107(2)(a).

⁴⁰ Fla. Admin. Code R. 63G-2.019(11)(d). These provisions do not appear in Rule 63E-7.107.

⁴¹ Fla. Admin. Code R. 63G-2.019(11)(e); *See* Fla. Admin. Code R. 63E-7.107(2)(a) and (b).

- Strip searches must be conducted during admission or if there is a reasonable suspicion a youth is harboring contraband and the strip search must be conducted in a private area with two staff members present, both of the same sex as the youth being searched.⁴²
- Staff must explain the purpose and procedure of the search, assure the youth of his or her safety, avoid using unnecessary force, and treat the youth with dignity and respect to minimize the youth's stress and embarrassment.⁴³
- Staff may not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth's genital status.⁴⁴
- Cavity searches must be approved by the superintendent, conducted by trained medical personnel in a hospital setting, and only conducted when it is strongly suspected that a youth has concealed contraband in a body cavity.⁴⁵

County Detention Facilities

The FMJS also had model standards for conducting searches on inmates in the custody of a county detention facility. FMJS Rules 4.2 and 4.3, provide that inmates must be searched by certified staff when being admitted to a detention facility and that the provisions of s. 901.211, F.S., must apply to such searches. Additionally, a body cavity search is only authorized to be conducted by licensed medical personnel.⁴⁶

Section 901.211, F.S., in part, provides that a person arrested for a traffic, regulatory, or misdemeanor offense, except in a case that is violent in nature, which involves a weapon, or which involves a controlled substance, may not be strip searched⁴⁷ unless certain circumstances apply.⁴⁸ Each strip search is required to be performed by a person of the same gender as the arrested person and on premises where the search cannot be observed by persons not physically conducting or observing the search. Additionally, an observer must be of the same gender as the arrested person.⁴⁹ Any body cavity search must be performed under sanitary conditions.⁵⁰

⁴² See Fla. Admin. Code R. 63G-2.019(11)(e)4. and 5.; Fla. Admin. Code R. 63E-7.107(2)(a). A strip search is a visual check of a youth without clothing. Both of these Rules also provide that if two staff of the same sex as the youth are not available that one staff of the same sex as the youth may conduct the strip search while a staff of the opposite sex is positioned to observe the staff person conducting the search outside the view of the youth.

⁴³ Fla. Admin. Code R. 63G-2.019(11)(e)6.; Fla. Admin. Code R. 63E-7.107(2).

⁴⁴ Fla. Admin. Code R. 63G-2.019(11)(e)7. Further, if the youth's genital status is unknown, it may be determined during conversation with the youth, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. Rule 63E-7.107 is silent on this provision.

⁴⁵ Fla. Admin. Code R. 63G-2.019(11)(e)8.; Fla. Admin. Code R. 63E-7.107(2)(c).

⁴⁶ FMJS Rule 4.2 and 4.3. A written report documenting such action must be submitted to the officer-in-charge or designee.

⁴⁷ Section 901.211(1), F.S., defines the term "strip search" to mean having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual or manual inspection of the genitals; buttocks; anus; breasts, in the case of a female; or undergarments of such person.

⁴⁸ See s. 901.211(2), F.S.

⁴⁹ Section 901.211(3), F.S.

⁵⁰ Section 901.211(4), F.S.

Confinement in Florida's Correctional Facilities

Department of Corrections

Confinement - General

Inmates in the custody of the DOC may be placed in confinement status based on specified conditions, which are detailed in the DOC's rules. Confinement status types used by the DOC include administrative or disciplinary confinement and protective management. "Administrative confinement" means the temporary removal of an inmate from the general inmate population in order to provide for security and safety until such time as more permanent inmate management processes can be concluded.⁵¹ "Disciplinary confinement" means a form of punishment in which inmates found guilty of committing violations of the DOC rules are confined for specified periods of time to individual cells based upon authorized penalties for prohibited conduct.⁵² "Protective management" means a special management status for the protection of inmates from other inmates in an environment as representative of that of the general population as is safely possible.⁵³

All inmates are subject to the same consideration for placement in administrative or disciplinary confinement. These types of confinement may limit conditions and privileges to assist with promoting the security, order, and effective management of the institution, but otherwise the treatment of inmates in confinement is as near to that of the general population as assignment to confinement permits.⁵⁴ For protective management, the rule provides that other privileges may be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order, or effective management of the institution.⁵⁵

Certain procedures appear to apply consistently across all types of confinement, such as:

- Prior to placing the inmate in confinement, the inmate is given a pre-confinement health assessment or medical evaluation.⁵⁶
- The ability to house inmates in confinement with other inmates, subject to the inmates being interviewed by the housing supervisor to ensure that none of the inmates constitute a threat to each other prior to placing inmates in the same cell.⁵⁷

⁵¹ Fla. Admin. Code R. 33-602.220(1)(a).

⁵² Fla. Admin. Code R. 33-602.222(1)(f).

⁵³ Fla. Admin. Code R. 33-602.221(1)(j). Protective management is not disciplinary in nature and, to the extent possible, all less restrictive avenues to address protection needs must be employed.

⁵⁴ Fla. Admin. Code R. 33-602.220(5); Fla. Admin. Code R. 33-602.221(2)(a) and (4); and Fla. Admin. Code R. 33-602.222(4).

⁵⁵ Fla. Admin. Code R. 33-602.221(4)(t). All such restrictions must be documented on a specified form and reported to the Inmate Classification Team (ICT). The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order or effective management of the institution. The ICT's decision for continuing restriction must also be documented on a specified form.

⁵⁶ See Fla. Admin. Code R. 33-602.220(2)(b) and (c) and Fla. Admin. Code R. 33-602.222(2)(a). An inmate does not have to be given the pre-confinement evaluation if he or she is currently in another confinement status that required a pre-confinement medical assessment. Rule 33-602.221, related to protective management is silent on whether a pre-confinement evaluation is necessary.

⁵⁷ Fla. Admin. Code R. 33-602.220(4)(a); Fla. Admin. Code R. 33-602.221(3)(a); and Fla. Admin. Code R. 33-602.222(3).

- The number of inmates housed in an administrative confinement cell must not exceed the number of bunks in the cell.⁵⁸

Inmates in confinement retain certain modified privileges, as mentioned above. For example, such inmates are provided:

- Exercise, which occurs either in the inmate's cell, if confined on a 24-hour basis, or, if confinement extends beyond a 30-day period, three hours per week of exercise at a minimum outdoors.
- Showers at least three times per week and on days that the inmate works.
- Normal institution meals.⁵⁹
- The same clothing and clothing exchange as is provided to the general inmate population.⁶⁰
- Out of cell time is permitted for regularly scheduled mental health services, unless, within the past four hours, the inmate has displayed hostile, threatening, or other behavior that could present a danger to others.
- Correspondence opportunities that are the same as the general inmate population.
- Telephone privileges for emergency situations, when necessary to ensure the inmate's access to courts, or in any other circumstance when a call is authorized by the warden or duty warden.
- Visits, when authorized by the warden or his or her designated representative.
- Legal visits, unless there is evidence that the visit is a threat to security and order.⁶¹
- Legal materials in the same manner as in the general population as long as security concerns permit.^{62, 63}

Administrative Confinement

Florida Administrative Rule 33-602.220 provides that an inmate may be placed into administrative confinement for the following reasons:

- Disciplinary charges are pending and the inmate needs to be temporarily removed from the general inmate population in order to provide for security or safety until such time as the disciplinary hearing is held.
- Outside charges are pending against the inmate and the presence of the inmate in the general population would present a danger to the security or order of the institution.
- Pending review of an inmate's request for protection from other inmates.
- An inmate has presented a signed written statement alleging that they are in fear of staff and has provided specific information to support this claim.

⁵⁸ Fla. Admin. Code R. 33-602.220(4)(a) and (d); Fla. Admin. Code R. 33-602.221(3); and Fla. Admin. Code R. 33-602.222(3)(a).

⁵⁹ The exception to this is when an item on the normal menu creates a security problem in the confinement unit, in which case, another item of comparable quality is substituted. Utilization of the special management meal is authorized for any inmate in administrative confinement who uses food or food service equipment in a manner that is hazardous to him or herself, staff, or other inmates.

⁶⁰ The exception to this is when there is an individual factual basis that exceptions are necessary for the welfare of the inmate or the security of the institution.

⁶¹ The warden or his or her designee must approve all legal visits in advance.

⁶² An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps are taken to ensure the inmate is not denied needed access while in administrative confinement.

⁶³ Fla. Admin. Code R. 33-602.220(5); 33-602.221(4); and 33-602.222(4).

- An investigation, evaluation for change of status, or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution.
- An inmate is received from another institution when classification staff is not available to review the inmate file and classify the inmate into general population.⁶⁴

Staff are required to conduct regular visits to administrative confinement. These visits are to be conducted a minimum of:

- At least every 30 minutes by a correctional officer, but on an irregular schedule.
- Daily by the housing supervisor.
- Daily by the shift supervisor on duty for all shifts except in the case of riot or other institutional emergency.
- Weekly by the chief of security, when on duty at the facility, except in the case of riot or other institutional emergency.
- Daily by a clinical health care person.
- Weekly by the chaplain, warden, assistant wardens, a classification officer, and a member of the ICT.⁶⁵

An inmate is assessed weekly to determine the appropriateness of placement with the goal of returning the inmate to general population as soon as the facts of the case indicate that such return can be done safely.⁶⁶ Other assessment requirements that are applicable to inmates who have been confined for more than 30 days include:

- A psychological screening assessment by a mental health professional to determine his or her mental condition.⁶⁷
- An interview by the ICT, who must prepare a formal assessment and evaluation report after each 30 day period in administrative confinement.⁶⁸

Disciplinary Confinement

Staff are required to conduct regular visits to disciplinary confinement in the same frequency as mentioned above related to administrative confinement with the addition of specific visits as follows:

- As frequently as necessary, but not less than once every 30 days, by a member of the ICT to ensure that the inmate's welfare is properly provided for and to determine the time and method of release.

⁶⁴ Fla. Admin. Code R. 33-602.220(3).

⁶⁵ Fla. Admin. Code R. 33-602.220(4).

⁶⁶ Fla. Admin. Code R. 63-602.220(8)(a).

⁶⁷ Fla. Admin. Code R. 33.602.220(8)(b). The assessment includes a personal interview if determined necessary by mental health staff. All such assessments are documented in the inmate's mental health record. The psychologist or psychological specialist prepares a report and presents it to the ICT regarding the results of the assessment with recommendations. The ICT then makes the decision to continue administrative confinement. If the decision is to continue confinement, a psychological screening assessment is completed at least every 90-day period.

⁶⁸ Fla. Admin. Code R. 33-602.220(8)(c) and (d). Additionally, the state classification office (SCO) reviews the reports provided by mental health and the ICT, and may interview the inmate, to determine the final disposition of the inmate's administrative confinement status.

- As frequently as necessary by the SCO to ensure that the inmate's welfare is provided for and to determine if the inmate should be released if said inmate is housed in disciplinary confinement for longer than 60 consecutive days.⁶⁹

Department of Juvenile Justice

The DJJ does not use solitary confinement with youth that are in the custody of its secure detention centers⁷⁰ or residential commitment programs.⁷¹ Section 985.03(7), F.S., defines a “child” or “juvenile” or “youth” to 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.

The DJJ, in conjunction with the Annie E. Casey Foundation, has implemented the Juvenile Detention Alternatives Initiative (JDAI). JDAI is the most widely recognized set of national best practices on the practices and conditions inside juvenile justice facilities. The JDAI Standards provide that solitary confinement can never be used for purposes of punishment or discipline and must be limited to periods of less than four hours.⁷²

The DJJ does use short-term supervised confinement, precautionary observation, and secure and controlled observation for youth presenting an immediate danger to themselves or others in its detention and residential facilities. Additionally, medical confinement is used for youth who present with a communicable disease that may infect others.⁷³

Detention Facilities

The applicable DJJ Rules provide definitions related to types of confinement, including behavioral confinement and medical confinement. “Behavioral confinement” is defined to mean placement of a youth in a secure room during volatile situations in which a youth’s sudden or unforeseen onset of behavior imminently and substantially threatens the physical safety of others or himself or herself.⁷⁴ “Medical confinement” is defined to mean the placement of a youth in a

⁶⁹ Fla. Admin. Code R. 33-602.222(7). Fla. Admin. Code R. 33-602.222(1)(l) provides that the SCO refers to the office or office staff at the central office level that is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying ICT recommendations.

⁷⁰ Section 985.03(19), F.S., defines “detention center or facility” to mean a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure custody. A facility used for the commitment of adjudicated delinquents is not considered a detention center or facility.

⁷¹ Section 985.43, F.S., provides that upon adjudication of a delinquency case a court may commit a youth to the DJJ for placement in a residential commitment program. Section 985.03(44), F.S., which defines “restrictiveness level,” addresses the different levels of commitment programs, including, in part, “minimum-risk nonresidential,” “nonsecure residential,” and “high-risk residential.”

⁷² See JDAI, A Project of the Annie E. Casey Foundation, *Revised JDAI Standards, Standards Instrument, 2014 Update*, p. 6, December 2014, available at <http://www.cclp.org/wp-content/uploads/2016/06/JDAI-Detention-Facility-Assessment-Standards.pdf> (last visited January 10, 2020).

⁷³ The DJJ, *SB 624 Agency Analysis*, p. 2, January 31, 2019 (on file with the Senate Committee on Criminal Justice)(hereinafter cited as “The DJJ SB 624 Analysis”)[SB 624 (2019) addressed confinement for youth in the custody of the DOC, the DJJ, and county detention facilities]; See also Fla. Admin. Code Chs. 63E-7, 63G-2, and 63N-1.

⁷⁴ Fla. Admin. Code R. 63G-2.014(7).

secure room to allow the youth to rest and recover from illness and/or prevents the spread of a communicable illness (i.e. flu, H1N1 virus, etc.).⁷⁵

Additionally, confinement may not be used to harass, embarrass, demean, or otherwise abuse a youth. The use of confinement must be monitored by the superintendent or designee and the time limit for placement of a youth in confinement is no more than eight hours unless the superintendent or his or her designee grants an extension because release of the youth would imminently threaten his or her safety or the safety of others. The Regional Director or designee must review and grant any confinement extended beyond 24 hours, and, if granted, must notify the Assistant Secretary or designee.⁷⁶

A confinement report must be submitted by the detention officer as soon as possible, but no later than one hour after the youth's confinement. The confinement report must be reviewed by the detention officer's supervisor as soon as possible, but no later than two hours after the youth's confinement. The detention officer supervisor must evaluate and document the youth's status, at a minimum, every three hours to determine if the continued confinement of the youth is required. A youth is prohibited from being held in confinement beyond 72 hours without a confinement hearing.⁷⁷

Residential Commitment Facilities

The DJJ Rules applicable to residential facilities prohibits a residential commitment program's behavior management system from including disciplinary confinement, wherein a youth is isolated in a locked room, as discipline for misbehavior.⁷⁸ A residential commitment program may use room restriction, which is described to mean temporarily restricting the youth's participation in routine activities by requiring the youth to remain in his or her sleeping quarters, when:

- A youth is out of control or a suicide risk.
- A supervisor has given prior approval for each use of room restriction.
- It does not exceed four hours and the door to the room remains open to facilitate staff supervision.
- Staff engages, or attempts to engage, the youth in productive interactions at least every 30 minutes.
- The program does not deny a youth basic services, such as regular meals and physical or mental health services.
- The program staff uses strategies, such as conflict resolution and constructive dialogue, to facilitate the youth's reintegration into the general population.⁷⁹

The program documents certain details for each case of room restriction, including:

- A description of the behavior that resulted in room restriction;
- The date and time room restriction was implemented;

⁷⁵ Fla. Admin. Code R. 63G-2.014(50). The use of medical confinement is not intended as punishment or discipline and is ordered by the Designated Health Authority.

⁷⁶ Fla. Admin. Code R. 63G-2.022(4).

⁷⁷ Fla. Admin. Code R. 63G-2.022(4).

⁷⁸ Fla. Admin. Code R. 63E-7.009(3)(e).

⁷⁹ Fla. Admin. Code R. 63E-7.009(4).

- The name of the staff person who recommended the use of room restriction and the name of the approving supervisor;
- The name of the staff person removing the youth from room restriction;
- The date and time of removal and a description of the youth's behavior and attitude upon removal; and
- Follow-up actions taken or attempted to help re-integrate the youth back into the general population when released from room restriction.⁸⁰

A residential commitment program must ensure that staff observe a youth at least every ten minutes while in their sleeping quarters, including when on room restriction. Staff must conduct the observations in a manner to ensure the safety and security of each youth and document real time observations manually or electronically.⁸¹

Further, a residential commitment program may use controlled observation only when necessary and as a last resort.⁸² Controlled observation is defined to mean an immediate, short-term crisis management strategy, not authorized for use as punishment or discipline, wherein a youth in a residential commitment program is placed in a separate, identified, safe, and secure room.⁸³ Such specified programs are authorized to temporarily place a youth in a controlled observation room only in the following situations when non-physical interventions would not be effective:

- Emergency safety situations where there is imminent risk of the youth physically harming himself or herself, staff, or others; or
- When the youth is engaged in major property destruction that is likely to compromise the security of the program or jeopardize the youth's safety or the safety of others.⁸⁴

Controlled observation has a maximum time limit of two hours, that can be extended by the program director in two-hour increments for no longer than 24 hours. Youth who are in controlled observation receive the standard 10-minute sight and sound check along with documentation of their behavior in 15-minute intervals.⁸⁵

A supervisor with delegated authority must give prior authorization for each use of controlled observation unless the delay caused by seeking prior approval would further jeopardize the safety of others and the program's security. Staff is prohibited from leaving a youth alone in a controlled observation room until an inspection of the room is conducted and it is deemed safe, secure, and in compliance with specified guidelines.⁸⁶ The Rule further provides specific

⁸⁰ *Id.* Further, Rule 63E-7.011, F.A.C., provides that a youth is prohibited from large muscle exercise when he or she is temporarily separated from the general population, including when placed on controlled observation or room restriction status pursuant to Rule 63E-7.013, F.A.C. However, if a youth is restricted to a room, the program must give the youth an opportunity for large muscle exercise as soon as is reasonably possible after the youth is reintegrated into the general population.

⁸¹ Fla. Admin. Code R. 63E-7.013(3)(b).

⁸² Fla. Admin. Code R. 63E-7.013(16).

⁸³ Fla. Admin. Code R. 63E-7.002(20).

⁸⁴ Fla. Admin. Code R. 63E-7.013(16).

⁸⁵ The DJJ SB 624 Agency Analysis, p. 2.

⁸⁶ *Id.*

procedures for how to address a youth whose health or safety deteriorates once placed into controlled observation.⁸⁷

The Rule prohibits the use of controlled observation as punishment or discipline.⁸⁸

County Detention Facilities

The FMJS defines terms such as administrative confinement and disciplinary confinement. “Administrative confinement” is defined to mean the segregation of an inmate for investigation, protection, or some cause other than disciplinary action.⁸⁹ “Disciplinary confinement” is defined to mean the segregation of an inmate for disciplinary reasons.⁹⁰

The FMJS provides that inmates may be placed in administrative confinement for the purpose of ensuring immediate control and supervision when it is determined they constitute a threat to themselves, to others, or to the safety and security of the detention facility. The Rule requires an incident report or disciplinary report to follow the action that prompted placement in administrative confinement. Additionally, the time of release for inmates in disciplinary or administrative confinement must be recorded and filed in the inmate’s file.⁹¹

Each inmate in administrative confinement must receive housing, food, clothing, medical care, exercise, visitation, showers, and other services and privileges comparable to those available to the general population except as justified by his or her classification status or special needs inmate status.^{92, 93} Further, special needs inmates should be checked by medical staff at intervals not exceeding 72 hours and inmates in administrative or disciplinary confinement must bathe twice weekly.⁹⁴ The FMJS provides that the Officer-in-Charge or designee must see and talk to each inmate in disciplinary or administrative confinement at least once each morning and once each afternoon and document the inmate’s general condition and attitude at each visit.⁹⁵

Additionally, the FMJS requires that an inmate confined in an isolation cell used for medical purposes be examined by a physician or designee within 48 hours following his or her confinement in such area or cell. A physician or designee must determine when the inmate will be returned to the general population. The inmate must remain in isolation if the physician or designee:

- Finds that the inmate presents a serious risk to himself or others; or

⁸⁷ See Fla. Admin. Code R. 63E-7.013(16)(e)-(i). For example, a youth must be immediately removed from the controlled observation room and provided follow-up mental health services if he or she begins demonstrating acute psychological distress or suicide risk behaviors subsequent to placement in controlled observation.

⁸⁸ Fla. Admin. Code R. 63E-7.001(20).

⁸⁹ The FMJS Rule 1.2.

⁹⁰ The FMJS Rule 1.17.

⁹¹ The FMJS Rule 13.13.

⁹² *Id.*

⁹³ The FMJS Rule 5.4 defines “special needs inmates” as “inmates who have been determined by the health authority to be mentally ill, suicidal, alcoholic or drug addicted going through withdrawal and in need of close monitoring.”

⁹⁴ The FMJS Rule 13.13.

⁹⁵ The FMJS Rule 13.14.

- Continues to provide the inmate with follow-up medical care and treatment during the entire time that the inmate remains confined in such area or cell as deemed necessary.⁹⁶

Florida law and the rules of the DOC, the DJJ, and the FMJS do not appear to address restrictive housing of pregnant prisoners in separate provisions.

III. Effect of Proposed Changes:

The bill amends s. 944.241, F.S., modifying current provisions for using restraints on a pregnant prisoner and prescribing procedures for when a pregnant prisoner may be subject to an invasive body cavity search or placed in restrictive housing.

Additionally, the bill renames the Act the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act.”

Definitions

The bill amends the definitions section to:

- Expand the term “extraordinary circumstance” to apply to the exceptions of circumstances that dictate the use of restrictive housing in addition to the use of restraints.
- Add the definitions:
 - “Invasive body cavity search,” which means a search that involves a manual inspection using touch, insertion, or probing of the openings, cavities, and orifices of the human body, including, but not limited to the genitals, buttocks, anus, or breasts that is not conducted for a medical purpose; and
 - “Restrictive housing,” which means the placement of pregnant prisoners separately from the general population of a correctional institution and imposing restrictions on their movement, behavior, and privileges solely based on the condition of being pregnant. The term includes placing the prisoner in medical isolation or in the infirmary.

Use of Restraints

The bill expands the prohibition of using restraints on a pregnant prisoner under current law to cover when a pregnant prisoner, at any point in her known pregnancy, is being transported. The bill prescribes that restraints may not be used:

- If any doctor, nurse, or other health professional treating the prisoner in labor, in delivery, or in postpartum recovery requests that restraints not be used due to a documentable medical purpose. If the doctor, nurse, or other health professional makes such a request, the correctional officer or other law enforcement officer accompanying the prisoner must immediately remove all restraints.
- During transport, labor, delivery, and postpartum recovery, unless the corrections official makes an individualized determination that the prisoner presents an extraordinary circumstance.

⁹⁶ The FMJS Rule 7.23.

The bill provides an exception to the prohibition on the use of restraints, which specifically provides that:

- A restraint may be used on a pregnant prisoner or a prisoner who is in postpartum recovery only if all of the following apply:
 - The corrections official makes an individualized determination that the prisoner presents an extraordinary circumstance.
 - The restraints used are the least restrictive necessary.
 - If wrist restraints are used, the restraints are applied in the front of the prisoner so that she may protect herself in the event of a forward fall.
- A pregnant prisoner who is transported by a correctional institution must be transported using a restraint that is the least restrictive necessary.

Current law remains the same as it relates to the requirement that the corrections official must provide written findings when restraints are used on a pregnant prisoner due to an extraordinary circumstance that dictated the use of the restraints.

Invasive Body Cavity Searches

The bill provides that an invasive body cavity search of a pregnant prisoner may only be conducted by a medical professional, unless a correctional officer has a reasonable belief that the prisoner is concealing contraband. The bill requires that an officer who conducts an invasive body cavity search submit a written report to the corrections official within 72 hours after the search, which must:

- Explain the reasons for the search; and
- Identify any contraband recovered in the search.

Restrictive Housing

The bill prohibits, with limited exceptions, a pregnant prisoner from being involuntarily placed in restrictive housing. However, the bill provides that a corrections official is not prohibited from placing a pregnant prisoner in restrictive housing for disciplinary violations or to address security risks to the pregnant prisoner, other prisoners, or staff directly related to the pregnant prisoner, provided the corrections official complies with the requirements discussed below.

The only exception provided for in the bill authorizes a pregnant prisoner to be involuntarily placed in restrictive housing if the corrections official of the correctional institution, in consultation with the individual overseeing prenatal care and medical treatment at the correctional institution, determines that an extraordinary circumstance exists such that restrictive housing is necessary and that there are no less restrictive means available.

The bill requires the corrections official to, *before* placing a prisoner in restrictive housing, write a report that states:

- The extraordinary circumstance that is present; and
- The reason less restrictive means are not available.

The corrections official is required to review the report at least every 24 hours to confirm that the extraordinary circumstances cited in the report still exist and a copy of the report and each review must be provided to the prisoner.

A pregnant prisoner who is placed in restrictive housing under s. 944.241, F.S., must be:

- Seen at least every 24 hours by the person overseeing prenatal care and medical treatment in the facility;
- Housed in the least restrictive setting consistent with the health and safety of the individual; and
- Given an intensive treatment plan developed and approved by the person overseeing prenatal care and medical treatment at the facility.

In the case that a pregnant prisoner needs infirmary care, the bill requires an authorized medical staff to provide an order for the prisoner to be admitted to the infirmary. Further, if the prisoner has passed her due date, she must be admitted to the infirmary until labor begins or until the obstetrician makes other housing arrangements. The bill provides that a pregnant prisoner who has been placed in the infirmary must be provided:

- The same access to outdoor recreation, visitation, mail, and telephone calls as other prisoners; and
- The ability to continue to participate in other privileges and classes granted to the general population.

The bill amends s. 944.215(7), F.S., deleting a date related to the rulemaking authority, therefore providing the entities covered under the section with the necessary rulemaking authority to implement the changes made by the act.

The bill is effective July 1, 2020.

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:

None.

C. Government Sector Impact:

The bill requires that the DOC, DJJ, and county and municipal detention facilities comply with new standards for using restraints with, conducting invasive body cavity searches on, and placing in restrictive housing pregnant prisoners. These new standards require that specific staff document the extraordinary circumstance leading to the utilization of the enumerated exceptions to the use of restraints or restrictive housing with pregnant prisoners and to conduct reviews of the extraordinary circumstance that is the basis for the exception. The prisoner must be reviewed every 24 hours and must also be placed in the infirmary in certain circumstances.

According to the Department of Corrections and the Department of Juvenile Justice, changing the requirement for the frequency of interaction with medical staff from every eight hours to every 24 hours eliminates the fiscal impact.⁹⁷

Similarly, the Sheriffs' Association previously advised that the medical examinations every 8 hours is a concern. They report that many medium and small jails do not have 24/7 medical staff onsite and would not be able to conduct the medical examinations without hiring or contracting for additional staff.⁹⁸ It is anticipated that the impact to sheriffs will be reduced with this change.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁹⁷ Telephone call with Mark Talent at the Department of Corrections, and with Rachel Moscosco at the Department of Juvenile Justice. (February 18, 2020).

⁹⁸ Email from the Sheriffs' Association (February 7, 2020) (on file with the Senate Committee on Criminal and Civil Justice Appropriations).

VIII. Statutes Affected:

This bill substantially amends section 944.241 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/CS by Appropriations on March 3, 2020:

The committee substitute revises the previous requirement that pregnant prisoners who are placed in restrictive housing be “examined” at least every eight hours, to require that they be “seen” at least every 24 hours.

CS by Criminal Justice on January 14, 2020:

The committee substitute:

- Renames the Act the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act”;
- Modifies the term “extraordinary circumstance” to apply to restraints and restrictive housing;
- Defines the terms “invasive body cavity search” and “restrictive housing”;
- Expands the prohibition on using restraints on pregnant prisoners to cover a pregnant prisoner at any point in her pregnancy if she is being transported;
- Provides an exception to when restraints can be used on a pregnant prisoner and requires the corrections official to document the reasons why restraints were necessary;
- Prohibits invasive body cavity searches on a pregnant prisoner and provides an exception for when a correctional officer can conduct such a search;
- Prohibits a corrections institution from placing a pregnant prisoner in restrictive housing just as a result of the condition of being pregnant;
- Provides exceptions to when restrictive housing can be used on a pregnant prisoner and requires the corrections official to document the reasons why restrictive housing was necessary;
- Requires a corrections official to examine a pregnant prisoner placed into restrictive housing every eight hours to ensure the restrictive housing is still necessary;
- Requires pregnant prisoners placed in the infirmary for restrictive housing to be provided the same rights as in the general population; and
- Provides rulemaking authority.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Pizzo

591-02249-20

2020852c1

1 A bill to be entitled
 2 An act relating to incarcerated pregnant women;
 3 amending s. 944.241, F.S.; amending the short title;
 4 redefining the term "extraordinary circumstance";
 5 defining the terms "invasive body cavity search" and
 6 "restrictive housing"; revising the circumstances
 7 under which a prisoner who is known to be pregnant may
 8 not be restrained; specifying conditions under which
 9 restraints may be used; requiring that invasive body
 10 cavity searches on a pregnant prisoner be conducted by
 11 a medical professional; providing an exception;
 12 prohibiting the involuntary placement of pregnant
 13 prisoners in restrictive housing; providing
 14 exceptions; requiring corrections officials to write a
 15 specified report if an extraordinary circumstance
 16 necessitates placing a pregnant prisoner in
 17 restrictive housing; providing requirements for the
 18 report; requiring corrections officials to review such
 19 reports at specified intervals; requiring a copy of
 20 such reports and reviews to be provided to pregnant
 21 prisoners in restrictive housing; providing
 22 requirements for the treatment of pregnant prisoners
 23 placed in restrictive housing; requiring pregnant
 24 prisoners to be admitted to the infirmary under
 25 certain circumstances; providing certain rights for
 26 pregnant prisoners admitted to the infirmary;
 27 providing an effective date.
 28
 29 Be It Enacted by the Legislature of the State of Florida:

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

591-02249-20

2020852c1

30
 31 Section 1. Section 944.241, Florida Statutes, is amended to
 32 read:
 33 944.241 ~~Shackling of~~ Incarcerated pregnant women.—
 34 (1) SHORT TITLE.—This section may be cited as the "Tammy
 35 Jackson Healthy Pregnancies for Incarcerated Women Act."
 36 (2) DEFINITIONS.—As used in this section, the term:
 37 (a) "Correctional institution" means any facility under the
 38 authority of the department or the Department of Juvenile
 39 Justice, a county or municipal detention facility, or a
 40 detention facility operated by a private entity.
 41 (b) "Corrections official" means the official who is
 42 responsible for oversight of a correctional institution, or his
 43 or her designee.
 44 (c) "Department" means the Department of Corrections.
 45 (d) "Extraordinary circumstance" means a substantial flight
 46 risk or some other extraordinary medical or security
 47 circumstance that dictates restraints or restrictive housing be
 48 used to ensure the safety and security of the prisoner, the
 49 staff of the correctional institution or medical facility, other
 50 prisoners, or the public.
 51 (e) "Invasive body cavity search" means a search that
 52 involves a manual inspection using touch, insertion, or probing
 53 of the openings, cavities, and orifices of the human body,
 54 including, but not limited to the genitals, buttocks, anus, or
 55 breasts that is not conducted for a medical purpose.
 56 (f)-(e) "Labor" means the period of time before a birth
 57 during which contractions are of sufficient frequency,
 58 intensity, and duration to bring about effacement and

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

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59 progressive dilation of the cervix.

60 ~~(g)(#)~~ "Postpartum recovery" means, as determined by her
61 physician, the period immediately following delivery, including
62 the recovery period when a woman is in the hospital or infirmary
63 following birth, up to 24 hours after delivery unless the
64 physician after consultation with the department or correctional
65 institution recommends a longer period of time.

66 ~~(h)(g)~~ "Prisoner" means any person incarcerated or detained
67 in any correctional institution who is accused of, convicted of,
68 sentenced for, or adjudicated delinquent for a violation of
69 criminal law or the terms and conditions of parole, probation,
70 community control, pretrial release, or a diversionary program.
71 For purposes of this section, the term includes any woman
72 detained under the immigration laws of the United States at any
73 correctional institution.

74 ~~(i)(h)~~ "Restraints" means any physical restraint or
75 mechanical device used to control the movement of a prisoner's
76 body or limbs, including, but not limited to, flex cuffs, soft
77 restraints, hard metal handcuffs, a black box, chubb cuffs, leg
78 irons, belly chains, a security or tether chain, or a convex
79 shield.

80 ~~(j)~~ "Restrictive housing" means the placement of pregnant
81 prisoners separately from the general population of a
82 correctional institution and imposing restrictions on their
83 movement, behavior, and privileges solely based on the condition
84 of being pregnant. The term includes placing the prisoner in
85 medical isolation or in the infirmary.

86 (3) RESTRAINT OF PRISONERS.—

87 (a) Except as provided in paragraph (b), restraints may not

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88 be used on a prisoner who is known to be pregnant:

89 1. If any doctor, nurse, or other health professional
90 treating the prisoner in labor, in delivery, or in postpartum
91 recovery requests that restraints not be used due to a
92 documentable medical purpose. If the doctor, nurse, or other
93 health professional makes such a request, the correctional
94 officer or other law enforcement officer accompanying the
95 prisoner must immediately remove all restraints.

96 2. During transport, labor, delivery, or ~~and~~ postpartum
97 recovery, unless the corrections official makes an
98 individualized determination that the prisoner presents an
99 extraordinary circumstance, ~~except that:~~

100 1. The physician may request that restraints not be used
101 for documentable medical purposes. The correctional officer,
102 correctional institution employee, or other officer accompanying
103 the pregnant prisoner may consult with the medical staff;
104 however, if the corrections official ~~officer~~ determines there is
105 an extraordinary public safety risk, the official may ~~officer is~~
106 authorized to apply restraints as limited by paragraph (b)
107 subparagraph 2.

108 (b) A restraint may be used on a prisoner who is known to
109 be pregnant or in postpartum recovery only if all of the
110 following apply:

111 1. The corrections official makes an individualized
112 determination that the prisoner presents an extraordinary
113 circumstance.

114 2. The restraints used are the least restrictive necessary.

115 3. If wrist restraints are used, the restraints are applied
116 in the front of the prisoner so that she may protect herself in

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117 ~~the event of a forward fall.~~

118 ~~4.2- Under no circumstances shall Leg, ankle, or waist~~
 119 ~~restraints are not be used on any pregnant prisoner who is in~~
 120 ~~labor or delivery.~~

121 ~~(b) If restraints are used on a pregnant prisoner pursuant~~
 122 ~~to paragraph (a):~~

123 ~~1. The type of restraint applied and the application of the~~
 124 ~~restraint must be done in the least restrictive manner~~
 125 ~~necessary; and~~

126 ~~(c)2- The corrections official shall make written findings~~
 127 ~~within 10 days after the use of restraints as to the~~
 128 ~~extraordinary circumstance that dictated the use of the~~
 129 ~~restraints. These findings shall be kept on file by the~~
 130 ~~department or correctional institution for at least 5 years.~~

131 ~~(d) A pregnant prisoner who is transported by a~~
 132 ~~correctional institution must be transported using a restraint~~
 133 ~~that is the least restrictive necessary. A correctional~~
 134 ~~institution that uses restraints on a pregnant prisoner during~~
 135 ~~transport must comply with the written findings required in~~
 136 ~~paragraph (c).~~

137 ~~(e) During the third trimester of pregnancy or when~~
 138 ~~requested by the physician treating a pregnant prisoner, unless~~
 139 ~~there are significant documentable security reasons noted by the~~
 140 ~~department or correctional institution to the contrary that~~
 141 ~~would threaten the safety of the prisoner, the unborn child, or~~
 142 ~~the public in general:~~

143 ~~1. Leg, ankle, and waist restraints may not be used; and~~

144 ~~2. If wrist restraints are used, they must be applied in~~
 145 ~~the front so the pregnant prisoner is able to protect herself in~~

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146 ~~the event of a forward fall.~~

147 ~~(d) In addition to the specific requirements of paragraphs~~
 148 ~~(a)-(c), any restraint of a prisoner who is known to be pregnant~~
 149 ~~must be done in the least restrictive manner necessary in order~~
 150 ~~to mitigate the possibility of adverse clinical consequences.~~

151 ~~(4) INVASIVE BODY CAVITY SEARCHES.-~~

152 ~~(a) Except as provided under paragraph (b), an invasive~~
 153 ~~body cavity search of a pregnant prisoner may be conducted only~~
 154 ~~by a medical professional.~~

155 ~~(b) A correctional officer may conduct an invasive body~~
 156 ~~cavity search of a pregnant prisoner only if the officer has a~~
 157 ~~reasonable belief that the prisoner is concealing contraband. An~~
 158 ~~officer who conducts an invasive body cavity search must submit~~
 159 ~~a written report to the corrections official within 72 hours~~
 160 ~~after the search. The report must:~~

161 ~~1. Explain the reasons for the search; and~~

162 ~~2. Identify any contraband recovered in the search.~~

163 ~~(5) RESTRICTIVE HOUSING.-~~

164 ~~(a) Except as provided in paragraph (b), a pregnant~~
 165 ~~prisoner may not be involuntarily placed in restrictive housing.~~
 166 ~~This subsection does not prohibit a corrections official from~~
 167 ~~placing a pregnant prisoner in restrictive housing for~~
 168 ~~disciplinary violations or to address security risks to the~~
 169 ~~pregnant prisoner, other prisoners, or staff directly related to~~
 170 ~~the pregnant prisoner provided the corrections official complies~~
 171 ~~with the reporting requirements of subparagraph (b)1.~~

172 ~~(b) A pregnant prisoner may be involuntarily placed in~~
 173 ~~restrictive housing only if the corrections official of the~~
 174 ~~correctional institution, in consultation with the medical staff~~

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175 overseeing prenatal care and medical treatment at the
 176 correctional institution, determines that an extraordinary
 177 circumstance exists such that restrictive housing is necessary
 178 and that there are no less restrictive means available.

179 1. The corrections official shall, before placing a
 180 prisoner in restrictive housing, write a report that states:

181 a. The extraordinary circumstance that is present; and
 182 b. The reason less restrictive means are not available.

183 2. The corrections official shall review the report at
 184 least every 24 hours to confirm that the extraordinary
 185 circumstance cited in the report still exist. A copy of the
 186 report and each review must be provided to the pregnant
 187 prisoner.

188 (c) A pregnant prisoner who is placed in restrictive
 189 housing under this section shall be:

190 1. Examined at least every 8 hours by the medical staff
 191 overseeing prenatal care and medical treatment in the facility;

192 2. Housed in the least restrictive setting consistent with
 193 the health and safety of the pregnant prisoner; and

194 3. Given an intensive treatment plan developed and approved
 195 by the medical staff overseeing prenatal care and medical
 196 treatment at the facility.

197 (d) If a pregnant prisoner needs infirmary care, an
 198 authorized medical staff must provide an order for the pregnant
 199 prisoner to be admitted to the infirmary. If the pregnant
 200 prisoner has passed her due date, she must be admitted to the
 201 infirmary until labor begins or until other housing arrangements
 202 are made. A pregnant prisoner who has been placed in the
 203 infirmary shall be provided:

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204 1. The same access to outdoor recreation, visitation, mail,
 205 and telephone calls as other prisoners; and

206 2. The ability to continue to participate in other
 207 privileges and classes granted to the general population.

208 ~~(6)(4)~~ ENFORCEMENT.—

209 (a) Notwithstanding any relief or claims afforded by
 210 federal or state law, any prisoner who is restrained in
 211 violation of this section may file a grievance with the
 212 correctional institution, and be granted a 45-day extension if
 213 requested in writing pursuant to rules promulgated by the
 214 correctional institution.

215 (b) This section does not prevent a woman harmed through
 216 the use of restraints under this section from filing a complaint
 217 under any other relevant provision of federal or state law.

218 ~~(7)(5)~~ NOTICE TO PRISONERS.—

219 (a) ~~By September 1, 2012,~~ The department and the Department
 220 of Juvenile Justice shall adopt rules pursuant to ss. 120.536(1)
 221 and 120.54 to administer this section.

222 (b) Each correctional institution shall inform female
 223 prisoners of the rules developed pursuant to paragraph (a) upon
 224 admission to the correctional institution, including the
 225 policies and practices in the prisoner handbook, and post the
 226 policies and practices in locations in the correctional
 227 institution where such notices are commonly posted and will be
 228 seen by female prisoners, including common housing areas and
 229 medical care facilities.

230 Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **CS/CS/SB 852**, relating to Incarcerated Pregnant Women, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Jason W.B. Pizzo
Florida Senate, District 38

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

852

Bill Number (if applicable)

Topic Confinement of Women

Amendment Barcode (if applicable)

Name Stacy Scott

Job Title Public Defender 8th Judicial Circuit

Address 151 SW 2nd Ave

Phone 352-338-7370

Gainesville FL 32601

Street

City

State

Zip

Email sscott@P.D.08.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.

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)

3/3/2020
Meeting Date

852
Bill Number (if applicable)

Topic Incarcerated Pregnant Women

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.
Street

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fcfep@yahoo.com

Speaking: For Against Information

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

Representing Florida 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.

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)

3/3/20

Meeting Date

SB 852

Bill Number (if applicable)

Topic Incarcerated Pregnant Women

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 West Flagler St.

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@aclufl.org

City

State

Zip

Speaking: For Against Information

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

Representing American Civil Liberties Union 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 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)

3/3/20
Meeting Date

852
Bill Number (if applicable)

Topic Incarcerated Pregnant Women

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate Director for Social Concerns of Respect Life

Address 201 W Park Av Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

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

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)

3/3/20
Meeting Date

~~582~~ 852
Bill Number (if applicable)

Topic ME TAMMY JACKSON

Amendment Barcode (if applicable)

Name CHARO VALERO

Job Title FL Policy Director

Address 1951 NW 7 Ave
Street

Phone _____

MIAMI FL 33138
City State Zip

Email _____

Speaking: For Against Information

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

Representing LATINA INSTITUTE FOR REPRO HEALTH FL

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)

3/3/20

Meeting Date

852

Bill Number (if applicable)

Topic Criminal Justice Tammy Jackson

Amendment Barcode (if applicable)

Name Ida V ESKamani

Job Title

Address

Phone

Street

Orlando

FL

32801

City

State

Zip

Email

Speaking: For Against Information

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

Representing Organize Florida + New Florida Majority

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 912

INTRODUCER: Senator Diaz

SUBJECT: Department of Business and Professional Regulation

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|------------------|
| 1. | <u>Oxamendi</u> | <u>Imhof</u> | <u>IT</u> | Favorable |
| 2. | <u>Toman</u> | <u>Ryon</u> | <u>CA</u> | Favorable |
| 3. | <u>Davis</u> | <u>Kynoch</u> | <u>AP</u> | Favorable |

I. Summary:

SB 912 revises provisions related to the licensing and regulation of tobacco products, alcoholic beverages, pugilistic events, condominium associations, and public food and lodging establishments by the Department of Business and Professional Regulation (DBPR).

Related to reporting requirements for tobacco product wholesalers, the bill:

- Requires that reports required to be filed with the Division of Alcoholic Beverages and Tobacco must be filed through the agency's electronic system; and
- Revises the reporting requirements.

Related to procedures for licensing public lodging establishments and public food service establishments licensing, the bill:

- Deletes the requirement for a staggered license renewal schedule; and
- Requires that the full annual license fee be paid at the time of application, instead of the current requirement for payment of a prorated initial license fee.

Related to regulation of pugilistic events, the bill:

- Changes the name of the Florida State Boxing Commission to the Florida Athletic Commission (commission);
- Authorizes the commission to establish by rule the weight of any gloves used in pugilistic matches; and
- Deletes the requirement for all participants in pugilistic matches to wear gloves.

Related to alcohol beverage regulations, the bill:

- Requires applicants for an alcoholic beverage license to submit fingerprints to the DBPR electronically, provide proof of the applicant's right of occupancy for the entire premises for

which the applicant is seeking to license, and maintain a current electronic mail address with the DBPR;

- Requires licensees to submit reports on alcohol sales through the DBPR's electronic system;
- Requires notices related to a vendor's delinquent payment to a distributor be provided by the DBPR through electronic mail; and
- Revises the compliance audit timeframes for special restaurant licensees.

Related to condominium associations, the bill:

- Requires that a proposed annual budget be provided to members of the association and adopted by its board of directors no later than 30 days before the beginning of the fiscal year;
- Defines when a person is delinquent in a payment due to an association;
- Deletes the requirement that the condominium ombudsman keep his or her principal office in Leon County; and
- Authorizes the DBPR to adopt rules for the submission of complaints against condominium associations.

The bill has a significant fiscal impact on state revenues. According to the DBPR, the elimination of the staggered and prorated renewal schedule for food and lodging establishment licensees under the bill is estimated to reduce state revenues by \$1.4 million in Fiscal Year 2020-2021.

The bill has an effective date of July 1, 2020.

II. Present Situation:

For ease of reference, the Present Situation for each section of SB 912 is addressed in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (DBPR) is provided below.

Organization of the Department of Business and Professional Regulation

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has 12 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.¹ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.²

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation,”³ as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.⁴

The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state,”⁵ and regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁶

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.⁷

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.⁸ The FCTMH has limited regulatory authority over the following entities and individuals:⁹

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and

¹ Section 548.003(1), F.S.

² See Parts I and III of ch. 450, F.S.

³ See s. 455.01(6), F.S.

⁴ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁵ Section 455.201(2), F.S.

⁶ *Id.*

⁷ Section 455.201(4)(b), F.S.

⁸ Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/>, (last visited Feb. 13, 2020).

⁹ *Id.*

- Homeowners' Associations (jurisdiction is limited to arbitration of election and recall disputes).

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.¹⁰

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (DABT) regulates the manufacture, distribution, sale, and service of alcoholic beverages and tobacco products in Florida, including:

- Receipt and processing of license applications;
- Collection and auditing of taxes, surcharges, and fees paid by licensees; and
- Enforcement of the laws and regulations governing the sale of alcoholic beverages and tobacco products.¹¹

III. Effect of Proposed Changes:

Tobacco Products Regulation and Taxation

Present Situation

The Division of Alcoholic Beverages and Tobacco (DABT) is responsible for the regulation of tobacco products under ch. 210, F.S., which sets out tax requirements for cigarettes and other tobacco products, and ch. 569, F.S., which sets out requirements for the retail sale of tobacco products.¹²

“Cigarettes” are defined in s. 210.01(1), F.S., for the purpose of taxation, as “any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient.”

“Tobacco products” are defined in s. 210.25(11), F.S., in the context of state taxes on tobacco products other than cigarettes or cigars, as “loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing.”

¹⁰ Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb.12, 2020).

¹¹ Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, <http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/> (last visited Feb. 12, 2020).

¹² Section 561.02, F.S.

Cigars, nicotine products, and nicotine dispensing devices are not included in the above definitions and therefore are not taxed as a cigarette or tobacco product in Florida.¹³

A person, firm, association, or corporation must obtain a permit from the DABT to function as any of the following in Florida:

- Retail tobacco products dealer;¹⁴
- Cigarette manufacturer;¹⁵
- Cigarette wholesale dealer;¹⁶
- Cigarette distributing agent;¹⁷
- Cigarette importer;¹⁸
- Cigarette exporter;¹⁹
- Cigar wholesale dealer;²⁰ or
- Tobacco wholesale dealer/distributor.²¹

The DABT collects monthly business records related to cigarettes, which are used to accurately collect and distribute cigarette taxes. Such records must be submitted to the DABT by any manufacturer, importer, distributing agent, wholesale dealer, retail dealer, common carrier, or any other person handling, transporting, or possessing cigarettes for sale or distribution in Florida. The DABT prescribes the manner in which these records are submitted.²²

The DABT also collects monthly returns showing the taxable price of each tobacco product (other than cigarettes or cigars) brought or caused to be brought into Florida for sale, or made, manufactured, or fabricated in this state for sale in this state. Such returns must be submitted by every place of business that sells or manufactures such tobacco products in Florida. The DABT prescribes the form and content for submitting such returns to the DABT. Each return must be accompanied by a remittance for the full tax liability shown.²³

Effect of Proposed Changes

The bill amends ss. 210.09(2) and 210.55(1), F.S., related to monthly reports and records for cigarettes and other tobacco products, to require that all reports filed with the DABT must be made through the DABT's electronic data submission system.

¹³ Sections 210.01(1) and 210.25(12), F.S. "Nicotine dispensing device" means any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product. "Nicotine products" do not include tobacco products, certain smoking cessation products, and products with incidental nicotine. Section 877.112(1)(a) and (b), F.S.

¹⁴ Section 569.003, F.S.

¹⁵ Sections 210.01(21) and 210.15, F.S.

¹⁶ Sections 210.01(6) and 210.15(1), F.S.

¹⁷ Sections 210.01(14) and 210.15(1), F.S.

¹⁸ Sections 210.01(20) and 210.15(1), F.S.

¹⁹ Sections 210.01(17) and 210.15(1), F.S.

²⁰ Section 210.65(2), F.S.

²¹ Sections 210.25(5) and 210.40, F.S.

²² Section 210.09(2), F.S. Some tax forms are electronically filed with the DABT, and some require manual transmission. Department of Business and Professional Regulation, *Alcoholic Beverages and Tobacco- Forms & Publications, Licensing Related Forms, Tax-Related Forms*, <http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/forms-and-publications/#1516309637983-6566a2a4-a2f1> (last visited Feb. 12, 2020).

²³ Sections 210.55(1), F.S.

The bill also amends s. 210.55(1), F.S., to require a tobacco wholesaler (the taxpayer) to submit a full and complete report with the DABT showing the tobacco products (other than cigars or cigarettes) brought or caused to be brought into Florida for sale, or made, manufactured, or fabricated in this state for sale in this state. The bill deletes the requirement that the report show the taxable price of each tobacco product.

Division of Hotels and Restaurants

Present Situation

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging establishments and public food service establishments in Florida.²⁴

The term “public lodging establishment” includes:²⁵

- “Transient public lodging establishments,” which means “any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days, or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests;” and
- “Nontransient public lodging establishments,” which means “any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or one calendar month.”

“Public food service establishments” means “any building, vehicle, place, or structure, or any room or division thereof, where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption,” with certain exceptions.²⁶

Each public lodging establishment and public food service establishment must obtain a license from the DHR. Licenses are renewed annually, and the DHR must adopt a rule establishing a staggered schedule for license renewals.²⁷ For public lodging establishments, the DHR must adopt, by rule, a schedule of fees to be paid based on the number of rental units in the public lodging establishment, and based on seating capacity and services offered for public food service establishments. Such fees may not exceed \$1,000.²⁸

License fees generally range from \$91 for a temporary food vendor to \$370 for a hotel with more than 500 rental units.²⁹

²⁴ Section 509.032, F.S.

²⁵ Section 509.013(4), F.S.

²⁶ Section 509.013(5), F.S.

²⁷ Section 509.241(1), F.S.

²⁸ Section 509.251(1) and (2), F.S.

²⁹ See Fla. Admin. Code R. 61C-1.008 and Department of Business and Professional Regulation, *Hotel and Restaurants – Hotel-Motel Guide*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/hotels-and-restaurants-hotel-motel-guide/> (last visited Feb. 12, 2020); Department of Business and Professional Regulation, *Hotel and Restaurants – Food*

The fee schedule for a public lodging establishment and public food service establishment license must require an applicant for an initial license to pay the full license fee if the application is made during the annual renewal period or more than six months before the next such renewal period, and one-half of the fee if the application is made six months or less before the next renewal period.³⁰

Effect of Proposed Changes

The bill amends s. 509.241(1), F.S., to delete the requirement for a staggered license renewal schedule for public lodging establishments and public food service establishments. The bill authorizes the DHR to adopt rules to establish procedures for license issuance and renewals.

The bill amends s. 509.251(1) and (2), F.S., to delete the requirement for payment of a prorated initial license fee based on when an application is submitted. Under the bill, the full annual license fees must be paid at the time of the initial license application.

State Boxing Commission

Present Situation:

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,³¹ and mixed martial arts³² by the Florida State Boxing Commission (commission), which is assigned to the Department of Business and Professional Regulation (DBPR) for administrative and fiscal purposes.³³

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida³⁴ which involves a professional.³⁵ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.³⁶ Chapter 548, F.S., does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”³⁷

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning

Service Fees, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/hotels-and-restaurants-hotel-motel-guide/> (last visited Feb. 12, 2020).

³⁰ Sections 509.251(1) and (2), F.S., relating to the fee schedule for public lodging establishments and public food service establishments, respectively, and Fla. Admin. Code R. 61C-1.008.

³¹ The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

³² The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

³³ *See* s. 548.003(1), F.S.

³⁴ *See* s. 548.006(1), F.S.

³⁵ The term “professional” means a person who has “received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match.” *See* s. 548.002(19), F.S.

³⁶ *See* s. 548.006(4), F.S.

³⁷ *See* s. 548.007(6), F.S., and *see supra* note 32 for the definition of “mixed martial arts.”

organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.³⁸ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.³⁹ During Fiscal Year 2018-2019, there were 59 sanctioned professional events and 137 amateur events.⁴⁰

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Licensing is mandated for a participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, or promoter.⁴¹

The commission must establish by rule appropriate weight of gloves to be used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to eight ounces each. Participants must also wear any protective devices that the commission deems necessary.⁴²

Effect of Proposed Changes

The bill amends s. 458.003, F.S., to change the name of the commission to the Florida Athletic Commission.

The bill amends s. 548.043(3), F.S., to authorize the commission to establish by rule the need for gloves, if any, in each pugilistic match. The bill also authorizes the commission to establish by rule the weight of any gloves used in pugilistic matches, and deletes the requirement that the gloves weigh between four to eight ounces each. The bill also deletes the requirement for all participants in pugilistic matches to wear gloves.

The bill amends ss. 455.219, 548.002, 548.05, 548.071, and 548.077, F.S., to conform references to the name of the commission.

Division of Alcoholic Beverages and Tobacco

Present Situation

The DABT is responsible for enforcing the Beverage Law and supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.⁴³

³⁸ See s. 548.006(3), F.S.

³⁹ Section 548.002(2), F.S.

⁴⁰ See DBPR, *Florida State Boxing Commission Annual Report, Fiscal Year 2018-2019*, at p. 2, available at: http://www.myfloridalicense.com/dbpr/os/documents/Boxing18_19.pdf (last visited Feb. 12, 2020).

⁴¹ The term “participant” means a professional competing in a boxing, kickboxing, or mixed martial arts match. See s. 548.002, F.S., for the definitions of “participant,” “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer,” “timekeeper,” “referee,” and “announcer” are not defined in ch. 548, F.S.

⁴² Section 548.043(3), F.S.

⁴³ Section 561.02, F.S.

License Application Process

Any person, before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages, must file a sworn application in the format prescribed by the DABT. The applicant must be a legal or business entity, person, or persons and must include all persons, officers, shareholders, and directors of such legal or business entity that have a direct or indirect interest in the business seeking to be licensed under this part. The format and content of the application is determined by the DABT.⁴⁴

Before any application is approved, the DABT may require an applicant, and any person or persons interested directly or indirectly with the applicant in the business for which the license is being sought, to file a set of fingerprints with the DABT on regular United States Department of Justice forms.⁴⁵

All applications for alcoholic beverage licenses for consumption on the premises must be accompanied by a certificate from the DHR, the Department of Agriculture and Consumer Services, the Department of Health, the Agency for Health Care Administration, or the county health department stating that the place of business where the business is to be conducted meets all of the sanitary requirements of the state.⁴⁶

The application for an alcoholic beverage license must include a sketch of the licensed premises over which the applicant must have some dominion and control.⁴⁷ Current law does not require an applicant for an alcoholic beverage license to submit proof of the applicant's right of occupancy for the entire premises sought to be licensed.

Current law does not require an alcoholic beverage licensee or an applicant for a license to provide and maintain an electronic mail address for communications with the DABT.

Recordkeeping and Reporting Requirements

Each manufacturer, distributor, broker, sales agent, importer, and exporter must keep a complete and accurate record and make reports to the DABT showing the amount of alcoholic beverages:⁴⁸

- Manufactured or sold within the state and to whom sold;
- Imported from beyond the limits of the state and to whom sold; and
- Exported beyond the limits of the state, to whom sold, the place where sold, and the address of the person to whom sold.

Each manufacturer, distributor, broker, sales agent, and importer must send this full and complete report to the DABT by the 10th day of each month for the previous calendar month. The report must be made out in triplicate with two copies sent to the DABT and a third copy to be retained for the licensee's record. Reports must be made on forms prepared and furnished by the DABT.⁴⁹

⁴⁴ Section 561.17(1), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Section 561.01(11), F.S., defining the term "licensed premises, and s. 565.03(2)(c), F.S., dealing with craft distilleries.

⁴⁸ Section 561.55(1), F.S.

⁴⁹ Section 561.55(2), F.S.

Credit for the Sale of Liquor

A retail vendor must make a timely payment to a distributor of alcoholic beverages within 10 days after the calendar week in which the alcoholic beverages were purchased. When a vendor does not make a timely payment, the distributor who made the sale must, within three days, notify the DABT in writing that payment has not been made.⁵⁰

The DABT must then give notice to the vendor that it has received a notice of payment delinquency from a distributor. The vendor has five days after receipt of the notice to show cause why further sales to the vendor should not be prohibited. The vendor may demand a hearing before the DABT. The demand for a hearing must be delivered to the DABT in person or by mail within those five days.⁵¹

If a vendor does not demand a hearing, the DABT must declare in writing to the vendor and to all manufacturers and distributors in Florida that all further sales to such vendor are prohibited until the DABT certifies in writing that such vendor has fully paid for all liquors previously purchased.⁵²

Permit Carriers

Section 561.57(1), F.S., permits an alcoholic beverage vendor to make deliveries away from its place of business for sales made at the licensed place of business. Deliveries made by a manufacturer, distributor, or a vendor away from its place of business may only be made in vehicles owned or leased by the licensee. By acceptance of an alcoholic beverage license and the use of vehicles owned by or leased by the vendor, the vendor agrees the vehicle is subject to be inspected and searched without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.⁵³

The term “permit carrier” is defined as a licensee authorized to make deliveries as provided in s. 561.57, F.S.⁵⁴ A permit is not required for licensees making a delivery of alcoholic beverages under this section.

In 2015, the Legislature amended s. 561.57, F.S., to delete a requirement for a permit for each vehicle used to deliver alcoholic beverages from a distributor’s place of business to the vendor’s licensed premises or to an off-premises storage permitted by the DABT. The 2015 amendment to s. 561.57, F.S., also removed a requirement for vendors to possess an invoice or sales ticket during the transportation of alcoholic beverages.⁵⁵

⁵⁰ Section 561.42(3), F.S.

⁵¹ Section 561.42(4), F.S.

⁵² *Id.*

⁵³ Section 561.57(2), F.S.

⁵⁴ Section 561.01(20), F.S.

⁵⁵ Chapter 2015-52, Laws of Fla.

Special Restaurant Licenses

Section 561.20(1), F.S., limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation, if certain conditions are met.

A “special license” is an exception to the quota licensing scheme to allow the sale of beer, wine, and distilled spirits without a quota license and subject to conditions. One such special license is a “special restaurant license,” which applies to a food service establishment that has 2,500 square feet, is equipped to serve 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages. The DABT must perform an audit to confirm compliance with the food and nonalcoholic beverage sales percentage requirements during the first 60-day operating period and each 12-month operating period thereafter.⁵⁶

If a special restaurant licensee fails to satisfy the percentage requirements for the sale of food and nonalcoholic beverage, the license must be revoked or a pending license application must be denied. A licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation or denial of a license application.⁵⁷

Effect of Proposed Changes

The bill deletes the definition for the term “permit carrier” in s. 561.01(20), F.S. The bill also corrects cross-references in s. 561.20(2)(a), F.S., affected by the deletion of the definition of the term “permit carrier.”

The bill amends the alcoholic beverage license application process in s. 561.17(1), F.S., to require applicants to file fingerprints electronically through an approved electronic fingerprinting vendor, or to use a form prescribed by the Florida Department of Law Enforcement. The bill deletes the requirement that the fingerprints be submitted on regular United States Department of Justice forms.

The bill amends s. 561.17(2), F.S., to require an applicant for any alcoholic beverage license to provide proof of the applicant’s right of occupancy for the entire premises sought to be licensed.

The bill creates s. 561.17(5), F.S., to require any person or entity licensed or permitted by the DABT to provide an electronic mail address to the DABT to function as the primary contact for all communication by the DABT to the licensee or permittee. Under the bill, licensees and permittees are responsible for maintaining accurate contact information with the DABT. The bill amends s. 561.20(2)(a)4., F.S., to revise the auditing timeframes for special restaurant licensees. Under the bill, the DABT must perform the initial compliance audit within the first 120 days of operation, instead of within the first 60 days.

⁵⁶ Section 561.20(2)(a)4., F.S.

⁵⁷ Section 561.20(2)(a)4., F.S.

In addition, the bill revises the frequency of subsequent audits. Under the bill, the frequency of compliance audits is determined by the percentage of the licensee's gross revenue from the sale of food and nonalcoholic beverages, as established by the licensee's most recent audit. The bill provides the following audit levels:

- Level 1 licensees, with 51 to 60 percent, will be audited every year;
- Level 2 licensees, with 61 to 75 percent, will be audited every two years;
- Level 3 licensees, with 76 to 90 percent, will be audited every three years; and
- Level 4 licensees, with 91 to 100 percent, will be audited every four years.

The bill amends s. 561.42(4), F.S., to require the DABT to give a retail vendor notice of a payment delinquency via electronic mail. The bill deletes the requirement that the delinquency notice must be a written notice. The bill also allows a vendor to send a demand for a hearing to the DABT by electronic mail.

The bill amends s. 561.55(2), F.S., to delete the requirement that reports by a manufacturer, distributor, broker, sales agent, and importer must be made out in triplicate. Under the bill, the reports must be submitted to the DABT through the DABT's electronic data submission system.

Condominiums

Present Situation

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., (the Condominium Act) comprised of units which may be owned by one or more persons along with an undivided right of access to common elements.⁵⁸ A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.⁵⁹ All unit owners are members of the condominium association, an entity responsible for the operation and maintenance of the common elements owned by the unit owners. The condominium association is overseen by an elected board of directors, which enacts bylaws which govern the administration of the association.

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the DBPR administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The FCTMH may investigate complaints and enforce compliance with chs. 718 and 719, F.S., with respect to associations that are still under developer control.⁶⁰ The FCTMH also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.⁶¹ After control of the condominium is transferred from the developer to the unit owners, the FCTMH's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.⁶² For cooperatives, the FCTMH's jurisdiction extends to the development,

⁵⁸ Section 718.103(11), F.S.

⁵⁹ Section 718.104(2), F.S.

⁶⁰ Sections 718.501(1) and 719.501(1), F.S.

⁶¹ *Id.*

⁶² Section 718.501(1), F.S.

construction, sale, lease, ownership, operation, and management of residential cooperative units.⁶³

As part of the FCTMH's authority to investigate complaints, the FCTMH may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers and associations.⁶⁴

If the FCTMH has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the FCTMH may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The FCTMH may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. In addition, the FCTMH is authorized to petition a court to appoint a receiver or conservator to implement a court order, or to enforce an injunction or temporary restraining order. The FCTMH may also impose civil penalties.⁶⁵

Annual Budget

Every condominium association must have an annual financial budget that sets forth the proposed expenditure of funds for the maintenance, management, and operation of the condominium association. The annual budget must include operating expenses for the coming year and reserve accounts for capital expenditures and deferred maintenance.⁶⁶

An association must hold a meeting to adopt a proposed budget. The association must provide notice of the meeting and a copy of the proposed budget to the members of the association at least 14 days before the meeting.⁶⁷ The proposed budget must be detailed, and, at a minimum, include the condominium's estimated revenues and expenses.⁶⁸ Current law does not define the timing for adoption of the budget.

Board of Directors – Eligibility based on Payment of Monetary Obligations

A condominium association is overseen by an elected board of directors (termed a Board of Administration). The board is responsible for managing the affairs of the association, has a fiduciary relationship with the unit owners, has the responsibility to act with the highest degree of good faith, and must place the interests of the unit owners above the personal interests of the directors.⁶⁹

To become a board member, a person may be:

- Elected to the board by the members of the association;⁷⁰ or

⁶³ Section 719.501(1), F.S.

⁶⁴ Sections 718.501(1) and 719.501(1), F.S.

⁶⁵ *Id.*

⁶⁶ Section 718.112(2)(f), F.S.

⁶⁷ Section 718.112(2)(e)1., F.S.

⁶⁸ Sections 718.112(2)(f) and 718.504(21), F.S.

⁶⁹ Sections 718.103(4), 718.111, and 718.112, F.S.

⁷⁰ Section 718.112(2)(d)4., F.S.

- Appointed to the board by the developer if the developer is still entitled to representation; or by the board of directors if a vacancy on the board occurs between meetings.⁷¹

A condominium association's bylaws establish the eligibility requirements to serve on the association's board of directors.⁷² However, current law also establishes minimum qualification to serve on an association's board of directors.⁷³ To serve as a director, a person may not:⁷⁴

- Be a co-owner of a unit with another director unless they own more than one unit or the condominium association is made up of less than ten units;
- Be delinquent in the payment of any monetary obligation to the condominium association;
- Have been previously suspended or removed from a condominium association's board of directors or by the FCTMH; or
- Have been convicted of a felony, under certain circumstances.⁷⁵

Chapter 718, F.S., does not define the terms "monetary obligation" or "delinquent." According to the DBPR, defining the term "delinquent" would assist in the FCTMH's investigation of cases in which the unit owner alleges they were left off of an election ballot because of a delinquent payment to the association.⁷⁶ The DBPR also maintains that it is the practice of a "controlling board of directors to issue fines to unit owners in an effort to limit the pool of eligible candidates who can compete in an election."⁷⁷

Condominium Ombudsman

The Office of the Ombudsman within the FCTMH is an attorney appointed by the Governor to be a neutral resource for unit owners and condominium associations. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the FCTMH, and the Legislature on any matter or subject within the jurisdiction of the FCTMH. In addition, the ombudsman may make recommendations to the FCTMH for changes in rules and procedures for the filing, investigation, and resolution of complaints.⁷⁸

The ombudsman also acts as a liaison among the FCTMH, unit owners, and condominium associations and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities.⁷⁹

The ombudsman is required to maintain his or her principal office in Leon County.⁸⁰

⁷¹ Sections 617.0809 and 718.112(2)(d)9., F.S.

⁷² Section 718.112(2)(a), F.S.

⁷³ Section 718.112(2)(d), F.S.

⁷⁴ Section 718.112(2)(d), F.S.

⁷⁵ Section 718.111(1)(d), F.S.

⁷⁶ See Department of Business and Professional Regulation, *SB 912 Bill Analysis*, p. 5 (Dec. 9, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

⁷⁷ *Id.*

⁷⁸ Sections 718.5011 and 718.5012, F.S.

⁷⁹ *Id.*

⁸⁰ Section 718.5014, F.S.

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)2.F.S., to replace the term “monetary obligation” with the term “assessment.” The bill also provides that a person is delinquent if a payment is not made by the due date identified in the association’s declaration, articles of incorporation, or bylaws (governing documents). If no due date is specifically identified in the governing documents, the due date is the first day of the monthly or quarterly assessment period.

The bill amends s. 718.112(2)(f), F.S., to require a condominium association’s annual budget to be proposed to unit owners and adopted by the board of directors no later than 30 days before the beginning of the fiscal year. Under the bill, an association must also satisfy the 14-day notice requirement in s. 718.112(2)(e)1., F.S., for any meeting at which a proposed annual budget of an association will be considered by the board or unit owners.

The bill amends s. 718.501, F.S., to authorize the FCTMH to adopt rules regarding the submission of a complaint against a condominium association.

The bill amends s. 718.5014, F.S., to delete the requirement that the condominium ombudsman maintain his or her principal office in Leon County.

Effective Date

The bill has an effective date of July 1, 2020.

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.

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

None.

B. Private Sector Impact:

According to the Department of Business and Professional Regulation (DBPR), the bill may reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The Division of Hotels and Restaurants (DHR) estimates licensees will save approximately \$1.4 million in Fiscal Year 2020-2021 by the elimination of the staggered and prorated renewal schedule which would provide new licensees with a full year of licensure.⁸¹

C. Government Sector Impact:

According to the DBPR, “tax revenue may be maximized by the required electronic submission of tax reports” to the Division of Alcoholic Beverages and Tobacco.⁸²

For the DHR, the DBPR projects that the bill will reduce the division’s revenue by approximately 3.9 percent (approximately \$1.4 million) for Fiscal Year 2020-2021.⁸³

The DBPR indicates that the bill will require modifications to the department’s regulatory data system and the Electronic Data Submission system. The DBPR indicates that these modifications can be implemented using existing resources.⁸⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Florida Department of Law Enforcement (FDLE), to facilitate state and natural criminal history record checks, the FDLE recommends modifying the proposed language on lines 329-332 to read:

An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13), F.S. 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.

⁸¹ See Department of Business and Professional Regulation, *SB 912 Bill Analysis*, (Dec. 9, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

Fees for the state and federal fingerprint processing shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e), F.S., for records provided to persons or entities other than those specified as exceptions therein.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 210.09, 210.55, 509.241, 509.251, 548.003, 548.043, 561.01, 561.17, 561.20, 561.42, 561.55, 718.112, 718.501, 718.5014, 455.219, 548.002, 548.05, 548.071, and 548.077.

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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LEGISLATIVE ACTION

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| Senate | . | House |
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The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 1035 and 1036

insert:

Section 15. Paragraph (a) of subsection (2) of section 849.0931, Florida Statutes, is amended, and paragraph (f) is added to subsection (11) of that section, to read:

849.0931 Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.—

(2) (a) None of the provisions of this chapter shall be



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11 construed to prohibit or prevent charitable, nonprofit, or
12 veterans' organizations engaged in charitable, civic, community,
13 benevolent, religious, or scholastic works or other similar
14 endeavors, which organizations have been in existence and active
15 for a period of 3 years or more, from conducting bingo games or
16 instant bingo, provided the entire proceeds derived from the
17 conduct of such games, less actual business expenses for
18 articles designed for and essential to the operation, conduct,
19 and playing of bingo or instant bingo, are donated by such
20 organizations to the endeavors mentioned above. In no case may
21 the net proceeds from the conduct of such games be used for any
22 other purpose whatsoever. The proceeds derived from the conduct
23 of bingo games or instant bingo shall not be considered
24 solicitation of public donations. A pari-mutuel permitholder who
25 holds a pari-mutuel permit issued under chapter 550 may allow
26 such charitable, nonprofit, or veterans' organization to conduct
27 bingo games or instant bingo at the pari-mutuel permitholder's
28 pari-mutuel facility.

29 (11) Bingo games or instant bingo may be held only on the
30 following premises:

31 (f) If a pari-mutuel permitholder has authorized a
32 charitable, nonprofit, or veterans' organization to conduct
33 bingo games or instant bingo pursuant to paragraph (2)(a), at
34 the pari-mutuel facility of the permitholder.

35
36 ===== T I T L E A M E N D M E N T =====

37 And the title is amended as follows:

38 Delete line 49

39 and insert:



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40 condominium ombudsman; amending s. 849.0931, F.S.;

41 authorizing pari-mutuel permitholders to allow certain

42 organizations to conduct bingo games and instant bingo

43 at the pari-mutuel permitholder's facility; conforming

44 provisions to changes made by the act; amending ss.

45 455.219, 548.002,



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| 03/04/2020 | . | |
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The Committee on Appropriations (Book) recommended the following:

1 **Senate Substitute for Amendment (359406) (with title**
2 **amendment)**

3
4 Between lines 1035 and 1036
5 insert:

6 Section 15. Subsections (5) and (7) of section 849.0931,
7 Florida Statutes, are amended to read:

8 849.0931 Bingo authorized; conditions for conduct;
9 permitted uses of proceeds; limitations.—

10 (5) Except for instant bingo prizes, which are limited to



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11 the amounts displayed on the ticket or on the game flare, a
12 jackpot shall not exceed the value of \$2,000 ~~\$250~~ in actual
13 money or its equivalent, and there shall be no more than three
14 jackpots in any one session of bingo.

15 (7) Except for instant bingo prizes, which are limited to
16 the amounts displayed on the ticket or on the game flare, there
17 shall be no more than five ~~three~~ jackpots on any one day of
18 play. All other game prizes shall not exceed \$250 ~~\$50~~.

19

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

21 And the title is amended as follows:

22 Delete line 49

23 and insert:

24 condominium ombudsman; amending s. 849.0931, F.S.;

25 revising limits for bingo jackpots; amending ss.

26 455.219, 548.002,

By Senator Diaz

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1 A bill to be entitled
 2 An act relating to the Department of Business and
 3 Professional Regulation; amending s. 210.09, F.S.;
 4 requiring that certain reports relating to the
 5 transportation or possession of cigarettes be filed
 6 with the Division of Alcoholic Beverages and Tobacco
 7 through the division's electronic data submission
 8 system; amending s. 210.55, F.S.; requiring that
 9 certain entities file reports, rather than returns,
 10 relating to tobacco products with the division;
 11 providing requirements for such reports; amending s.
 12 509.241, F.S.; revising rulemaking requirements
 13 relating to public lodging and food service licenses;
 14 amending s. 509.251, F.S.; deleting provisions
 15 relating to fee schedule requirements; specifying that
 16 all fees are payable in full upon submission of an
 17 application for a public lodging establishment license
 18 or a public food service license; amending s. 548.003,
 19 F.S.; renaming the Florida State Boxing Commission as
 20 the Florida Athletic Commission; amending s. 548.043,
 21 F.S.; revising rulemaking requirements for the
 22 commission relating to gloves; amending s. 561.01,
 23 F.S.; deleting the definition of the term "permit
 24 carrier"; amending s. 561.17, F.S.; revising a
 25 requirement related to the filing of fingerprints with
 26 the division; requiring that applications be
 27 accompanied by certain information relating to right
 28 of occupancy; providing requirements relating to
 29 contact information for licensees and permittees;

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30 amending s. 561.20, F.S.; conforming cross-references;
 31 revising requirements for issuing special licenses to
 32 certain food service establishments; amending s.
 33 561.42, F.S.; requiring the division, and authorizing
 34 vendors, to use electronic mail to give certain
 35 notice; amending s. 561.55, F.S.; revising
 36 requirements for reports relating to alcoholic
 37 beverages; amending s. 718.112, F.S.; providing the
 38 circumstances under which a person is delinquent in
 39 the payment of an assessment in the context of
 40 eligibility for membership on certain condominium
 41 boards; requiring that an annual budget be proposed to
 42 unit owners and adopted by the board before a
 43 specified time; amending s. 718.501, F.S.; authorizing
 44 the Division of Florida Condominiums, Timeshares, and
 45 Mobile Homes to adopt rules regarding the submission
 46 of complaints against a condominium association;
 47 amending s. 718.5014, F.S.; revising the location
 48 requirements for the principal office of the
 49 condominium ombudsman; amending ss. 455.219, 548.002,
 50 548.05, 548.071, and 548.077, F.S.; conforming
 51 provisions to changes made by the act; providing an
 52 effective date.

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

55
 56 Section 1. Subsection (2) of section 210.09, Florida
 57 Statutes, is amended to read:
 58 210.09 Records to be kept; reports to be made;

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59 examination.-

60 (2) The division is authorized to prescribe and promulgate
61 by rules and regulations, which shall have the force and effect
62 of the law, such records to be kept and reports to be made to
63 the division by any manufacturer, importer, distributing agent,
64 wholesale dealer, retail dealer, common carrier, or any other
65 person handling, transporting or possessing cigarettes for sale
66 or distribution within the state as may be necessary to collect
67 and properly distribute the taxes imposed by s. 210.02. All
68 reports shall be made on or before the 10th day of the month
69 following the month for which the report is made, unless the
70 division by rule or regulation shall prescribe that reports be
71 made more often. All reports shall be filed with the division
72 through the division's electronic data submission system.

73 Section 2. Subsection (1) of section 210.55, Florida
74 Statutes, is amended to read:

75 210.55 Distributors; monthly returns.-

76 (1) On or before the 10th of each month, every taxpayer
77 with a place of business in this state shall file a full and
78 complete report return with the division showing the tobacco
79 products taxable price of each tobacco product brought or caused
80 to be brought into this state for sale, or made, manufactured,
81 or fabricated in this state for sale in this state, during the
82 preceding month. Every taxpayer outside this state shall file a
83 full and complete report with the division through the
84 division's electronic data submission system return showing the
85 quantity and taxable price of each tobacco product shipped or
86 transported to retailers in this state, to be sold by those
87 retailers, during the preceding month. Reports must Returns

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88 ~~shall~~ be made upon forms furnished and prescribed by the
89 division and must ~~shall~~ contain any other information that the
90 division requires. Each report must return ~~shall~~ be accompanied
91 by a remittance for the full tax liability shown and be filed
92 with the division through the division's electronic data
93 submission system.

94 Section 3. Subsection (1) of section 509.241, Florida
95 Statutes, is amended to read:

96 509.241 Licenses required; exceptions.-

97 (1) LICENSES; ANNUAL RENEWALS.-Each public lodging
98 establishment and public food service establishment shall obtain
99 a license from the division. Such license may not be transferred
100 from one place or individual to another. It shall be a
101 misdemeanor of the second degree, punishable as provided in s.
102 775.082 or s. 775.083, for such an establishment to operate
103 without a license. Local law enforcement shall provide immediate
104 assistance in pursuing an illegally operating establishment. The
105 division may refuse a license, or a renewal thereof, to any
106 establishment that is not constructed and maintained in
107 accordance with law and with the rules of the division. The
108 division may refuse to issue a license, or a renewal thereof, to
109 any establishment an operator of which, within the preceding 5
110 years, has been adjudicated guilty of, or has forfeited a bond
111 when charged with, any crime reflecting on professional
112 character, including soliciting for prostitution, pandering,
113 letting premises for prostitution, keeping a disorderly place,
114 or illegally dealing in controlled substances as defined in
115 chapter 893, whether in this state or in any other jurisdiction
116 within the United States, or has had a license denied, revoked,

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117 or suspended pursuant to s. 429.14. Licenses shall be renewed
 118 annually, and the division shall adopt rules ~~a rule~~ establishing
 119 ~~procedures a staggered schedule~~ for license issuance and
 120 renewals. If any license expires while administrative charges
 121 are pending against the license, the proceedings against the
 122 license shall continue to conclusion as if the license were
 123 still in effect.

124 Section 4. Subsections (1) and (2) of section 509.251,
 125 Florida Statutes, are amended to read:

126 509.251 License fees.-

127 (1) The division shall adopt, by rule, a schedule of fees
 128 to be paid by each public lodging establishment as a
 129 prerequisite to issuance or renewal of a license. Such fees
 130 shall be based on the number of rental units in the
 131 establishment. The aggregate fee per establishment charged any
 132 public lodging establishment may not exceed \$1,000; however, the
 133 fees described in paragraphs (a) and (b) may not be included as
 134 part of the aggregate fee subject to this cap. Vacation rental
 135 units or timeshare projects within separate buildings or at
 136 separate locations but managed by one licensed agent may be
 137 combined in a single license application, and the division shall
 138 charge a license fee as if all units in the application are in a
 139 single licensed establishment. ~~The fee schedule shall require an~~
 140 ~~establishment which applies for an initial license to pay the~~
 141 ~~full license fee if application is made during the annual~~
 142 ~~renewal period or more than 6 months before the next such~~
 143 ~~renewal period and one half of the fee if application is made 6~~
 144 ~~months or less before such period.~~ The fee schedule shall
 145 include fees collected for the purpose of funding the

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146 Hospitality Education Program, pursuant to s. 509.302. All fees,
 147 ~~which~~ are payable in full for each application at the time
 148 ~~regardless of when~~ the application is submitted.

149 (a) Upon making initial application or an application for
 150 change of ownership, the applicant shall pay to the division a
 151 fee as prescribed by rule, not to exceed \$50, in addition to any
 152 other fees required by law, which shall cover all costs
 153 associated with initiating regulation of the establishment.

154 (b) A license renewal filed with the division after the
 155 expiration date shall be accompanied by a delinquent fee as
 156 prescribed by rule, not to exceed \$50, in addition to the
 157 renewal fee and any other fees required by law.

158 (2) The division shall adopt, by rule, a schedule of fees
 159 to be paid by each public food service establishment as a
 160 prerequisite to issuance or renewal of a license. The fee
 161 schedule shall prescribe a basic fee and additional fees based
 162 on seating capacity and services offered. The aggregate fee per
 163 establishment charged any public food service establishment may
 164 not exceed \$400; however, the fees described in paragraphs (a)
 165 and (b) may not be included as part of the aggregate fee subject
 166 to this cap. ~~The fee schedule shall require an establishment~~
 167 ~~which applies for an initial license to pay the full license fee~~
 168 ~~if application is made during the annual renewal period or more~~
 169 ~~than 6 months before the next such renewal period and one-half~~
 170 ~~of the fee if application is made 6 months or less before such~~
 171 ~~period.~~ The fee schedule shall include fees collected for the
 172 purpose of funding the Hospitality Education Program, pursuant
 173 to s. 509.302. All fees, ~~which~~ are payable in full for each
 174 application at the time ~~regardless of when~~ the application is

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175 submitted.

176 (a) Upon making initial application or an application for
177 change of ownership, the applicant shall pay to the division a
178 fee as prescribed by rule, not to exceed \$50, in addition to any
179 other fees required by law, which shall cover all costs
180 associated with initiating regulation of the establishment.

181 (b) A license renewal filed with the division after the
182 expiration date shall be accompanied by a delinquent fee as
183 prescribed by rule, not to exceed \$50, in addition to the
184 renewal fee and any other fees required by law.

185 Section 5. Section 548.003, Florida Statutes, is amended to
186 read:

187 548.003 Florida Athletic State Boxing Commission.—

188 (1) The Florida Athletic State Boxing Commission is created
189 and is assigned to the Department of Business and Professional
190 Regulation for administrative and fiscal accountability purposes
191 only. The ~~Florida State Boxing~~ commission shall consist of five
192 members appointed by the Governor, subject to confirmation by
193 the Senate. One member must be a physician licensed pursuant to
194 chapter 458 or chapter 459, who must maintain an unencumbered
195 license in good standing, and who must, at the time of her or
196 his appointment, have practiced medicine for at least 5 years.
197 Upon the expiration of the term of a commissioner, the Governor
198 shall appoint a successor to serve for a 4-year term. A
199 commissioner whose term has expired shall continue to serve on
200 the commission until such time as a replacement is appointed. If
201 a vacancy on the commission occurs prior to the expiration of
202 the term, it shall be filled for the unexpired portion of the
203 term in the same manner as the original appointment.

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204 (2) The ~~Florida State Boxing~~ commission, as created by
205 subsection (1), shall administer the provisions of this chapter.
206 The commission has authority to adopt rules pursuant to ss.
207 120.536(1) and 120.54 to implement the provisions of this
208 chapter and to implement each of the duties and responsibilities
209 conferred upon the commission, including, but not limited to:

210 (a) Development of an ethical code of conduct for
211 commissioners, commission staff, and commission officials.

212 (b) Facility and safety requirements relating to the ring,
213 floor plan and apron seating, emergency medical equipment and
214 services, and other equipment and services necessary for the
215 conduct of a program of matches.

216 (c) Requirements regarding a participant's apparel,
217 bandages, handwraps, gloves, mouthpiece, and appearance during a
218 match.

219 (d) Requirements relating to a manager's participation,
220 presence, and conduct during a match.

221 (e) Duties and responsibilities of all licensees under this
222 chapter.

223 (f) Procedures for hearings and resolution of disputes.

224 (g) Qualifications for appointment of referees and judges.

225 (h) Qualifications for and appointment of chief inspectors
226 and inspectors and duties and responsibilities of chief
227 inspectors and inspectors with respect to oversight and
228 coordination of activities for each program of matches regulated
229 under this chapter.

230 (i) Designation and duties of a knockdown timekeeper.

231 (j) Setting fee and reimbursement schedules for referees
232 and other officials appointed by the commission or the

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233 representative of the commission.

234 (k) Establishment of criteria for approval, disapproval,
 235 suspension of approval, and revocation of approval of amateur
 236 sanctioning organizations for amateur boxing, kickboxing, and
 237 mixed martial arts held in this state, including, but not
 238 limited to, the health and safety standards the organizations
 239 use before, during, and after the matches to ensure the health,
 240 safety, and well-being of the amateurs participating in the
 241 matches, including the qualifications and numbers of health care
 242 personnel required to be present, the qualifications required
 243 for referees, and other requirements relating to the health,
 244 safety, and well-being of the amateurs participating in the
 245 matches. The commission may adopt by rule, or incorporate by
 246 reference into rule, the health and safety standards of USA
 247 Boxing as the minimum health and safety standards for an amateur
 248 boxing sanctioning organization, the health and safety standards
 249 of the International Sport Kickboxing Association as the minimum
 250 health and safety standards for an amateur kickboxing
 251 sanctioning organization, and the minimum health and safety
 252 standards for an amateur mixed martial arts sanctioning
 253 organization. The commission shall review its rules for
 254 necessary revision at least every 2 years and may adopt by rule,
 255 or incorporate by reference into rule, the then-existing current
 256 health and safety standards of USA Boxing and the International
 257 Sport Kickboxing Association. The commission may adopt emergency
 258 rules to administer this paragraph.

259 (3) The commission shall maintain an office in Tallahassee.
 260 At the first meeting of the commission after June 1 of each
 261 year, the commission shall select a chair and a vice chair from

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262 among its membership. Three members shall constitute a quorum
 263 and the concurrence of at least three members is necessary for
 264 official commission action.

265 (4) Three consecutive unexcused absences or absences
 266 constituting 50 percent or more of the commission's meetings
 267 within any 12-month period shall cause the commission membership
 268 of the member in question to become void, and the position shall
 269 be considered vacant. The commission shall, by rule, define
 270 unexcused absences.

271 (5) Each commission member shall be accountable to the
 272 Governor for the proper performance of duties as a member of the
 273 commission. The Governor shall cause to be investigated any
 274 complaint or unfavorable report received by the Governor or the
 275 department concerning an action of the commission or any member
 276 and shall take appropriate action thereon. The Governor may
 277 remove from office any member for malfeasance, unethical
 278 conduct, misfeasance, neglect of duty, incompetence, permanent
 279 inability to perform official duties, or pleading guilty or nolo
 280 contendere to or being found guilty of a felony.

281 (6) Each member of the commission shall be compensated at
 282 the rate of \$50 for each day she or he attends a commission
 283 meeting and shall be reimbursed for other expenses as provided
 284 in s. 112.061.

285 (7) The commission shall be authorized to join and
 286 participate in the activities of the Association of Boxing
 287 Commissions (ABC).

288 (8) The department shall provide all legal and
 289 investigative services necessary to implement this chapter. The
 290 department may adopt rules as provided in ss. 120.536(1) and

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291 120.54 to carry out its duties under this chapter.

292 Section 6. Subsection (3) of section 548.043, Florida
293 Statutes, is amended to read:

294 548.043 Weights and classes, limitations; gloves.—

295 (3) The commission shall establish by rule the need for
296 gloves, if any, and the weight of any such gloves to be used in
297 each pugilistic match ~~the appropriate weight of gloves to be~~
298 ~~used in each boxing match; however, all participants in boxing~~
299 ~~matches shall wear gloves weighing not less than 8 ounces each~~
300 ~~and participants in mixed martial arts matches shall wear gloves~~
301 ~~weighing 4 to 8 ounces each. Participants shall wear such~~
302 protective devices as the commission deems necessary.

303 Section 7. Subsection (20) of section 561.01, Florida
304 Statutes, is amended to read:

305 561.01 Definitions.—As used in the Beverage Law:

306 ~~(20) "Permit carrier" means a licensee authorized to make~~
307 ~~deliveries as provided in s. 561.57.~~

308 Section 8. Subsections (1) and (2) of section 561.17,
309 Florida Statutes, are amended, and subsection (5) is added to
310 that section, to read:

311 561.17 License and registration applications; approved
312 person.—

313 (1) Any person, before engaging in the business of
314 manufacturing, bottling, distributing, selling, or in any way
315 dealing in alcoholic beverages, shall file, with the district
316 licensing personnel of the district of the division in which the
317 place of business for which a license is sought is located, a
318 sworn application in the format prescribed by the division. The
319 applicant must be a legal or business entity, person, or persons

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320 and must include all persons, officers, shareholders, and
321 directors of such legal or business entity that have a direct or
322 indirect interest in the business seeking to be licensed under
323 this part. However, the applicant does not include any person
324 that derives revenue from the license solely through a
325 contractual relationship with the licensee, the substance of
326 which contractual relationship is not related to the control of
327 the sale of alcoholic beverages. Before any application is
328 approved, the division may require the applicant to file a set
329 of fingerprints electronically through an approved electronic
330 fingerprinting vendor or on regular United States Department of
331 Justice forms prescribed by the Florida Department of Law
332 Enforcement for herself or himself and for any person or persons
333 interested directly or indirectly with the applicant in the
334 business for which the license is being sought, when required by
335 the division. If the applicant or any person who is interested
336 with the applicant either directly or indirectly in the business
337 or who has a security interest in the license being sought or
338 has a right to a percentage payment from the proceeds of the
339 business, either by lease or otherwise, is not qualified, the
340 division shall deny the application. However, any company
341 regularly traded on a national securities exchange and not over
342 the counter; any insurer, as defined in the Florida Insurance
343 Code; or any bank or savings and loan association chartered by
344 this state, another state, or the United States which has an
345 interest, directly or indirectly, in an alcoholic beverage
346 license is not required to obtain the division's approval of its
347 officers, directors, or stockholders or any change of such
348 positions or interests. A shopping center with five or more

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349 stores, one or more of which has an alcoholic beverage license
 350 and is required under a lease common to all shopping center
 351 tenants to pay no more than 10 percent of the gross proceeds of
 352 the business holding the license to the shopping center, is not
 353 considered as having an interest, directly or indirectly, in the
 354 license. A performing arts center, as defined in s. 561.01,
 355 which has an interest, directly or indirectly, in an alcoholic
 356 beverage license is not required to obtain division approval of
 357 its volunteer officers or directors or of any change in such
 358 positions or interests.

359 (2) All applications for any alcoholic beverage license
 360 must be accompanied by proof of the applicant's right of
 361 occupancy for the entire premises sought to be licensed. All
 362 applications for alcoholic beverage licenses for consumption on
 363 the premises shall be accompanied by a certificate of the
 364 Division of Hotels and Restaurants of the Department of Business
 365 and Professional Regulation, the Department of Agriculture and
 366 Consumer Services, the Department of Health, the Agency for
 367 Health Care Administration, or the county health department that
 368 the place of business wherein the business is to be conducted
 369 meets all of the sanitary requirements of the state.

370 (5) Any person or entity licensed or permitted by the
 371 division must provide an electronic mail address to the division
 372 to function as the primary contact for all communication by the
 373 division to the licensee or permittees. Licensees and permittees
 374 are responsible for maintaining accurate contact information on
 375 file with the division.

376 Section 9. Paragraph (a) of subsection (2) of section
 377 561.20, Florida Statutes, is amended to read:

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378 561.20 Limitation upon number of licenses issued.-

379 (2) (a) The limitation of the number of licenses as provided
 380 in this section does not prohibit the issuance of a special
 381 license to:

382 1. Any bona fide hotel, motel, or motor court of not fewer
 383 than 80 guest rooms in any county having a population of less
 384 than 50,000 residents, and of not fewer than 100 guest rooms in
 385 any county having a population of 50,000 residents or greater;
 386 or any bona fide hotel or motel located in a historic structure,
 387 as defined in s. 561.01(20) ~~s. 561.01(21)~~, with fewer than 100
 388 guest rooms which derives at least 51 percent of its gross
 389 revenue from the rental of hotel or motel rooms, which is
 390 licensed as a public lodging establishment by the Division of
 391 Hotels and Restaurants; provided, however, that a bona fide
 392 hotel or motel with no fewer than 10 and no more than 25 guest
 393 rooms which is a historic structure, as defined in s. 561.01(20)
 394 ~~s. 561.01(21)~~, in a municipality that on the effective date of
 395 this act has a population, according to the University of
 396 Florida's Bureau of Economic and Business Research Estimates of
 397 Population for 1998, of no fewer than 25,000 and no more than
 398 35,000 residents and that is within a constitutionally chartered
 399 county may be issued a special license. This special license
 400 shall allow the sale and consumption of alcoholic beverages only
 401 on the licensed premises of the hotel or motel. In addition, the
 402 hotel or motel must derive at least 60 percent of its gross
 403 revenue from the rental of hotel or motel rooms and the sale of
 404 food and nonalcoholic beverages; provided that this subparagraph
 405 shall supersede local laws requiring a greater number of hotel
 406 rooms;

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407 2. Any condominium accommodation of which no fewer than 100
 408 condominium units are wholly rentable to transients and which is
 409 licensed under chapter 509, except that the license shall be
 410 issued only to the person or corporation that operates the hotel
 411 or motel operation and not to the association of condominium
 412 owners;

413 3. Any condominium accommodation of which no fewer than 50
 414 condominium units are wholly rentable to transients, which is
 415 licensed under chapter 509, and which is located in any county
 416 having home rule under s. 10 or s. 11, Art. VIII of the State
 417 Constitution of 1885, as amended, and incorporated by reference
 418 in s. 6(e), Art. VIII of the State Constitution, except that the
 419 license shall be issued only to the person or corporation that
 420 operates the hotel or motel operation and not to the association
 421 of condominium owners;

422 4. A food service establishment that has 2,500 square feet
 423 of service area, is equipped to serve meals to 150 persons at
 424 one time, and derives at least 51 percent of its gross food and
 425 beverage revenue from the sale of food and nonalcoholic
 426 beverages during the first 120-day ~~60-day~~ operating period and
 427 the first each 12-month operating period thereafter. Subsequent
 428 audit timeframes must be based upon the audit percentage
 429 established by the most recent audit and conducted on a
 430 staggered scale as follows: level 1, 51 percent to 60 percent,
 431 every year; level 2, 61 percent to 75 percent, every 2 years;
 432 level 3, 76 percent to 90 percent, every 3 years; and level 4,
 433 91 percent to 100 percent, every 4 years. A food service
 434 establishment granted a special license on or after January 1,
 435 1958, pursuant to general or special law may not operate as a

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436 package store and may not sell intoxicating beverages under such
 437 license after the hours of serving or consumption of food have
 438 elapsed. Failure by a licensee to meet the required percentage
 439 of food and nonalcoholic beverage gross revenues during the
 440 covered operating period shall result in revocation of the
 441 license or denial of the pending license application. A licensee
 442 whose license is revoked or an applicant whose pending
 443 application is denied, or any person required to qualify on the
 444 special license application, is ineligible to have any interest
 445 in a subsequent application for such a license for a period of
 446 120 days after the date of the final denial or revocation;

447 5. Any caterer, deriving at least 51 percent of its gross
 448 food and beverage revenue from the sale of food and nonalcoholic
 449 beverages at each catered event, licensed by the Division of
 450 Hotels and Restaurants under chapter 509. This subparagraph does
 451 not apply to a culinary education program, as defined in s.
 452 381.0072(2), which is licensed as a public food service
 453 establishment by the Division of Hotels and Restaurants and
 454 provides catering services. Notwithstanding any law to the
 455 contrary, a licensee under this subparagraph shall sell or serve
 456 alcoholic beverages only for consumption on the premises of a
 457 catered event at which the licensee is also providing prepared
 458 food, and shall prominently display its license at any catered
 459 event at which the caterer is selling or serving alcoholic
 460 beverages. A licensee under this subparagraph shall purchase all
 461 alcoholic beverages it sells or serves at a catered event from a
 462 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
 463 under s. 565.02(1) subject to the limitation imposed in
 464 subsection (1), as appropriate. A licensee under this

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465 subparagraph may not store any alcoholic beverages to be sold or
 466 served at a catered event. Any alcoholic beverages purchased by
 467 a licensee under this subparagraph for a catered event that are
 468 not used at that event must remain with the customer; provided
 469 that if the vendor accepts unopened alcoholic beverages, the
 470 licensee may return such alcoholic beverages to the vendor for a
 471 credit or reimbursement. Regardless of the county or counties in
 472 which the licensee operates, a licensee under this subparagraph
 473 shall pay the annual state license tax set forth in s.
 474 565.02(1)(b). A licensee under this subparagraph must maintain
 475 for a period of 3 years all records and receipts for each
 476 catered event, including all contracts, customers' names, event
 477 locations, event dates, food purchases and sales, alcoholic
 478 beverage purchases and sales, nonalcoholic beverage purchases
 479 and sales, and any other records required by the department by
 480 rule to demonstrate compliance with the requirements of this
 481 subparagraph. Notwithstanding any law to the contrary, any
 482 vendor licensed under s. 565.02(1) subject to the limitation
 483 imposed in subsection (1), may, without any additional licensure
 484 under this subparagraph, serve or sell alcoholic beverages for
 485 consumption on the premises of a catered event at which prepared
 486 food is provided by a caterer licensed under chapter 509. If a
 487 licensee under this subparagraph also possesses any other
 488 license under the Beverage Law, the license issued under this
 489 subparagraph shall not authorize the holder to conduct
 490 activities on the premises to which the other license or
 491 licenses apply that would otherwise be prohibited by the terms
 492 of that license or the Beverage Law. Nothing in this section
 493 shall permit the licensee to conduct activities that are

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494 otherwise prohibited by the Beverage Law or local law. The
 495 Division of Alcoholic Beverages and Tobacco is hereby authorized
 496 to adopt rules to administer the license created in this
 497 subparagraph, to include rules governing licensure,
 498 recordkeeping, and enforcement. The first \$300,000 in fees
 499 collected by the division each fiscal year pursuant to this
 500 subparagraph shall be deposited in the Department of Children
 501 and Families' Operations and Maintenance Trust Fund to be used
 502 only for alcohol and drug abuse education, treatment, and
 503 prevention programs. The remainder of the fees collected shall
 504 be deposited into the Hotel and Restaurant Trust Fund created
 505 pursuant to s. 509.072; or
 506 6. A culinary education program as defined in s.
 507 381.0072(2) which is licensed as a public food service
 508 establishment by the Division of Hotels and Restaurants.
 509 a. This special license shall allow the sale and
 510 consumption of alcoholic beverages on the licensed premises of
 511 the culinary education program. The culinary education program
 512 shall specify designated areas in the facility where the
 513 alcoholic beverages may be consumed at the time of application.
 514 Alcoholic beverages sold for consumption on the premises may be
 515 consumed only in areas designated pursuant to s. 561.01(11) and
 516 may not be removed from the designated area. Such license shall
 517 be applicable only in and for designated areas used by the
 518 culinary education program.
 519 b. If the culinary education program provides catering
 520 services, this special license shall also allow the sale and
 521 consumption of alcoholic beverages on the premises of a catered
 522 event at which the licensee is also providing prepared food. A

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523 culinary education program that provides catering services is
 524 not required to derive at least 51 percent of its gross revenue
 525 from the sale of food and nonalcoholic beverages.
 526 Notwithstanding any law to the contrary, a licensee that
 527 provides catering services under this sub-subparagraph shall
 528 prominently display its beverage license at any catered event at
 529 which the caterer is selling or serving alcoholic beverages.
 530 Regardless of the county or counties in which the licensee
 531 operates, a licensee under this sub-subparagraph shall pay the
 532 annual state license tax set forth in s. 565.02(1)(b). A
 533 licensee under this sub-subparagraph must maintain for a period
 534 of 3 years all records required by the department by rule to
 535 demonstrate compliance with the requirements of this sub-
 536 subparagraph.

537 c. If a licensee under this subparagraph also possesses any
 538 other license under the Beverage Law, the license issued under
 539 this subparagraph does not authorize the holder to conduct
 540 activities on the premises to which the other license or
 541 licenses apply that would otherwise be prohibited by the terms
 542 of that license or the Beverage Law. Nothing in this
 543 subparagraph shall permit the licensee to conduct activities
 544 that are otherwise prohibited by the Beverage Law or local law.
 545 Any culinary education program that holds a license to sell
 546 alcoholic beverages shall comply with the age requirements set
 547 forth in ss. 562.11(4), 562.111(2), and 562.13.

548 d. The Division of Alcoholic Beverages and Tobacco may
 549 adopt rules to administer the license created in this
 550 subparagraph, to include rules governing licensure,
 551 recordkeeping, and enforcement.

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552 e. A license issued pursuant to this subparagraph does not
 553 permit the licensee to sell alcoholic beverages by the package
 554 for off-premises consumption.
 555

556 However, any license heretofore issued to any such hotel, motel,
 557 motor court, or restaurant or hereafter issued to any such
 558 hotel, motel, or motor court, including a condominium
 559 accommodation, under the general law shall not be moved to a new
 560 location, such license being valid only on the premises of such
 561 hotel, motel, motor court, or restaurant. Licenses issued to
 562 hotels, motels, motor courts, or restaurants under the general
 563 law and held by such hotels, motels, motor courts, or
 564 restaurants on May 24, 1947, shall be counted in the quota
 565 limitation contained in subsection (1). Any license issued for
 566 any hotel, motel, or motor court under this law shall be issued
 567 only to the owner of the hotel, motel, or motor court or, in the
 568 event the hotel, motel, or motor court is leased, to the lessee
 569 of the hotel, motel, or motor court; and the license shall
 570 remain in the name of the owner or lessee so long as the license
 571 is in existence. Any special license now in existence heretofore
 572 issued under this law cannot be renewed except in the name of
 573 the owner of the hotel, motel, motor court, or restaurant or, in
 574 the event the hotel, motel, motor court, or restaurant is
 575 leased, in the name of the lessee of the hotel, motel, motor
 576 court, or restaurant in which the license is located and must
 577 remain in the name of the owner or lessee so long as the license
 578 is in existence. Any license issued under this section shall be
 579 marked "Special," and nothing herein provided shall limit,
 580 restrict, or prevent the issuance of a special license for any

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581 restaurant or motel which shall hereafter meet the requirements
 582 of the law existing immediately prior to the effective date of
 583 this act, if construction of such restaurant has commenced prior
 584 to the effective date of this act and is completed within 30
 585 days thereafter, or if an application is on file for such
 586 special license at the time this act takes effect; and any such
 587 licenses issued under this proviso may be annually renewed as
 588 now provided by law. Nothing herein prevents an application for
 589 transfer of a license to a bona fide purchaser of any hotel,
 590 motel, motor court, or restaurant by the purchaser of such
 591 facility or the transfer of such license pursuant to law.

592 Section 10. Subsection (4) of section 561.42, Florida
 593 Statutes, is amended to read:

594 561.42 Tied house evil; financial aid and assistance to
 595 vendor by manufacturer, distributor, importer, primary American
 596 source of supply, brand owner or registrant, or any broker,
 597 sales agent, or sales person thereof, prohibited; procedure for
 598 enforcement; exception.—

599 (4) Before the division shall so declare and prohibit such
 600 sales to such vendor, ~~it shall,~~ within 2 days after receipt of
 601 such notice, the division shall give written notice to such
 602 vendor by electronic mail of the receipt by the division of such
 603 notification of delinquency and such vendor shall be directed to
 604 forthwith make payment thereof or, upon failure to do so, to
 605 show cause before the division why further sales to such vendor
 606 shall not be prohibited. Good and sufficient cause to prevent
 607 such action by the division may be made by showing payment,
 608 failure of consideration, or any other defense which would be
 609 considered sufficient in a common-law action. The vendor shall

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610 have 5 days after service receipt of such notice via electronic
 611 mail within which to show such cause, and he or she may demand a
 612 hearing thereon, provided he or she does so in writing within
 613 said 5 days, such written demand to be delivered to the division
 614 either in person, by electronic mail, or by due course of mail
 615 within such 5 days. If no such demand for hearing is made, the
 616 division shall thereupon declare in writing to such vendor and
 617 to all manufacturers and distributors within the state that all
 618 further sales to such vendor are prohibited until such time as
 619 the division certifies in writing that such vendor has fully
 620 paid for all liquors previously purchased. In the event such
 621 prohibition of sales and declaration thereof to the vendor,
 622 manufacturers, and distributors is ordered by the division, the
 623 vendor may seek review of such decision by the Department of
 624 Business and Professional Regulation within 5 days. In the event
 625 application for such review is filed within such time, such
 626 prohibition of sales shall not be made, published, or declared
 627 until final disposition of such review by the department.

628 Section 11. Subsection (2) of section 561.55, Florida
 629 Statutes, is amended to read:

630 561.55 Manufacturers', distributors', brokers', sales
 631 agents', importers', vendors', and exporters' records and
 632 reports.—

633 (2) Each manufacturer, distributor, broker, sales agent,
 634 and importer shall make a full and complete report by the 10th
 635 day of each month for the previous calendar month. The report
 636 ~~must be shall be made out in triplicate; two copies shall be~~
 637 ~~sent to the division, and the third copy shall be retained for~~
 638 ~~the manufacturer's, distributor's, broker's, sales agent's, or~~

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639 ~~importer's record. Reports shall be made on forms prepared and~~
 640 ~~furnished by the division and filed with the division through~~
 641 the division's electronic data submission system.

642 Section 12. Paragraphs (d) and (f) of subsection (2) of
 643 section 718.112, Florida Statutes, are amended to read:

644 718.112 Bylaws.—

645 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
 646 following and, if they do not do so, shall be deemed to include
 647 the following:

648 (d) *Unit owner meetings.*—

649 1. An annual meeting of the unit owners must be held at the
 650 location provided in the association bylaws and, if the bylaws
 651 are silent as to the location, the meeting must be held within
 652 45 miles of the condominium property. However, such distance
 653 requirement does not apply to an association governing a
 654 timeshare condominium.

655 2. Unless the bylaws provide otherwise, a vacancy on the
 656 board caused by the expiration of a director's term must be
 657 filled by electing a new board member, and the election must be
 658 by secret ballot. An election is not required if the number of
 659 vacancies equals or exceeds the number of candidates. For
 660 purposes of this paragraph, the term "candidate" means an
 661 eligible person who has timely submitted the written notice, as
 662 described in sub-subparagraph 4.a., of his or her intention to
 663 become a candidate. Except in a timeshare or nonresidential
 664 condominium, or if the staggered term of a board member does not
 665 expire until a later annual meeting, or if all members' terms
 666 would otherwise expire but there are no candidates, the terms of
 667 all board members expire at the annual meeting, and such members

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668 may stand for reelection unless prohibited by the bylaws. Board
 669 members may serve terms longer than 1 year if permitted by the
 670 bylaws or articles of incorporation. A board member may not
 671 serve more than 8 consecutive years unless approved by an
 672 affirmative vote of unit owners representing two-thirds of all
 673 votes cast in the election or unless there are not enough
 674 eligible candidates to fill the vacancies on the board at the
 675 time of the vacancy. If the number of board members whose terms
 676 expire at the annual meeting equals or exceeds the number of
 677 candidates, the candidates become members of the board effective
 678 upon the adjournment of the annual meeting. Unless the bylaws
 679 provide otherwise, any remaining vacancies shall be filled by
 680 the affirmative vote of the majority of the directors making up
 681 the newly constituted board even if the directors constitute
 682 less than a quorum or there is only one director. In a
 683 residential condominium association of more than 10 units or in
 684 a residential condominium association that does not include
 685 timeshare units or timeshare interests, co-owners of a unit may
 686 not serve as members of the board of directors at the same time
 687 unless they own more than one unit or unless there are not
 688 enough eligible candidates to fill the vacancies on the board at
 689 the time of the vacancy. A unit owner in a residential
 690 condominium desiring to be a candidate for board membership must
 691 comply with sub-subparagraph 4.a. and must be eligible to be a
 692 candidate to serve on the board of directors at the time of the
 693 deadline for submitting a notice of intent to run in order to
 694 have his or her name listed as a proper candidate on the ballot
 695 or to serve on the board. A person who has been suspended or
 696 removed by the division under this chapter, or who is delinquent

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697 in the payment of any ~~assessment monetary obligation~~ due to the
 698 association, is not eligible to be a candidate for board
 699 membership and may not be listed on the ballot. A person is
 700 delinquent if a payment is not made by the due date as
 701 specifically identified in the declaration of condominium,
 702 bylaws, or articles of incorporation. If a due date is not
 703 specifically identified in the declaration of condominium,
 704 bylaws, or articles of incorporation, the due date is the first
 705 day of the monthly or quarterly assessment period. A person who
 706 has been convicted of any felony in this state or in a United
 707 States District or Territorial Court, or who has been convicted
 708 of any offense in another jurisdiction which would be considered
 709 a felony if committed in this state, is not eligible for board
 710 membership unless such felon's civil rights have been restored
 711 for at least 5 years as of the date such person seeks election
 712 to the board. The validity of an action by the board is not
 713 affected if it is later determined that a board member is
 714 ineligible for board membership due to having been convicted of
 715 a felony. This subparagraph does not limit the term of a member
 716 of the board of a nonresidential or timeshare condominium.

717 3. The bylaws must provide the method of calling meetings
 718 of unit owners, including annual meetings. Written notice must
 719 include an agenda, must be mailed, hand delivered, or
 720 electronically transmitted to each unit owner at least 14 days
 721 before the annual meeting, and must be posted in a conspicuous
 722 place on the condominium property at least 14 continuous days
 723 before the annual meeting. Upon notice to the unit owners, the
 724 board shall, by duly adopted rule, designate a specific location
 725 on the condominium property where all notices of unit owner

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726 meetings must be posted. This requirement does not apply if
 727 there is no condominium property for posting notices. In lieu
 728 of, or in addition to, the physical posting of meeting notices,
 729 the association may, by reasonable rule, adopt a procedure for
 730 conspicuously posting and repeatedly broadcasting the notice and
 731 the agenda on a closed-circuit cable television system serving
 732 the condominium association. However, if broadcast notice is
 733 used in lieu of a notice posted physically on the condominium
 734 property, the notice and agenda must be broadcast at least four
 735 times every broadcast hour of each day that a posted notice is
 736 otherwise required under this section. If broadcast notice is
 737 provided, the notice and agenda must be broadcast in a manner
 738 and for a sufficient continuous length of time so as to allow an
 739 average reader to observe the notice and read and comprehend the
 740 entire content of the notice and the agenda. In addition to any
 741 of the authorized means of providing notice of a meeting of the
 742 board, the association may, by rule, adopt a procedure for
 743 conspicuously posting the meeting notice and the agenda on a
 744 website serving the condominium association for at least the
 745 minimum period of time for which a notice of a meeting is also
 746 required to be physically posted on the condominium property.
 747 Any rule adopted shall, in addition to other matters, include a
 748 requirement that the association send an electronic notice in
 749 the same manner as a notice for a meeting of the members, which
 750 must include a hyperlink to the website where the notice is
 751 posted, to unit owners whose e-mail addresses are included in
 752 the association's official records. Unless a unit owner waives
 753 in writing the right to receive notice of the annual meeting,
 754 such notice must be hand delivered, mailed, or electronically

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755 transmitted to each unit owner. Notice for meetings and notice
 756 for all other purposes must be mailed to each unit owner at the
 757 address last furnished to the association by the unit owner, or
 758 hand delivered to each unit owner. However, if a unit is owned
 759 by more than one person, the association must provide notice to
 760 the address that the developer identifies for that purpose and
 761 thereafter as one or more of the owners of the unit advise the
 762 association in writing, or if no address is given or the owners
 763 of the unit do not agree, to the address provided on the deed of
 764 record. An officer of the association, or the manager or other
 765 person providing notice of the association meeting, must provide
 766 an affidavit or United States Postal Service certificate of
 767 mailing, to be included in the official records of the
 768 association affirming that the notice was mailed or hand
 769 delivered in accordance with this provision.

770 4. The members of the board of a residential condominium
 771 shall be elected by written ballot or voting machine. Proxies
 772 may not be used in electing the board in general elections or
 773 elections to fill vacancies caused by recall, resignation, or
 774 otherwise, unless otherwise provided in this chapter. This
 775 subparagraph does not apply to an association governing a
 776 timeshare condominium.

777 a. At least 60 days before a scheduled election, the
 778 association shall mail, deliver, or electronically transmit, by
 779 separate association mailing or included in another association
 780 mailing, delivery, or transmission, including regularly
 781 published newsletters, to each unit owner entitled to a vote, a
 782 first notice of the date of the election. A unit owner or other
 783 eligible person desiring to be a candidate for the board must

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784 give written notice of his or her intent to be a candidate to
 785 the association at least 40 days before a scheduled election.
 786 Together with the written notice and agenda as set forth in
 787 subparagraph 3., the association shall mail, deliver, or
 788 electronically transmit a second notice of the election to all
 789 unit owners entitled to vote, together with a ballot that lists
 790 all candidates. Upon request of a candidate, an information
 791 sheet, no larger than 8 1/2 inches by 11 inches, which must be
 792 furnished by the candidate at least 35 days before the election,
 793 must be included with the mailing, delivery, or transmission of
 794 the ballot, with the costs of mailing, delivery, or electronic
 795 transmission and copying to be borne by the association. The
 796 association is not liable for the contents of the information
 797 sheets prepared by the candidates. In order to reduce costs, the
 798 association may print or duplicate the information sheets on
 799 both sides of the paper. The division shall by rule establish
 800 voting procedures consistent with this sub-subparagraph,
 801 including rules establishing procedures for giving notice by
 802 electronic transmission and rules providing for the secrecy of
 803 ballots. Elections shall be decided by a plurality of ballots
 804 cast. There is no quorum requirement; however, at least 20
 805 percent of the eligible voters must cast a ballot in order to
 806 have a valid election. A unit owner may not authorize any other
 807 person to vote his or her ballot, and any ballots improperly
 808 cast are invalid. A unit owner who violates this provision may
 809 be fined by the association in accordance with s. 718.303. A
 810 unit owner who needs assistance in casting the ballot for the
 811 reasons stated in s. 101.051 may obtain such assistance. The
 812 regular election must occur on the date of the annual meeting.

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813 Notwithstanding this sub-subparagraph, an election is not
 814 required unless more candidates file notices of intent to run or
 815 are nominated than board vacancies exist.

816 b. Within 90 days after being elected or appointed to the
 817 board of an association of a residential condominium, each newly
 818 elected or appointed director shall certify in writing to the
 819 secretary of the association that he or she has read the
 820 association's declaration of condominium, articles of
 821 incorporation, bylaws, and current written policies; that he or
 822 she will work to uphold such documents and policies to the best
 823 of his or her ability; and that he or she will faithfully
 824 discharge his or her fiduciary responsibility to the
 825 association's members. In lieu of this written certification,
 826 within 90 days after being elected or appointed to the board,
 827 the newly elected or appointed director may submit a certificate
 828 of having satisfactorily completed the educational curriculum
 829 administered by a division-approved condominium education
 830 provider within 1 year before or 90 days after the date of
 831 election or appointment. The written certification or
 832 educational certificate is valid and does not have to be
 833 resubmitted as long as the director serves on the board without
 834 interruption. A director of an association of a residential
 835 condominium who fails to timely file the written certification
 836 or educational certificate is suspended from service on the
 837 board until he or she complies with this sub-subparagraph. The
 838 board may temporarily fill the vacancy during the period of
 839 suspension. The secretary shall cause the association to retain
 840 a director's written certification or educational certificate
 841 for inspection by the members for 5 years after a director's

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842 election or the duration of the director's uninterrupted tenure,
 843 whichever is longer. Failure to have such written certification
 844 or educational certificate on file does not affect the validity
 845 of any board action.

846 c. Any challenge to the election process must be commenced
 847 within 60 days after the election results are announced.

848 5. Any approval by unit owners called for by this chapter
 849 or the applicable declaration or bylaws, including, but not
 850 limited to, the approval requirement in s. 718.111(8), must be
 851 made at a duly noticed meeting of unit owners and is subject to
 852 all requirements of this chapter or the applicable condominium
 853 documents relating to unit owner decisionmaking, except that
 854 unit owners may take action by written agreement, without
 855 meetings, on matters for which action by written agreement
 856 without meetings is expressly allowed by the applicable bylaws
 857 or declaration or any law that provides for such action.

858 6. Unit owners may waive notice of specific meetings if
 859 allowed by the applicable bylaws or declaration or any law.
 860 Notice of meetings of the board of administration, unit owner
 861 meetings, except unit owner meetings called to recall board
 862 members under paragraph (j), and committee meetings may be given
 863 by electronic transmission to unit owners who consent to receive
 864 notice by electronic transmission. A unit owner who consents to
 865 receiving notices by electronic transmission is solely
 866 responsible for removing or bypassing filters that block receipt
 867 of mass emails sent to members on behalf of the association in
 868 the course of giving electronic notices.

869 7. Unit owners have the right to participate in meetings of
 870 unit owners with reference to all designated agenda items.

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871 However, the association may adopt reasonable rules governing
872 the frequency, duration, and manner of unit owner participation.

873 8. A unit owner may tape record or videotape a meeting of
874 the unit owners subject to reasonable rules adopted by the
875 division.

876 9. Unless otherwise provided in the bylaws, any vacancy
877 occurring on the board before the expiration of a term may be
878 filled by the affirmative vote of the majority of the remaining
879 directors, even if the remaining directors constitute less than
880 a quorum, or by the sole remaining director. In the alternative,
881 a board may hold an election to fill the vacancy, in which case
882 the election procedures must conform to sub-subparagraph 4.a.
883 unless the association governs 10 units or fewer and has opted
884 out of the statutory election process, in which case the bylaws
885 of the association control. Unless otherwise provided in the
886 bylaws, a board member appointed or elected under this section
887 shall fill the vacancy for the unexpired term of the seat being
888 filled. Filling vacancies created by recall is governed by
889 paragraph (j) and rules adopted by the division.

890 10. This chapter does not limit the use of general or
891 limited proxies, require the use of general or limited proxies,
892 or require the use of a written ballot or voting machine for any
893 agenda item or election at any meeting of a timeshare
894 condominium association or nonresidential condominium
895 association.

896
897 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
898 association of 10 or fewer units may, by affirmative vote of a
899 majority of the total voting interests, provide for different

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900 voting and election procedures in its bylaws, which may be by a
901 proxy specifically delineating the different voting and election
902 procedures. The different voting and election procedures may
903 provide for elections to be conducted by limited or general
904 proxy.

905 (f) *Annual budget.*—

906 1. The proposed annual budget of estimated revenues and
907 expenses must be detailed and must show the amounts budgeted by
908 accounts and expense classifications, including, at a minimum,
909 any applicable expenses listed in s. 718.504(21). The annual
910 budget must be proposed to unit owners and adopted by the board
911 of directors no later than 30 days before the beginning of the
912 fiscal year. A multicondominium association shall adopt a
913 separate budget of common expenses for each condominium the
914 association operates and shall adopt a separate budget of common
915 expenses for the association. In addition, if the association
916 maintains limited common elements with the cost to be shared
917 only by those entitled to use the limited common elements as
918 provided for in s. 718.113(1), the budget or a schedule attached
919 to it must show the amount budgeted for this maintenance. If,
920 after turnover of control of the association to the unit owners,
921 any of the expenses listed in s. 718.504(21) are not applicable,
922 they need not be listed.

923 2.a. In addition to annual operating expenses, the budget
924 must include reserve accounts for capital expenditures and
925 deferred maintenance. These accounts must include, but are not
926 limited to, roof replacement, building painting, and pavement
927 resurfacing, regardless of the amount of deferred maintenance
928 expense or replacement cost, and any other item that has a

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 929 deferred maintenance expense or replacement cost that exceeds
 930 \$10,000. The amount to be reserved must be computed using a
 931 formula based upon estimated remaining useful life and estimated
 932 replacement cost or deferred maintenance expense of each reserve
 933 item. The association may adjust replacement reserve assessments
 934 annually to take into account any changes in estimates or
 935 extension of the useful life of a reserve item caused by
 936 deferred maintenance. This subsection does not apply to an
 937 adopted budget in which the members of an association have
 938 determined, by a majority vote at a duly called meeting of the
 939 association, to provide no reserves or less reserves than
 940 required by this subsection.

941 b. Before turnover of control of an association by a
 942 developer to unit owners other than a developer pursuant to s.
 943 718.301, the developer may vote the voting interests allocated
 944 to its units to waive the reserves or reduce the funding of
 945 reserves through the period expiring at the end of the second
 946 fiscal year after the fiscal year in which the certificate of a
 947 surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or
 948 an instrument that transfers title to a unit in the condominium
 949 which is not accompanied by a recorded assignment of developer
 950 rights in favor of the grantee of such unit is recorded,
 951 whichever occurs first, after which time reserves may be waived
 952 or reduced only upon the vote of a majority of all nondeveloper
 953 voting interests voting in person or by limited proxy at a duly
 954 called meeting of the association. If a meeting of the unit
 955 owners has been called to determine whether to waive or reduce
 956 the funding of reserves and no such result is achieved or a
 957 quorum is not attained, the reserves included in the budget

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 958 shall go into effect. After the turnover, the developer may vote
 959 its voting interest to waive or reduce the funding of reserves.

960 3. Reserve funds and any interest accruing thereon shall
 961 remain in the reserve account or accounts, and may be used only
 962 for authorized reserve expenditures unless their use for other
 963 purposes is approved in advance by a majority vote at a duly
 964 called meeting of the association. Before turnover of control of
 965 an association by a developer to unit owners other than the
 966 developer pursuant to s. 718.301, the developer-controlled
 967 association may not vote to use reserves for purposes other than
 968 those for which they were intended without the approval of a
 969 majority of all nondeveloper voting interests, voting in person
 970 or by limited proxy at a duly called meeting of the association.

971 4. The only voting interests that are eligible to vote on
 972 questions that involve waiving or reducing the funding of
 973 reserves, or using existing reserve funds for purposes other
 974 than purposes for which the reserves were intended, are the
 975 voting interests of the units subject to assessment to fund the
 976 reserves in question. Proxy questions relating to waiving or
 977 reducing the funding of reserves or using existing reserve funds
 978 for purposes other than purposes for which the reserves were
 979 intended must contain the following statement in capitalized,
 980 bold letters in a font size larger than any other used on the
 981 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
 982 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
 983 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
 984 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

985 Section 13. Paragraph (m) of subsection (1) of section
 986 718.501, Florida Statutes, is amended to read:

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987 718.501 Authority, responsibility, and duties of Division
 988 of Florida Condominiums, Timeshares, and Mobile Homes.—
 989 (1) The division may enforce and ensure compliance with the
 990 provisions of this chapter and rules relating to the
 991 development, construction, sale, lease, ownership, operation,
 992 and management of residential condominium units. In performing
 993 its duties, the division has complete jurisdiction to
 994 investigate complaints and enforce compliance with respect to
 995 associations that are still under developer control or the
 996 control of a bulk assignee or bulk buyer pursuant to part VII of
 997 this chapter and complaints against developers, bulk assignees,
 998 or bulk buyers involving improper turnover or failure to
 999 turnover, pursuant to s. 718.301. However, after turnover has
 1000 occurred, the division has jurisdiction to investigate
 1001 complaints related only to financial issues, elections, and unit
 1002 owner access to association records pursuant to s. 718.111(12).
 1003 (m) If a complaint is made, the division must conduct its
 1004 inquiry with due regard for the interests of the affected
 1005 parties. Within 30 days after receipt of a complaint, the
 1006 division shall acknowledge the complaint in writing and notify
 1007 the complainant whether the complaint is within the jurisdiction
 1008 of the division and whether additional information is needed by
 1009 the division from the complainant. The division shall conduct
 1010 its investigation and, within 90 days after receipt of the
 1011 original complaint or of timely requested additional
 1012 information, take action upon the complaint. However, the
 1013 failure to complete the investigation within 90 days does not
 1014 prevent the division from continuing the investigation,
 1015 accepting or considering evidence obtained or received after 90

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1016 days, or taking administrative action if reasonable cause exists
 1017 to believe that a violation of this chapter or a rule has
 1018 occurred. If an investigation is not completed within the time
 1019 limits established in this paragraph, the division shall, on a
 1020 monthly basis, notify the complainant in writing of the status
 1021 of the investigation. When reporting its action to the
 1022 complainant, the division shall inform the complainant of any
 1023 right to a hearing pursuant to ss. 120.569 and 120.57. The
 1024 division may adopt rules regarding the submission of a complaint
 1025 against an association.

1026 Section 14. Section 718.5014, Florida Statutes, is amended
 1027 to read:

1028 718.5014 Ombudsman location.—The ombudsman shall maintain
 1029 his or her principal office at a in Leon County on the premises
 1030 of the division or, if suitable space cannot be provided there,
 1031 at another place convenient to the offices of the division which
 1032 will enable the ombudsman to expeditiously carry out the duties
 1033 and functions of his or her office. The ombudsman may establish
 1034 branch offices elsewhere in the state upon the concurrence of
 1035 the Governor.

1036 Section 15. Subsection (1) of section 455.219, Florida
 1037 Statutes, is amended to read:

1038 455.219 Fees; receipts; disposition; periodic management
 1039 reports.—

1040 (1) Each board within the department shall determine by
 1041 rule the amount of license fees for its profession, based upon
 1042 department-prepared long-range estimates of the revenue required
 1043 to implement all provisions of law relating to the regulation of
 1044 professions by the department and any board; however, when the

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1045 department has determined, based on the long-range estimates of
 1046 such revenue, that a profession's trust fund moneys are in
 1047 excess of the amount required to cover the necessary functions
 1048 of the board, or the department when there is no board, the
 1049 department may adopt rules to implement a waiver of license
 1050 renewal fees for that profession for a period not to exceed 2
 1051 years, as determined by the department. Each board, or the
 1052 department when there is no board, shall ensure license fees are
 1053 adequate to cover all anticipated costs and to maintain a
 1054 reasonable cash balance, as determined by rule of the
 1055 department, with advice of the applicable board. If sufficient
 1056 action is not taken by a board within 1 year of notification by
 1057 the department that license fees are projected to be inadequate,
 1058 the department shall set license fees on behalf of the
 1059 applicable board to cover anticipated costs and to maintain the
 1060 required cash balance. The department shall include recommended
 1061 fee cap increases in its annual report to the Legislature.
 1062 Further, it is legislative intent that no regulated profession
 1063 operate with a negative cash balance. The department may provide
 1064 by rule for the advancement of sufficient funds to any
 1065 profession or the Florida Athletic State Boxing Commission
 1066 operating with a negative cash balance. Such advancement may be
 1067 for a period not to exceed 2 consecutive years and shall require
 1068 interest to be paid by the regulated profession. Interest shall
 1069 be calculated at the current rate earned on Professional
 1070 Regulation Trust Fund investments. Interest earned shall be
 1071 allocated to the various funds in accordance with the allocation
 1072 of investment earnings during the period of the advance.
 1073 Section 16. Subsection (4) of section 548.002, Florida

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1074 Statutes, is amended to read:
 1075 548.002 Definitions.—As used in this chapter, the term:
 1076 (4) "Commission" means the Florida Athletic State Boxing
 1077 Commission.
 1078 Section 17. Subsections (3) and (4) of section 548.05,
 1079 Florida Statutes, are amended to read:
 1080 548.05 Control of contracts.—
 1081 (3) The commission may require that each contract contain
 1082 language authorizing the ~~Florida State Boxing~~ commission to
 1083 withhold any or all of any manager's share of a purse in the
 1084 event of a contractual dispute as to entitlement to any portion
 1085 of a purse. The commission may establish rules governing the
 1086 manner of resolution of such dispute. In addition, if the
 1087 commission deems it appropriate, the commission is hereby
 1088 authorized to implead interested parties over any disputed funds
 1089 into the appropriate circuit court for resolution of the dispute
 1090 prior to release of all or any part of the funds.
 1091 (4) Each contract subject to this section shall contain the
 1092 following clause: "This agreement is subject to the provisions
 1093 of chapter 548, Florida Statutes, and to the rules of the
 1094 Florida Athletic State Boxing Commission and to any future
 1095 amendments of either."
 1096 Section 18. Subsection (12) of section 548.071, Florida
 1097 Statutes, is amended to read:
 1098 548.071 Suspension or revocation of license or permit by
 1099 commission.—The commission may suspend or revoke a license or
 1100 permit if the commission finds that the licensee or permittee:
 1101 (12) Has been disciplined by the ~~Florida State Boxing~~
 1102 commission or similar agency or body of any jurisdiction.

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1103 Section 19. Section 548.077, Florida Statutes, is amended
1104 to read:

1105 548.077 Florida Athletic State Boxing Commission;
1106 collection and disposition of moneys.—All fees, fines,
1107 forfeitures, and other moneys collected under the provisions of
1108 this chapter shall be paid by the commission to the Chief
1109 Financial Officer who, after the expenses of the commission are
1110 paid, shall deposit them in the Professional Regulation Trust
1111 Fund to be used for the administration and operation of the
1112 commission and to enforce the laws and rules under its
1113 jurisdiction. In the event the unexpended balance of such moneys
1114 collected under the provisions of this chapter exceeds \$250,000,
1115 any excess of that amount shall be deposited in the General
1116 Revenue Fund.

1117 Section 20. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

912

Bill Number (if applicable)

Topic SB 912

Amendment Barcode (if applicable)

Name Colton Madill

Job Title Deputy Legislative Affairs Director

Address 2601 Blair Stone Road

Phone (850)487-4827

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State

32319

Zip

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Speaking: For Against Information

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

Representing DBPR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/CS/SB 998

INTRODUCER: Appropriations Committee; Infrastructure and Security Committee; Community Affairs Committee; and Senators Hutson and Hooper

SUBJECT: Housing

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------------|----------------|-----------|---------------|
| 1. | <u>Toman</u> | <u>Ryon</u> | <u>CA</u> | <u>Fav/CS</u> |
| 2. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 3. | <u>Babin/Hrdlicka</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 998 addresses several housing issues related to development zoning; the provision of affordable housing; and regulation, ownership, and tenancy related to mobile homes, mobile home parks, and related homeowners' associations.

With respect to zoning and affordable housing, the bill includes provisions that:

- Notwithstanding other laws and regulations, authorize local governments to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use;
- Allow a local government to adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use;
- Require the reporting of impact fee charges data within the annual financial audit report submitted to the Department of Financial Services;
- Require reporting on annual expenditures for affordable housing in reports of economic status information to the Office of Economic and Demographic Research.
- Authorize the Florida Housing Finance Corporation (FHFC) to preclude applicants and affiliates of applicants from participation in FHFC programs for certain actions and provide procedures for such preclusion.
- Require the evaluation of additional local government contribution criteria within applications submitted for State Apartment Incentive Loan Program funding;

- Transition the “pilot” features of a workforce housing program into the Community Workforce Housing Loan Program, administered by the FHFC;
- Establish biannual regional workshops for locally elected officials serving on affordable housing advisory committees to identify and share best affordable housing practices;
- Add data reporting within a State Housing Initiatives Partnership Program participant’s submissions to the FHFC on affordable housing applications approved and denied; and
- Permit the FHFC to prioritize a portion of the State Apartment Incentive Loan Program funds set aside for persons with special needs, to provide funding for the development of newly constructed permanent rental housing on a campus that provides housing for persons in foster care or persons aging out of foster care.

With respect to housing issues related to mobile homes, the bill includes provisions that:

- Allow a mobile home dealer to display a model of a manufactured home;
- Exempt a recreational vehicle dealer from the garage liability insurance requirements if it only sells park trailers;
- Clarify provisions exempting mobile home park owners from the jurisdiction of the Public Service Commission when the park owners provide water and wastewater;
- Revise when a mobile home park owner can require a mobile home owner to make improvements;
- Require a mobile home park owner to amend the prospectus and increase shared facilities when adding lots;
- Create a strict prohibition to prevent the park owner from passing on to mobile home owners taxes in an amount in excess of what is actually paid to the tax collector;
- Allow the mobile home park owner to give notice of lot rental increases for multiple anniversary dates at the same time;
- Permit a mobile home park damaged or destroyed by wind, water, or other natural force to be rebuilt on the same site with the same density as was approved, permitted, and built before being damaged or destroyed;
- Allow a mobile home buyer to assume the seller’s prospectus or be offered a new prospectus by the park owner;
- Require mobile home owner to receive written permission from park owner before exterior modifications or additions;
- Require the mobile home park owner to notify the Department of Business and Professional Regulation, who in turn notifies the Florida Mobile Home Relocation Company, when tenants will be evicted due to a change in land use;
- Revise numerous rights, obligations, and record retention requirements of a mobile home park homeowners’ association, including how elections are conducted; and
- Require certain disputes between the homeowners’ association and a member to be resolved via mandatory binding arbitration at the Department of Business and Professional Regulation.

The Department of Business and Professional Regulation and the FHFC will incur costs to implement the provisions of the bill.

The bill has an effective date of July 1, 2020.

II. Present Situation:

The various features of the bill principally address housing issues affecting local government development zoning, impact fees, and affordable housing in chs. 125, 163, 166, 196, 420, and 423, F.S., and statutes governing mobile homes within chs. 320, 367, and 723, F.S. The Present Situation within these general topic groupings is included in the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Bill Sections Addressing Development Zoning, Impact Fees, and Affordable Housing

Zoning for Affordable Housing (Sections 1 and 5)

Present Situation

Comprehensive Plans and Land Use Regulation

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development. A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

- The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.¹
- The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.²

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive public hearings, the first held by the local planning board.³ The local government must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council, and adjacent local governments that request to participate in the review process.⁴ The process for approving comprehensive plan amendments is bifurcated. Most plan amendments are placed into the Expedited State Review Process, while plan amendments relating to large-scale developments are placed into the State Coordinated Review Process.⁵

¹ Section 163.3177(6)(a), F.S.

² Section 163.3177(6)(f), F.S.

³ Sections 163.3174(4)(a) and 163.3184, F.S.

⁴ Section 163.3184, F.S.

⁵ See ss. 163.3184 and 380.06, F.S.

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, or sign regulations or any other regulations controlling the development of land.⁶

Sections 125.66 and 166.041, F.S., outline regular and emergency ordinance adoption procedures for counties and municipalities. Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or ordinances or resolutions initiated by the local government that change the actual zoning map designation of a parcel or parcels of land must follow additional enhanced procedures and requirements.⁷

Affordable Housing

Affordable housing is defined in terms of household income. Housing is considered affordable when monthly rent or mortgage payments including taxes and insurance do not exceed 30 percent of the household income.⁸ Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels, published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2019 Florida state median of \$65,100 for a family of four (as family size increases or decreases, the income range also increases or decreases):⁹

- Extremely low income – earning up to 30 percent AMI (at or below \$19,550);¹⁰
- Very low income – earning from 30.01 to 50 percent AMI (\$19,551 to \$32,550);¹¹
- Low income – earning from 50.01 to 80 percent AMI (\$32,551 to \$52,100);¹² and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$52,100 to \$78,120).¹³

Statutory Guidance on County and Municipal Affordable Housing

In 2001, the Legislature created ss. 125.01055¹⁴ and 166.04151, F.S.,¹⁵ respectively authorizing a county or municipality, notwithstanding any other provision of law, to “adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.”

⁶ See ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

⁷ See sections 125.66(4) and 166.041(3), F.S.

⁸ Section 420.0004(3), F.S. Public housing, commonly referred to as Section 8 Housing, is provided by local housing agencies (HAs) for low-income residents. Funding for HAs is provided directly from HUD.

⁹ U.S. Department of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas – Click Here for FY 2019 IL Documentation*, April 24, 2019, available at <https://www.huduser.gov/portal/datasets/il.html#2019> (last visited February 21, 2020).

¹⁰ Section 420.0004(9), F.S.

¹¹ Section 420.0004(17), F.S.

¹² Section 420.0004(11), F.S.

¹³ Section 420.0004(12), F.S.

¹⁴ Section 16, ch. 2001-252, Laws of Fla.

¹⁵ Section 15, ch. 2001-252, Laws of Fla.

“Inclusionary housing ordinances (often called inclusionary “zoning” ordinances) are land use regulations that require affordable housing units to be provided in conjunction with the development of market rate units.”¹⁶ The intent of the ordinances is to increase the production of affordable housing in general and also in specific geographic areas that might otherwise not include affordable housing.¹⁷

Effect of Proposed Changes

Sections 1 and 5 amend ss. 125.01055 and 166.04151, F.S., to – notwithstanding any other law or local ordinance or regulation to the contrary – authorize the board of a county commission and the governing body of a municipality, respectively, to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use. This will allow the development of affordable housing on such parcels without regard to the locality’s comprehensive plan.

Local Government Reporting (Sections 2, 4, and 6)

Present Situation

Local Government Impact Fees

Impact fees are amounts imposed by local governments to fund local infrastructure required to provide for increased local services needs caused by new growth.¹⁸ Adopted by ordinance of a county, municipality, or special district, impact fees must meet the minimum criteria, including that the local government adopting the impact fee must account for and report fee collections and expenditures.¹⁹

The types of impact fees, amounts, and timing of collection are within the discretion of the local government authorities choosing to impose the fees. Impact fees vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government’s determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

The 2017 Affordable Housing Workgroup²⁰ was charged with providing recommendations for, among other components, a review of land use for affordable housing developments.²¹ The review included fee impacts of fees such as impact fees, exactions, mitigation fees, and development fees.²² To provide context to workgroup members, the Florida Housing Finance Corporation queried local State Housing Initiatives Partnership administrators regarding impact fee calculations and waivers in their locales. Based on responses from approximately two-thirds of those surveyed, nearly 25 percent did not currently assess any impact fees. For the remaining

¹⁶ Ross, J. and Outka, U., The Florida Housing Coalition, *Inclusionary Housing: A Challenge Worth Taking*, available at <https://www.flhousing.org/wp-content/uploads/2012/05/Inclusionary-Housing-A-Challenge-Worth-Taking.pdf> (last visited February 21, 2020).

¹⁷ *Id.*

¹⁸ Section 163.31801(2), F.S.

¹⁹ Section 163.31801(3), F.S.

²⁰ Chapter 2017-71, Laws of Fla.

²¹ Section 46, ch. 2017-71, Laws of Fla.

²² Florida Housing Finance Corporation, *Affordable Housing Workgroup Final Report 2017*, December 19, 2017, p. 23, available at https://issuu.com/fhfc/docs/ahwg-report_2017-web (last visited February 21, 2018).

cities and counties that did impose impact fees, the fees were calculated using a combination of methodologies, including by square footage, number of bedrooms, geographic location, resident status as a senior citizen, or as a flat fee. Approximately 30 percent of the reporting entities indicated the existence of mechanisms to waive fees in part or whole for affordable housing development.²³

Local Government Financial and Economic Status Reporting

Counties, district school boards, charter schools, charter technical career centers, and certain municipalities and special districts must submit annual financial audit to the Auditor General no later than 9 months of the close of the entity's fiscal year.²⁴ Additionally, a local government, including a special district, is required to submit an annual financial report to the Department of Financial Services no later than 9 months of the close of the local government's fiscal year.²⁵ Local government entities complete and electronically submit their annual financial reports to the Department of Financial Services Bureau of Local Government via the bureau's web-based system called Local Government Electronic Reporting (LOGER).²⁶

In addition to the above local government financial reporting, ch. 2019-56, Laws of Fla., amended ss. 129.03 and 166.241, F.S., to require counties and municipalities respectively to report certain economic status information to the Office of Economic and Demographic Research. This includes information on government spending and debt per resident, median income, average local government employee salary, percentage of budget spent on employee salaries and benefits, and the number of taxing districts.

Effect of Proposed Changes

Section 4 amends s. 163.31801, F.S., to require each county, municipality, and special district to include, in their annual financial reports, the following information pertaining to impact fees imposed:

- The specific purpose of each impact fee, including the specific infrastructure need to be met, such as transportation, parks, water, sewer, and schools.
- The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, and tiered scales based on square footage.
- The amount assessed for each purpose and type of dwelling.
- The total amount of impact fees charged by type of dwelling.
- Each exception and waiver provided for construction or development of affordable housing.

Section 2 amends s. 129.03, F.S., and **section 6** amends s. 166.241, F.S., to require county and municipalities to include annual expenditures for affordable housing in their reports to the Office of Economic and Demographic Research. The information must include expenditures for financing, acquisition, construction, reconstruction, and rehabilitation and must indicate the funding sources (federal, state, local, or other). The information must be included in the report of economic status information annually beginning October 15, 2020.

²³ *Id.* at pp. 25-27.

²⁴ Section 218.39, F.S.

²⁵ Section 218.32, F.S.

²⁶ LOGER is available at <https://apps.fldfs.com/LocalGov/Reports/> (last visited Feb. 21, 2020).

Accessory Dwelling Units (Section 3)

Present Situation

An accessory dwelling unity (ADU) is an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area existing either within the same structure, or on the same lot, as the primary dwelling unit.²⁷ Section 163.31771, F.S., finds that encouraging local governments to permit ADUs to increase the availability of affordable rentals serves a public purpose. A local government may adopt an ordinance allowing ADUs in any area zoned for single-family residential use based upon a finding that there is a shortage of affordable rentals in its jurisdiction.²⁸

Each ADU allowed by an ordinance under s. 163.31771, F.S., counts towards the affordable housing component of the housing element in the local government's comprehensive plan.²⁹ An application for a building permit to construct such ADUs must include an affidavit which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.³⁰

In 2019, the Florida Housing Coalition published the *Accessory Dwelling Unit Guidebook*.³¹ The stated intent of the guidebook is to address the challenges and benefits a community might face as it considers allowing the implementation of ADUs and the guidebook presents a range of alternatives for local governments and other stakeholders to consider and evaluate. Among other data points, the guidebook found that:

- Of Florida's 67 counties, 16 did not address any ADU in their land development codes; and
- Of the 15 most populous cities in Florida, 11 of them explicitly allow ADUs in single-family districts.³²

Effect of Proposed Changes

Section 3 amends s. 163.31771, F.S., to allow a local government to adopt an ordinance to allow ADUs in any area zoned for single family residential use. The ordinance would not be conditioned upon a finding that there is a shortage of affordable rentals within the local jurisdiction.

²⁷ Section 163.31771(2)(a), F.S. ADUs are sometimes referred to as "granny flats" to denote their use in accommodating the housing needs of aging parents. ADUs have the potential to make the primary home more affordable by creating rental income for the homeowner, while also providing affordable rental housing.

²⁸ Section 163.31771(3), F.S.

²⁹ Section 163.31771(5), F.S.

³⁰ Section 163.31771(4), F.S. The parameters defining the various income designations are specified in s 420.0004, F.S.

³¹ See Florida Housing Coalition, *Accessory Dwelling Unit Guidebook*, May 2019, available at <https://www.flhousing.org/wp-content/uploads/2019/08/ADU-Guidebook.pdf> (last visited February 13, 2020).

³² *Id.* at 19.

State Apartment Incentive Loan (SAIL) Program: Local Government Contributions (Section 13)

Present Situation

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers as gap financing for the construction or substantial rehabilitation of multifamily affordable housing developments.³³ Applicant may include individuals, public entities, nonprofit organizations, or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families. In most cases, the SAIL loan cannot exceed 25 percent of the total development cost and can be used in conjunction with other state and federal programs.

The FHFC administers the SAIL program and is required to establish a review committee for the competitive evaluation and selection of applications submitted. The evaluation criteria include local government contributions and local government comprehensive planning and activities that promote affordable housing.³⁴

Effect of Proposed Changes

Section 13 amends s. 420.5087(6), F.S., add components to the evaluation criteria related to local government in the review and selection process of applications. The additional components for evaluation are local government policies that promote access to public transportation, reduce the need for on-site parking, and expedite permits for affordable housing projects.

Community Workforce Housing Innovation Pilot Program (Section 14)

Present Situation

Established by ch. 2006-69, Laws of Fla., the Community Workforce Housing Innovation Pilot Program (CWHIP) was created for the purpose of providing affordable rental and home ownership community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties. Designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources, the FHFC administered the program in 2006 and 2007.³⁵

The CWHIP targeted households earning higher incomes than traditionally served through other affordable housing programs to create homeowner or rental housing for persons such as teachers, firefighters, healthcare providers, and others as defined by local governments. Households earning up to 140 percent of area median income (AMI) could be served through the program with that provision rising up to 150 percent of AMI in the Florida Keys.³⁶

³³ See s. 420.5087, F.S., and Florida Housing Finance Corporation, *State Apartment Incentive Loan, Background*, for information cited in this section, available at <http://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan> (last visited February 22, 2020).

³⁴ Section 420.5087(6)(c), F.S.

³⁵ Section 420.5095(2), F.S. See also Specific Appropriation 1658A, s. 5, ch. 2006-25, Laws of Fla.; and Specific Appropriation 1694, s. 5, 2007-72, Laws of Fla.

³⁶ Section 420.5095(3)(a), F.S.

CWHIP provided priority funding consideration to projects in counties where the disparity between the AMI and the median sales price for a single family home was greatest. Priority funding consideration was specified where:³⁷

- The local jurisdiction established local incentives such as expedited reviews of development orders and permits and supported development near transportation hubs;
- Financial strategies like tax increment financing were utilized;
- Projects were innovative, including mixed-use elements; and
- Projects set aside at least 80 percent of units for workforce housing and at least 50 percent for essential services personnel.

The CWHIP loans were awarded with a 1 to 3 percent interest rate and could be forgiven where long-term affordability was provided and where at least 80 percent of the units were set aside for workforce housing and at least 50 percent of the units were set aside for essential services.³⁸

The FHFC administered two rounds of funding for CWHIP: \$50 million in October of 2006 and \$62.4 million in December of 2007.³⁹

Effect of Proposed Changes

Section 14 amends s. 420.5095, F.S., to transition the “pilot” features of a workforce housing program into the Community Workforce Housing Loan Program, administered by the FHFC. Households earning up to 80 percent of AMI will be served through the program with that provision rising up to 120 percent of AMI in the Florida Keys. The FHFC is required to establish a loan application process pursuant to the SAIL program provisions under s. 420.5087, F.S., and all application requirements of the former CWHIP program are repealed.

Priority funding consideration is specified where:

- The local jurisdiction establishes local incentives such as expedited reviews of development orders and permits and supported development near transportation hubs; and
- Financial strategies like tax increment financing are utilized.

The FHFC is required to award loans with a 1 percent interest rate for a term not to exceed 15 years. The FHFC is authorized to adopt rules to implement this program.

Funding Transitional Housing for Persons Aging out of Foster Care (Section 13)

Present Situation

Affordable Housing Funding for Special Needs Populations

For purposes of affordable housing, s. 420.0004(13), F.S., defines a person with special needs as:

- An adult requiring independent living services in order to maintain housing or develop independent living skills and who has a disabling condition.

³⁷ Section 420.5095(8), F.S.

³⁸ Section 420.5095(11), F.S.

³⁹ See Florida Housing Finance Corporation, *2007 Annual Report*, at p. 3, and *2008 Annual Report*, at p. 11, available at <http://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2007AnnualReport.pdf> and http://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2008AnnualReport_CDfile.pdf (both sites last visited February 22, 2020).

- A young adult formerly in foster care who is eligible for services under the Road-to-Independence Program.⁴⁰
- A survivor of domestic violence.
- A person receiving benefits under the Social Security Disability Insurance program or the Supplemental Security Income program or from veterans' disability benefits.

According to the statewide 2019 Rental Market Study, the estimates of rental households with persons with special needs were 2,574 youth aging out of foster care, 7,836 survivors of domestic violence, and 104,273 cost burdened renter households receiving disability-related Social Security, SSI, and veterans' benefits statewide.⁴¹

FHFC is authorized to make SAIL program funds available during the first six months of SAIL funding availability for recipients who set aside at least 20 percent of the units in the project for certain tenant groups, including persons with special needs. Within each notice of fund availability, at least 10 percent must be for the tenant groups.

Section 420.507(48), F.S., requires the FHFC to reserve up to 5 percent of certain annual allocations⁴² for high-priority affordable housing projects for veterans and their families and for other special needs populations. The FHFC must reserve an additional 5 percent of each allocation for affordable housing projects that target persons who have a disabling condition.⁴³ Each local government participating in the State Housing Initiatives Partnership program must use a minimum of 20 percent of its local housing distribution to serve persons with special needs.⁴⁴

Services and Support for Youth Aging Out of Foster Care

Sections 39.6251 and 409.1451, F.S., require the Department of Children and Families to administer an array of independent living services to eligible young adults ranging in ages 18-22 (not yet 23), including supports in making the transition to self-sufficiency.⁴⁵

Extended Foster Care (EFC) provides eligible young adults the option of remaining in foster care until the age of 21 or until the age of 22 if they have a disability. EFC is a voluntary program that requires the young adult to agree to participate in school, work, or a work training program in accordance with federal and state guidelines. Exceptions and accommodations are made for young adults with a documented disability.

⁴⁰ See s. 409.1451, F.S.

⁴¹ Shimberg Center for Housing Studies, University of Florida, *2019 Rental Market Study*, May 2019, available at http://www.shimberg.ufl.edu/publications/RMS_2019.pdf (last visited February 13, 2020). The Rental Market Study defines "cost burdened" to mean the household is paying at least 40 percent of income toward gross rent.

⁴² These allocations include those for low-income housing tax credits, nontaxable revenue bonds, and SAIL funds appropriated by the Legislature.

⁴³ Section 420.0004(7), F.S., defines "disabling condition."

⁴⁴ Section 420.9075(5)(d), F.S.

⁴⁵ Information in this section related to independent living services and extended foster care is drawn from the Department of Children and Families, *Independent Living Services Annual Report*, January 31, 2019, available at <https://www.myflfamilies.com/service-programs/child-welfare/docs/2019LMRs/Independent%20Living%20Services%202018%20Annual%20Report.pdf> (last visited February 22, 2020).

Effect of Proposed Changes

Section 13 amends s. 420.5087(10), F.S., to authorize the FHFC to prioritize a portion of the SAIL program funds set aside under s. 420.5087(3)(d), F.S., for persons with special needs, to provide funding for the development of newly constructed permanent rental housing on a campus that provides housing for persons in foster care or persons aging out of foster care under the Road-to-Independence Program. The housing must promote and facilitate access to community-based supportive, educational, and employment services and resources that assist persons aging out of foster care to successfully transition to independent living and adulthood. The FHFC must consult with the Department of Children and Families to create minimum criteria for such housing.

Affordable Housing Workshops for Locally Elected Officials Utilizing the Catalyst and the State Housing Initiatives Partnership (SHIP) Programs (Sections 15 and 17)

Present Situation

Affordable Housing Catalyst Program

Section 420.531, F.S., directs the FHFC to operate the Affordable Housing Catalyst Program (Catalyst Program) to provide specialized technical support to local governments and community-based organizations to implement the HOME Investment Partnership Program, the SHIP program, and other affordable housing programs.⁴⁶ The FHFC currently contracts with the Florida Housing Coalition to provide Catalyst Program training and technical assistance.⁴⁷

The Florida Housing Coalition's technical assistance team consists of a geographically dispersed network of personnel who provide on-site and telephone or e-mail technical assistance as well as training through workshops and webinars.⁴⁸ This technical assistance targets local governments and nonprofit organizations and includes:⁴⁹

- Leveraging program dollars with other public and private funding sources;
- Working effectively with lending institutions;
- Implementing regulatory reform;
- Training for boards of directors;
- Implementing rehabilitation and emergency repair programs;
- Assisting with the creation of fiscal and program tracking systems; and
- Meeting compliance requirements of state and federally funded housing programs.

⁴⁶ To the maximum extent feasible, the entity to provide the necessary expertise must be recognized by the Internal Revenue Service as a nonprofit tax-exempt organization. It must have a primary mission of providing training and technical assistance on affordable housing, an ability to provide the services statewide, and a proven track record of providing the services under the Catalyst Program.

⁴⁷ *Contract for Affordable Housing Catalyst Services between Florida Housing Finance Corporation and the Florida Housing Coalition, Inc.*, July 1, 2019, available at https://www.floridahousing.org/docs/default-source/legal/contracts/2019/014-2019---the-florida-housing-coalition-inc---affordable-housing-catalyst-program-services.pdf?sfvrsn=c09dea7b_2 (last visited February 22, 2020).

⁴⁸ Florida Housing Coalition's 2019/2020 Catalyst Training Schedule is available at <https://www.floridahousing.org/docs/default-source/programs/special-programs/catalyst/training-schedule-catalyst-2019-2020.pdf?sfvrsn=2>. A link to the Florida Housing Coalition's *Work Shop and Webinar Calendar* is available at https://www.flhousing.org/events/list/?tribe_paged=2&tribe_event_display=list (both sites last visited February 13, 2020).

⁴⁹ See s. 420.531(1), F.S.

State Housing Initiatives Partnership (SHIP) Program

Administered by the FHFC, the SHIP program provides funds to all 67 counties and 52 Community Development Block Grant entitlement cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans.⁵⁰ The program targets very-low-, low-, and moderate-income families

Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program.⁵¹ Funds are expended per each local government's adopted Local Housing Assistance Plan (LHAP), which details the housing strategies it will use.⁵² Local governments submit their LHAPs to the FHFC for review to ensure that they meet the broad statutory guidelines and the requirements of the program rules. The FHFC must approve an LHAP before a local government may receive the SHIP funding.

SHIP Incentive Strategies and Advisory Committee

Within 12 months of adopting a LHAP, each participating local government must amend the plan to include local housing incentive strategies.⁵³ The strategies must:

- Assure that permits for affordable housing projects are expedited;
- Establish an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing; and
- Include a schedule for implementing the incentive strategies.⁵⁴

Local governments must appoint members to an Affordable Housing Advisory Committee (AHAC) to triennially review the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan.⁵⁵ The AHAC is comprised of local citizens representing a range of affordable housing stakeholders.⁵⁶ At a minimum, each AHAC must submit a report to the local governing body on certain affordable housing incentives including:

- The processing of approvals of development orders or permits for affordable housing.
- The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- The allowance of flexibility in densities for affordable housing.
- The allowance of affordable accessory residential units in residential zoning districts.
- The reduction of parking and setback requirements for affordable housing.

Local governments that receive the minimum allocation under the SHIP⁵⁷ must perform the initial incentives review but may elect to not perform the subsequent triennial reviews.

⁵⁰ See ss. 420.907-420.9089, F.S.

⁵¹ Section 420.9073, F.S.

⁵² Section 420.9075, F.S.

⁵³ Section 420.9076(1), F.S.

⁵⁴ Section 420.9071(16), F.S.

⁵⁵ Section 420.9076(4), F.S.

⁵⁶ Section 420.9076(2), F.S.

⁵⁷ Pursuant to s. 420.9073(3), F.S., the minimum local housing distribution is \$350,000.

Effect of Proposed Changes

Section 15 amends s. 420.531, F.S., to establish biannual regional workshops for locally elected officials serving on AHACs. The Florida Housing Coalition⁵⁸ will administer and conduct the workshops with the intent of facilitating peer-to-peer identification and sharing of affordable housing best practices. Workshops may be conducted through teleconferencing or other technological means. Annual reports summarizing each region's deliberations and recommendations, as well as local official attendance records, must be submitted to the President of the Senate, the Speaker of the House, and the FHFC by March 31 of the following year.

The bill also amends the Catalyst Program to include SAIL among the programs listed for which the Florida Housing Coalition may provide technical support.

Section 17 amends s. 420.9076, F.S., to modify requirements of the AHACs. Effective October 1, 2020, at least one locally elected official from each participating SHIP county or municipality must serve on the advisory committee. This official, or a locally elected designee, must attend the biannual regional workshops on affordable housing best practices. If a locally elected official fails to attend three consecutive regional workshops, the FHFC may withhold the participating SHIP entity's funds pending the person's attendance at the next regularly scheduled biannual meeting.

The bill also requires annual, rather than triennial, AHAC reviews of local policies and provisions affecting affordable housing. The annual report of advisory committee reviews and recommendations must be submitted to the local governing body and to the Florida Housing Coalition. In addition, the report must include information about all allowable fee waivers provided for affordable housing, instead of the just the modification of impact-fee requirements.

Annual SHIP Entity Reporting Submissions to Florida Housing (Section 16)

Present Situation

Section 420.9075(10), F.S., requires each local government participating in the SHIP to annually submit a report of its affordable housing programs and accomplishments to the FHFC. The local government's chief elected official or his or her designee must certify the report as accurate and complete.⁵⁹ Among the many items included in the report are:

- The number of households served by income category, age, family size, and race, and data regarding any special needs populations;
- The number of units and the average cost of producing units under each local housing assistance strategy;
- By income category, the number of mortgages made, the average mortgage amount, and the rate of default; and
- A description of the status of implementation of each local housing incentive strategy.⁶⁰

⁵⁸ The entity that provides the statewide training and technical assistance under s. 420.531, F.S.

⁵⁹ Section 420.9075(11), F.S., requires report to be made available for public inspection and comment prior to certifying and transmitting it to the FHFC.

⁶⁰ Section 420.9075(10), F.S.

If, as a review of the report, the FHFC determines that the local government has a pattern of violation of the criteria for its LHAP or that an eligible sponsor or eligible person has violated the applicable award conditions, then the FHFC reports the violation to its compliance monitoring agent and the Governor. If a violation is deemed to have occurred, the distribution of program funds to the local government must be suspended until the violation is corrected.⁶¹

Effect of Proposed Changes

Section 16 amends s. 420.9075(10), F.S., to require the annual report by the local government to include data on the number of affordable housing applications submitted, approved, and denied.

Material Misrepresentations or Fraudulent Actions by Applicants (Section 12)

Present Situation

Section 420.507(35), F.S., authorizes the FHFC to preclude any applicant or affiliate of an applicant from further participation in any FHFC program if that applicant or affiliate made a material misrepresentation or engaged in fraudulent action in connection with any application for a program.

If the FHFC board of directors determines that an applicant or any principal, financial beneficiary, or affiliate of the applicant has made a material misrepresentation or engaged in fraudulent actions in connection with any application for a FHFC program, then an applicant will be ineligible for funding or allocation in any program administered by the corporation.⁶²

There is a rebuttable presumption that an applicant has engaged in fraudulent actions if the applicant or its principal, financial beneficiary, or affiliate has:⁶³

- Been convicted of fraud, theft, or misappropriation of funds.
- Been excluded from federal or Florida procurement programs for any reason.
- Been convicted of a felony in connection with any FHFC program.
- Offered or given consideration with respect to a local contribution, other than consideration to provide affordable housing.

The period of time that an applicant may be ineligible may be for a specific period of time or permanent in nature. To establish the duration of the ineligibility, the board must consider the facts and circumstances, inclusive of the applicant's compliance history, the type of misrepresentation or fraud committed, and the degree of harm to the FHFC programs that has been or may be done.⁶⁴

The FHFC must serve an administrative complaint affording reasonable notice to an applicant of the facts or conduct that warrants the intended action, specifies a proposed duration of ineligibility, and advises the applicant of its right to request an administrative hearing pursuant to

⁶¹ Section 420.9075(13), F.S.

⁶² Rule 67-48.004(2), F.A.C.

⁶³ *Id.* at (2)(a).

⁶⁴ *Id.* at (2)(c).

ss. 120.569 and 120.57, F.S.⁶⁵ Upon service of the complaint, all pending transactions under any FHFC program involving the applicant or its principal, financial beneficiary, or affiliate are suspended until a final order is issued or the administrative complaint is dismissed.⁶⁶

Effect of Proposed Changes

Section 12 creates s. 420.518, F.S., to preclude any applicant or affiliate of an applicant from participation in any FHFC program under certain conditions. An applicant or affiliate can be precluded if the applicant or affiliate has:

- Made a material misrepresentation or engaged in fraudulent actions in connection with any FHFC program.
- Been convicted or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to:
 - Financing, construction, or management of affordable housing; or
 - Fraudulent procurement of state or federal funds.
- Been excluded from any Florida procurement program.
- Offered or given consideration with respect to a local contribution, other than consideration to provide affordable housing.
- Demonstrated a pattern of noncompliance and a failure to correct any such noncompliance after notice from the FHFC in the construction, operation, or management of one or more developments funded through a FHFC program.

Upon a determination by the board of directors of the FHFC to preclude an applicant or affiliate from participation in any FHFC program, the board may issue an order taking certain actions:

- Preclude the applicant or affiliate from applying for funding from any FHFC program for a specified period of time.
- Revoke any funding previously awarded for any development for which construction or rehabilitation has not yet commenced.

The period of time that an applicant or affiliate may be precluded may be for a specific period of time or permanent in nature. To establish the duration of the ineligibility, the board must consider the facts and circumstances, inclusive of the applicant's compliance history, the type of action for which the applicant or affiliate is being precluded, and the degree of harm to the FHFC programs that has been or may be done.

Before an order by the FHFC board becomes final, an administrative complaint must be served on the applicant, its affiliate, or its registered agent. The complaint must provide notification of the findings of the board, the intended action, and the opportunity to request an administrative hearing pursuant to ss. 120.569 and 120.57, F.S.

Upon the service of the complaint, any funding, allocation of federal housing credits, credit underwriting procedures, or application review for any development for which construction or

⁶⁵ Section 120.569, F.S., provides the procedures under the Administrative Procedures Act which apply to all proceedings in which the substantial interests of a party are determined by an agency. Section 120.57, F.S., provides additional procedures, such as whenever there is a disputed issue of material facts. Chapter 120, F.S., applies to the FHFC, pursuant to s. 420.504(2), F.S.

⁶⁶ Rule 67-40.004(2)(b), F.A.C.

rehabilitation has not yet occurred is suspended. The suspension is effective from the date on which the complaint is served until an order issued by the FHFC related to the complaint becomes final.

Bill Sections Addressing Mobile Homes

Chapter 723, F.S., the “Florida Mobile Home Act” addresses the unique relationship between a mobile home owner and a mobile home park owner.⁶⁷ The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has ten or more lots offered for rent or lease.⁶⁸ Mobile home parks are regulated by the Division of Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation.⁶⁹

Further, mobile home dealers/brokers, installers, and manufacturers are required to register with the Department of Highway Safety and Motor Vehicles (DHSMV).⁷⁰

A mobile home is a structure, transportable in one or more sections, that has a body width of 8 feet or more and which is built on an integral chassis, is designed to be used as a dwelling when connected to utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.⁷¹ Similarly, under ch. 723, F.S., a mobile home is a residential structure, transportable in one or more sections, that has a body width of 8 feet or more and a length of over 35 feet with the hitch, which is built on an integral chassis, is designed to be used as a dwelling when connected to utilities, includes the plumbing, heating, air-conditioning, and electrical systems, and was not originally sold as a recreational vehicle.

Mobile Home Dealer Display Requirements (Section 7)

Present Situation

A mobile home dealer must hold a license issued by the DHSMV.⁷² The term “dealer” generally means “any person engaged in the business of buying, selling, or dealing in mobile homes or offering or displaying mobile homes for sale.”⁷³

The place of business of the mobile home dealer must be at a permanent location, not a tent or a temporary stand or other temporary quarters. The location of the place of business must afford sufficient unoccupied space to store all mobile homes offered and displayed for sale.⁷⁴

⁶⁷ Section 723.004, F.S.

⁶⁸ Section 723.002(1), F.S.

⁶⁹ Section 723.003(12), F.S. defines a “mobile home park” or “park” as a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential

⁷⁰ See Department of Highway Safety and Motor Vehicles, *Motor Vehicles, Tags & Titles – Dealers, Installers, Manufacturers, Distributors, and Importers*, available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/dealers-installers-manufacturers-distributors-importers/> (last visited February 22, 2020).

⁷¹ Section 320.1(2)(a), F.S., which provides such definition as used in Florida Statutes.

⁷² Section 320.77(2), F.S.

⁷³ See s. 320.77(1)(b), F.S.

⁷⁴ Section 320.77(3)(h), F.S.

Effect of Proposed Changes

Section 7 amends s. 320.77, F.S., to remove the requirement that a place of business of a mobile home dealer must afford sufficient unoccupied space to store all mobile homes offered and displayed for sale. Under the bill, the place of business of a mobile home dealer must have sufficient space to display a manufactured home as a model home.

Recreational Vehicle Dealer Requirements (Section 8)

Present Situation

A recreational vehicle dealer must hold a license issued by the DHSMV.⁷⁵ The term “dealer” generally means any person engaged in the business of buying, selling, or dealing in recreational vehicles or offering or displaying recreational vehicles for sale.⁷⁶

A recreational vehicle is a type of motor vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.⁷⁷ One type of a recreational vehicle is known as a “park trailer,” which is a transportable unit that has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.⁷⁸

A recreational vehicle dealer must be insured under a garage liability insurance policy that includes a minimum \$25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and \$10,000 personal injury protection.⁷⁹

Effect of Proposed Changes

Section 8 amends s. 320.771, F.S., to exempt a recreational vehicle dealer from the requirement to be insured under a garage liability insurance policy, if the dealer sells only park trailers.

Repair and Remodeling Codes for Mobile and Manufactured Homes (Sections 9 and 10)

Present Situation

A manufactured home is a mobile home fabricated on or after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standard Act.⁸⁰

Sections 320.8232(2), F.S., provides that the provisions of the repair and remodeling code for mobile homes must ensure safe and livable housing and must not be more stringent than those standards required to be met in the manufacture of mobile homes. The provisions of the code must include, but are not limited to, standards for structural adequacy, plumbing, heating,

⁷⁵ Section 320.771(2), F.S.

⁷⁶ Section 320.771(1)(a), F.S.

⁷⁷ See s. 320.01(1)(b), F.S.

⁷⁸ Section 320.01(1)(b)7., F.S.

⁷⁹ Section 320.771(3)(j), F.S.

⁸⁰ Section 320.01(2)(b), F.S.

electrical systems, and fire and life safety. Section 320.822(2), F.S., uses the term “Repair and Remodeling Code” and not the term “Mobile Home Repair and Remodeling Code.”

Rule 15C-2.0081, F.A.C, provides more specificity for the Mobile/Manufactured Home Repair and Remodeling Code. The rule provides guidelines for structure additions, anchoring, repair, and remodeling; electrical repair and replacement; and plumbing repair and replacement.

Effect of Proposed Changes

Section 9 amends s. 320.822, F.S., to revise the term “Mobile Home Repair and Remodeling Code” to the “Mobile and Manufactured Home Repair and Remodeling Code.”

Section 10 amends s. 320.8232, F.S., by changing the reference to the “Repair and Remodel Code” to the “Mobile and Manufactured Home Repair and Remodeling Code” which has been adopted by rule by the DHSMV. The bill also requires all repair and remodeling of mobile and manufactured homes be done in accordance with the DHSMV rules.

Jurisdiction of the Public Service Commission: Mobile Home Parks/Subdivisions and Water and Wastewater Service (Section 11)

Present Situation

In various areas throughout Florida, water and wastewater services are provided through privately-owned and operated water and wastewater companies. These privately-owned companies are referred to as “investor-owned utilities.”⁸¹ If the utility is operating within a single Florida county, the county has the option to regulate rates and service or allow the Public Service Commission (PSC) to regulate those utilities.⁸² Currently, the PSC has jurisdiction over 150 water and wastewater IOUs in 38 of 67 counties in Florida.⁸³

The remaining water and wastewater customers in the state are not subject to PSC regulation and are served either by IOUs in non-jurisdictional counties, by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities or by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits).⁸⁴

Section 367.022(5), F.S., exempts from regulation by the PSC “landlords providing [water or wastewater] service to their tenants without specific compensation for the service.”

Section 367.022(9), F.S., also exempts from regulation any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of service.

⁸¹ IOUs can range in size from very small systems, owned by individuals as sole proprietorships and serving only a few dozen customers in a small neighborhood, to systems owned by large interstate corporations that serve tens of thousands of customers in multiple Florida counties.

⁸² Section 367.171, F.S.

⁸³ Public Service Commission, *2019 Facts & Figures of the Florida Utility Industry*, at p. 31, June 2019, available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/June%202019.pdf> (last visited February 13, 2020).

⁸⁴ See s. 367.022, F.S.

A mobile home park is land used by providing lots or spaces rented or leased for the placement of mobile homes for primarily residential use. In a mobile home subdivision, the individual lots are owned by the lot owners and a portion of the subdivision or the amenities exclusively serving the subdivision are owned by the subdivision developer.⁸⁵

Effect of Proposed Changes

Section 11 amends s. 367.022, F.S., to exempt from regulation by the PSC the owner of a mobile home park operating both as a mobile home park and a mobile home subdivision who provides service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation. The bill also amends the current exemption for any person who sells water service to his or her tenants or individual metered residents to provide that the fee charged cannot exceed the actual purchase price of the water and wastewater service.

Prospectus or Offering Circular and Rental Agreements (Sections 18 and 19)

Present Situation

Prospectus

The prospectus in a mobile home park is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner.⁸⁶ The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to homeowners and prospective homeowners in a mobile home park. The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.⁸⁷

The prospectus must include the specified information including a description of the mobile home park property, the number of lots in each section, the maximum number of lots that will use shared facilities, and a description of the recreational and other common facilities to be used by mobile home owners.⁸⁸

Section 723.012(7), F.S., requires the prospectus to include a description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of his or her occupancy in the park.

If the tenancy was in existence on June 4, 1984,⁸⁹ the mobile home park owner must offer a prospectus or offering circular offered that contains the same terms and conditions as rental agreements offered to all other mobile home owners residing in the park on the same date. However, the prospectus or offering circular may include rent variations based upon lot location and size. The prospectus or offering circular may not require any mobile home owner to install any permanent improvements.⁹⁰

⁸⁵ Section 723.003(13) and (14), F.S.

⁸⁶ Section 723.012, F.S.

⁸⁷ Section 723.011(3), F.S.

⁸⁸ Section 723.012(4) and (5), F.S.

⁸⁹ The effective date of ch. 723, F.S. See ch. 84-80, Laws of Fla.

⁹⁰ Section 723.011(4), F.S.

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the Division of Condominiums, Timeshares, and Mobile Homes for approval.⁹¹ The park owner must provide a copy of the prospectus with exhibits to each prospective lessee prior to the execution of the lot rental agreement or at the time of occupancy, whichever occurs first.⁹² By rule of the division, the prospectus distributed to a home owner or prospective home owner is binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in certain specified circumstances.⁹³

Effect of Proposed Changes

Section 18 amends s. 723.011, F.S., to provide that a mobile home owner may be required to install permanent improvements to the mobile home as disclosed in the prospectus, with respect to a tenancy in existence on June 4, 1984.

Section 19 amends s. 723.012, F.S., to provide that, if a mobile home park owner intends to include additional property and mobile home lots and to increase the number of lots that will use the shared facilities of the park, the mobile home park owner must amend the prospectus to disclose such additions. If the number of mobile home lots in the park increases by more than 15 percent of the total number of lots in the original prospectus, the mobile home park owner must reasonably offset the impact of the additional lots by increasing the shared facilities. The amendment to the prospectus must include a reasonable timeframe for providing the required additional shared facilities and the costs and expenses necessary to increase the shared facilities may not be passed on or passed through to the existing mobile home owners.

Mobile Home Owner's General Obligations (Section 20)

Present Situation

Section 723.023, F.S., sets forth the mobile home owner's general obligations. A mobile home owner shall at all times:

- Comply with building, housing, and health codes, including compliance with all building permits and construction requirements for construction on the mobile home and lot. The home owner is responsible for all fines imposed by the local government for noncompliance with any local codes.
- Keep the mobile home lot that he or she occupies clean, neat, and sanitary, and maintained in compliance with all local codes.
- Comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply with such rules and to conduct themselves, and other persons on the premises with his or her consent, in a manner that does not unreasonably disturb other residents of the park or constitute a breach of the peace.

⁹¹ Section 723.011(1)(a), F.S.

⁹² Sections 723.011(2), F.S.

⁹³ See Rule 61B-31.001, F.A.C.

Effect of Proposed Changes

Section 20 amends s. 723.023, F.S., to require the mobile home owner to remove any debris and other property of any kind that is left on the mobile home lot when vacating the premises.

The bill also requires the mobile home owner to receive written approval from the mobile home park owner before making any exterior modification or addition to the home. The bill grants this new authority to the mobile home park owner without conditioning this new power on the prospectus granting the mobile home park owner such right or on the prospectus being amended upon agreement of the park owner and the mobile home owner to include such power.

*Mobile Home Park Rent Increases (Sections 21 and 22)**Present Situation*

The rental agreement for a mobile home park lot must contain the lot rental amount and the services included. Generally, lot rental agreements must be for a 1-year term and the lot rental amount may not be increased during the term of the agreement.⁹⁴ However, the mobile home park owner may pass on ad valorem property taxes and other fees and assessments as long as this is done as a matter of custom between the mobile home park owner and the mobile home owner or as authorized by law. A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if these were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement.⁹⁵

A mobile home park owner may increase the lot rental amount by providing at least a 90-day notice, generally before the renewal date of the renewal agreement.⁹⁶ The park owner must give the notice to the affected mobile home owners and the board of directors of the homeowners' association, if one has been formed.⁹⁷

Lot rental increases may not be arbitrary or discriminatory between similarly situated tenants in the park.⁹⁸ The notice must identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner must provide the names and addresses upon request.⁹⁹

A committee of no more than five people, designated by a majority of the owners or by the board of directors of the homeowners' association (if formed), and the park owner must meet at least 60 days before the effective date of a rent increase to discuss the reasons for the increase.¹⁰⁰ Current law does not specify that the five members of the committee must be mobile home owners in the park. At the meeting, the park owner or subdivision developer must in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount and, with specificity, how those factors justify the increase proposed.¹⁰¹

⁹⁴ Section 723.031(4) and (5), F.S.

⁹⁵ *Id.*

⁹⁶ Section 723.031(5)(d), F.S.

⁹⁷ Section 723.037(1), F.S.

⁹⁸ Section 723.031(5), F.S.

⁹⁹ Section 723.037(1), F.S.

¹⁰⁰ Section 723.037(4)(a), F.S.

¹⁰¹ Section 723.037(4)(b), F.S.

If the committee disagrees with the lot rental increase reasoning, then the committee and the park owner may continue to meet. However, if subsequent meetings are unsuccessful, within 30 days of the last scheduled meeting, the mobile home owners may petition the Division of Condominiums, Timeshares, and Mobile Homes to initiate mediation.¹⁰² If the mediation does not successfully resolve the dispute, then the parties may file an action in circuit court to challenge the lot rental increase as unreasonable.¹⁰³

Effect of Proposed Changes

Section 21 amends s. 723.031, F.S., to add that that a park owner is deemed to have disclosed the passing on of ad property taxes and non-ad valorem assessments if these were disclosed as a *separate charge* for increasing the lot rental amount in the prospectus or rental agreement

Additionally, the bill prohibits a park owner from charging or collecting from the mobile home owners any sum of ad valorem taxes or non-ad valorem tax charges in an amount in excess of the sums remitted by the park owner to the tax collector.

Section 22 amends s. 723.037, F.S., to permit the park owner to give notice of all rent increases for multiple anniversary dates in the same 90-day notice. To conform to this change, the bill requires the committee designated to consider the lot rental increases must address all lot rental amount increases that are specified in the notice of lot rental amount increase, regardless of the effective date of the increase.

The bill also provides that the requirement of the park owner to provide, upon request, the identifying information for homeowners affected by a rent increase does not authorize the park owner to release the names, addresses, or other private information of the homeowners to the association or any other person for any other purpose.

Replacing Mobile Homes in a Mobile Home Park (Section 23)

Present Situation

Except as expressly preempted by the requirements of the DHSMV, a mobile home owner or the park owner is authorized to “site any size new or used mobile home and appurtenances on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the approval of the mobile home park.”¹⁰⁴

Effect of Proposed Changes

Section 23 amends s. 723.041, F.S., to allow a mobile home park that is damaged or destroyed due to wind, water, or other natural force to be rebuilt on the same site with the same density as was approved, permitted, and built before being damaged or destroyed. The bill also provides that the regulation of the uniform fire safety standards established under s. 633.206, F.S., are not limited by s. 723.041, F.S. However, s. 723.041, F.S., supersedes any other density, separation,

¹⁰² Section 723.037(5)(a), F.S.

¹⁰³ Section 723.0381, F.S.

¹⁰⁴ Section 723.041(4), F.S.

setback, or lot size regulation adopted after initial permitting and construction of the mobile home park.

Park Owner Disclosures Prior to Residence (Section 24)

Present Situation

A mobile home park owner or developer may not require a person, as a precondition to occupancy in the mobile home park, to provide any improvement unless the requirement is disclosed pursuant to s. 723.011, F.S., which requires the park owner to deliver a prospectus to the prospective homeowner before the rental of a mobile home lot.¹⁰⁵ Section 723.012, F.S., sets forth specific requirements for a prospectus, including that the prospectus must include a “description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of his or her occupancy in the park.”¹⁰⁶

Effect of Proposed Changes

Section 24 amends s. 723.042, F.S., to reference subsection (7) of s. 723.012, F.S., relating to the information a mobile park owner must disclose in the prospectus or offering circular. The bill deletes the reference to s. 723.011, F.S., which requires a mobile home park owner or developer file a prospectus with the division and to provide a copy to a prospective tenant, but does not detail the information that must be disclosed in the prospectus. Under the bill, a mobile home park owner or developer may not require a person, as a precondition to occupancy in the mobile home park, to provide any improvement unless the requirement is disclosed in the prospectus as required under s. 723.012(7), F.S.

Purchasers of a Mobile Home within Mobile Home Park (Section 25)

Present Situation

The purchaser of a mobile home has the right to assume the remainder of the term of any rental agreement in effect between the mobile home park owner and the seller. The purchaser is entitled to rely on the terms and conditions of the prospectus or offering circular as delivered to the initial recipient.¹⁰⁷

Upon the expiration of the assumed rental agreement, the mobile home park owner may increase the rental amount if the increase is disclosed to the purchaser prior to his or her occupancy and is imposed in a manner consistent with the initial offering circular or prospectus and ch. 723, F.S.¹⁰⁸

Effect of Proposed Changes

Section 25 amends s. 723.059, F.S., to instead permit the purchaser to assume the seller’s prospectus, instead of entitling the purchaser to rely upon the prospectus of the initial recipient. This change may be to ensure that the purchaser who intends to become a resident of the mobile home park is doing so under the most recent prospectus. However, the bill provides that nothing

¹⁰⁵ Section 723.011(2), F.S.

¹⁰⁶ Section 723.012(7), F.S.

¹⁰⁷ Section 723.059(3), F.S.

¹⁰⁸ Section 723.059(4), F.S.

will prohibit a mobile home park owner from offering the purchaser of a mobile home any approved prospectus.

The bill also allows the mobile home park owner to increase the lot rental amount if the increase is imposed in a manner consistent with the purchaser's prospectus, instead of the initial offering circular or prospectus.

The bill also clarifies the title of s. 723.059, F.S., to more accurately reflect the substance of the statute.

Mobile Home Park Termination of Tenancy (Section 26)

Present Situation

Section 723.061, F.S., provides grounds for the termination of a mobile home park lot rental agreement, including when there will be a change in the use of the land from a mobile home park to some other use. This type of termination and eviction can occur if the park owner gives written notice to the homeowners' association of its right to purchase the park and to the affected mobile home owners and tenant at least 6 months in advance of the eviction of their need to secure other accommodations. The evicted mobile home owners may apply to the Florida Mobile Home Relocation Corporation for payment of moving expenses and the mobile home park owner is required to pay the corporation for the relocation expenses.¹⁰⁹

Other grounds for termination include a tenant's:¹¹⁰

- Conviction of a violation of a federal or state law or local ordinance, if the violation is detrimental to the health, safety, or welfare of other residents of the mobile home park.
- Violation of park rules, the rental agreement, or ch. 723, F.S.
- Failure to qualify as, and to obtain approval to become, a tenant or occupant of the home, if such approval is required by a properly promulgated rule.

Effect of Proposed Changes

Section 26 amends s. 723.061, F.S., to require, within 20 days after giving an eviction notice to a mobile home owner due to a change in land use, the park owner to provide the Division of Condominiums, Timeshares, and Mobile Homes with a copy of the notice. The division must then provide the executive director of the Florida Mobile Home Relocation Corporation with a copy of the notice.

In addition, the bill provides that a park owner does not waive the right to terminate the rental agreement or the right to bring a civil action for the noncompliance, if a park owner accepts payment for any portion of a lot rental amount with actual knowledge of noncompliance after notice and termination of the rental agreement. This provision applies to violations related to the tenant's conviction as described above; violation of the park rules, the rental agreement, or ch. 723, F.S.; or failure to qualify as a tenant or occupant of the home. Any rent received by the park owner must be accounted for at the final hearing.

¹⁰⁹ Section 723.06116, F.S.

¹¹⁰ Section 723.061(1)(b) and (e), F.S.

Homeowners' Association Officers and Members (Section 27)

Present Situation

Mobile home owners can form a homeowners' association, and therefore exercise the rights of an association, in part by getting two-thirds of all the mobile home owners within the park to consent in writing to join.¹¹¹ Upon receiving its certificate of incorporation the association must notify the mobile home park owner in writing of its creation and the names and addresses of the association officers. This notice must be made by personal delivery upon the park owner's representative as designated in the prospectus or by certified mail, return receipt requested.¹¹²

Effect of Proposed Changes

Section 27 amends s. 723.076, F.S., to specify that the association must notify the park owner in writing by certified mail, return receipt requested, of the names and addresses of newly elected or appointed officers or board members of the association.

Homeowners' Association Bylaws (Section 28)

Present Situation

Voting Requirements and Proxies

Unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum for a meeting of the association.¹¹³ Members are allowed to vote by limited proxies, not general proxies. However, no votes may be cast by proxy to elect association board members. If a mobile home or subdivision lot is jointly owned, the owners of the mobile home or subdivision lot must be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot will be counted.¹¹⁴

Board of Directors' and Committee Meetings

Meetings of the board of directors and meetings of its committees at which a quorum is present must be open to all members. This requirement does not apply to meetings held for the purpose of discussing personnel matters or meetings with the association's attorney where the contents of the discussion would be governed by the attorney-client privilege.¹¹⁵

Member Meetings

The association must conduct at least one member meeting annually during which members of the board of the directors are elected. All nominations for candidates for board membership made from the floor must be made at a meeting of the members held at least 30 days before the annual meeting. Unless waived in writing, the notice of the annual meeting must be mailed, hand delivered, or electronically transmitted to each member to at least 14 days before the meeting.

¹¹¹ Section 723.075(1), F.S.

¹¹² Section 723.076(1), F.S.

¹¹³ Section 723.078(2)(b)1., F.S.

¹¹⁴ Section 723.078(2)(b)2., F.S.

¹¹⁵ Section 723.078(2)(c), F.S.

An officer of the association must provide an affidavit affirming that the notices were mailed or hand delivered to each member at the address last furnished to the corporation.¹¹⁶

Minutes of Meetings

The minutes of all meetings of members of the association, the board of directors, and a committee must be maintained in writing and approved by the members, board, or committee, as applicable. The minutes of all meetings of members and of the board of directors must be maintained, available for inspection, and retained for at least seven years.¹¹⁷

Effect of Proposed Changes

Section 28 amends s. 723.078, F.S., related to mobile home park homeowners' associations bylaws.

Voting Requirements and Proxies

The bill specifies that a proxy may not be used in the election of board members in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Board members must be elected by written ballot or by voting in person.

Under the bill, elections must be decided by a plurality of the ballots cast. There is no quorum requirement for an election but at least 20 percent of the eligible voters must cast a ballot for an election to be valid. A member is prohibited from allowing any other person to cast his or her ballot; improperly cast ballots are invalid. An election is required only if there are more candidates nominated than vacancies that exist on the board.

The bill requires candidates for the board of directors to appear on the ballot in alphabetical order by surname. Ballots may not indicate if a candidate is an incumbent on the board. Ballots must be uniform in appearance and may not provide a space for the signature of, or any other means of identifying, a voter. If the ballot contains more votes than vacancies or fewer votes than vacancies, the ballot is invalid unless otherwise stated in the bylaws. Write-in candidates and more than one vote per candidate per ballot are not allowed.

The bill requires election oversight by an impartial committee responsible for complying with all ballot requirements. The bill defines "impartial committee" to mean a committee whose members do not include any of the following people or their spouses:

- Current board members.
- Current association officers.
- Candidates for the association or board.

The bill requires the association bylaws provide a method for determining the winner of an election in which there is more than one candidate for the same position receiving the same number of votes.

¹¹⁶ Section 723.078(2)(d), F.S.

¹¹⁷ Section 723.078(2)(e), F.S.

The bill directs the Division of Condominiums, Timeshares, and Mobile Homes to adopt procedural rules to govern elections, including, but not limited to, rules for providing notice by electronic transmission and rules for maintaining secrecy of ballots.

Board of Directors' and Committee Meetings

The bill provides that meetings between the park owner and the board of directors or any of the board's committees are not required to be open to the association members. The bill clarifies that notices of all board or committee meetings *open to association members* must be posted in a conspicuous place upon the park property at least 48 hours in advance, except in an emergency.

Member Meetings

The bill changes the date for the meeting at which to nominate candidates to the board of directors to 27, rather than 30, days before the annual meeting. Unless otherwise stated in the bylaws, notices may be delivered electronically.

Minutes of Meetings

Under the bill, the minutes of board or committee meetings that are closed to members are privileged, confidential, and not available for inspection or photocopying. The bill clarifies that minutes of meetings *open to association members* must be maintained in writing. All minutes of *open meetings* must be retained within this state for a period of at least five years, rather than seven years as provided in current law that applies to all meetings.

Powers and Duties of Homeowners' Associations (Section 29)

Present Situation

The powers of the association include, but are not limited to, the maintenance, management, and operation of the park property.¹¹⁸ The association must maintain the certain items, when applicable, which constitute the official records of the association. These include:¹¹⁹

- A copy of the articles of incorporation, bylaws, and each amendment.
- A copy of the written rules or policies and each amendment.
- Approved minutes for all meetings of the members, board of directors, and committees of the board, which must be retained within this state for at least seven years.
- A current roster of all members and their mailing address and lot identifications.
- All insurance policies or copies, which must be retained for at least seven years.
- A copy of all contracts or agreements to which the association is a party, which must be retained for at least seven years.
- The financial and accounting records, which must be maintained for at least seven years; and
- All other written records that are related to the operation of the association.

In addition to the specific time and location retention mentioned above for certain official records, the statute also specifies that all official records must be maintained within the state for at least seven years. The official records must be made available to a member for inspection or

¹¹⁸ Section 723.079(1), F.S.

¹¹⁹ Section 723.079(4)(a)-(i), F.S.

photocopying within 10 business days after receipt by the board or its designee of a written request submitted by certified mail, return receipt requested.¹²⁰

Failure to provide access to the records creates a rebuttable presumption that the association willfully failed to comply with the law.¹²¹ A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are \$10 per day up to 10 days and calculation begins on the 11th business day after receipt of the written request by certified mail, return receipt requested.¹²²

Effect of Proposed Changes

Section 29 amends s. 723.079, F.S., modify the retention of certain official records of the association. The following written records must be retained within this state for at least 5 years:

- Approved minutes of all meetings of members of the association and meetings open to members.¹²³
- Insurance policies (time for retention begins after the expiration date of the policy).
- Contracts and agreements of the association (time for retention begins after the expiration date of the contract or agreement).
- Financial and accounting records.
- Other written records not specified as official records in the statute (described above under the Present Situation) (time for retention begins after the expiration date, as applicable).

The bill repeals the requirement that all official records must be maintained within the state for at least seven years. Thus the association is not required to retain the copy of the articles of incorporation, bylaws, and each amendment;¹²⁴ written rules or policies and each amendment; and the current roster of all members and their mailing addresses and lot numbers.

The bill extends the time that the records must be made available for inspection from 10 days to 20 days of receipt of a written request. Under the bill, an association member denied access to association records may recover only \$10 per calendar day up to 10 days, not to exceed \$100, and the calculation for the damages begins on the 21st business day after the association receives the written request for records.

The bill requires a dispute between a member and an association regarding inspecting or photocopying official records to be submitted to mandatory binding arbitration with the Division of Condominiums, Timeshares, and Mobile Homes. The arbitration must be conducted pursuant to s. 723.1255, F.S., (created by the bill) and procedural rules adopted by the division.

¹²⁰ Section 723.079(5), F.S.

¹²¹ Section 723.079(5)(a), F.S.

¹²² Section 723.079(5)(b), F.S.

¹²³ Similar to the changes in section 29 of the bill, discussed above under the sub-subheading.

¹²⁴ These documents should be available on the Department of State corporate filings website for the association.

Alternative Resolution of Recall, Election, and Inspection and Photocopying of Official Records Disputes (Section 30)

Present Situation

Recall disputes in a mobile home park homeowners' association are subject to mandatory binding arbitration by the Division of Condominiums, Timeshares, and Mobile Homes.¹²⁵ In contrast, election, of officers, recall of officers, and other disputes in a condominium association are subject to mandatory nonbinding arbitration.¹²⁶ Election disputes in a homeowners' association are subject to mandatory binding arbitration,¹²⁷ and all other disputes between a homeowner and a homeowners' association are subject to mandatory mediation before an action may be filed in court.¹²⁸ The division has adopted rules of procedure governing arbitration for recall proceedings related to board members of a condominium, cooperative, or mobile home homeowners' association.¹²⁹ There is a \$50 filing fee for arbitration of a condominium dispute.¹³⁰ However, ch. 723, F.S., does not authorize a filing fee as a precondition for mandatory binding arbitration by the division for a recall dispute at a mobile home park homeowners' association.

Effect of Proposed Changes

Section 30 amends s. 723.1255, F.S., to require disputes between a mobile home owner and a homeowners' association regarding the election and recall of officers or directors or the inspection and photocopying of official records to be submitted to a mandatory binding arbitration with the division. The arbitration will be conducted pursuant to procedural rules adopted by the division.

Each party is responsible for paying its own attorney fees, expert and investigator fees, and associated costs. The cost of the arbitrator must be divided equally between the parties regardless of the outcome.

Bill Sections Addressing Reenacting Issues and Effective Date

Effect of Proposed Changes

Section 31 reenacts a portion of s. 420.507, F.S., to incorporate the amendments to the SHIP program in section 12 of the bill.

Section 32 reenacts a portion of s. 193.018, F.S., to incorporate the amendments to the CWHIP program in section 13 of the bill.

Section 33 provides an effective date of July 1, 2020.

¹²⁵ Sections 723.078(2)(i)3. and 723.1255, F.S.

¹²⁶ See ss. 718.112(2)(j) and (k) and 718.1255(4) and (5), F.S.

¹²⁷ See s. 720.303(10)(d), F.S.

¹²⁸ Section 720.311, F.S.

¹²⁹ Section 723.1255, F.S., and Rule 61B-50, F.A.C.

¹³⁰ Section 718.1255(4)(a), F.S.

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:

Mandatory Binding Arbitration

The bill requires mobile home homeowners' associations and members to submit certain disputes to the Division of Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation. The application of these provisions is unclear and it is unknown how the division will implement these requirements. The bill specifically requires the "cost of the arbitrators" to be paid by the parties. The amount of the cost for the division's arbitration of disputes is not specified in the bill.

The bill addresses additional subjects unrelated to the requirement that the "cost of the arbitrators" be paid by the parties. To the extent the bill imposes a fee for arbitration of certain disputes while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under Article VII, s. 19 of the Florida Constitution. Under that section, a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."¹³¹

E. Other Constitutional Issues:

Homeowners' Associations

The may create a conflict with the governing documents of homeowners' associations to the extent the documents set forth procedures and requirements for election of board members (section 28 of the bill), establish open meetings for meetings with the park owner (section 28 of the bill), and set forth procedures for disputes regarding inspection and copying of records (sections 29 and 30 of the bill).

¹³¹ FLA. CONST. art. VII, s. 19(d)(1).

The governing documents of these associations are generally considered contracts.¹³² To the extent that the provisions of this bill may be applied retroactively, provisions of the bill may prompt concerns regarding the unconstitutional impairment of contract.

Some contracts forego the impairment of contract analysis by incorporating the relevant governing statute for that particular type of association, including future changes. In the context of condominiums, for example, the contract may include what is referred to as the “Kaufman language,” which states that the contract or association “shall be governed by the Condominium Act, as amended from time-to-time.”¹³³ Without the Kaufman language, newly enacted statutes may only affect new association documents (or amendments to existing documents) or prior association documents in a limited manner.

Article I, s. 10 of the United States Constitution prohibits state legislatures from enacting laws impairing the obligation of contracts. As early as 1880, the federal courts recognized that the contract clause does not override the police power of the states to establish regulations to promote the health, safety, and morals of the community.¹³⁴ The severity of the impairment is a key issue when evaluating whether a state law impairs a contract.¹³⁵ In *Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983), the Supreme Court suggested it would uphold legislation that imposes a generally applicable rule of conduct designed to advance a broad societal interest that only incidentally disrupts existing contractual relationships.

Article I, s. 10 of the Florida Constitution also prohibits the state from enacting laws impairing the obligation of contracts. While Florida courts have historically strictly applied this restriction, they have exempted laws when they find there is an overriding public necessity for the state to exercise its police powers.¹³⁶ This exception extends to laws that are reasonable and necessary to serve an important public purpose,¹³⁷ to include protecting the public’s health, safety or welfare.¹³⁸ For a statute to offend the constitutional prohibition against impairment of contract, the statute must have the effect of changing substantive rights of the parties to an existing contract. Any retroactive application of a statute affecting substantive contractual rights would be constitutionally suspect.¹³⁹

Historically, both the state and federal courts have attempted to find a rational and defensible compromise between individual rights and public welfare when laws are enacted that may impair existing contracts.¹⁴⁰ The balancing process focuses on whether “the nature and extent of the impairment is constitutionally tolerable in light of the

¹³² See *Venetian Isles Homeowners’ Assoc., Inc. v. Albrecht*, 823 So.2d 813 (Fla. 2nd D.C.A. 2002) and *Cudjoe Gardens Property Owners Assoc., Inc. v. Patne*, 779 So.2d 598 (Fla. 3rd D.C.A. 2001).

¹³³ See *Kaufman v. Shere*, 347 So.2d 627 (Fla. 3 DCA 1977).

¹³⁴ *Stone v. Mississippi*, 101 U.S. 814 (1880).

¹³⁵ *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

¹³⁶ *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So.2d 681 (Fla. 1980).

¹³⁷ *Yellow Cab Co. v. Dade County*, 412 So.2d 395 (Fla. 3rd DCA 1982), petition den. 424 So.2d 764 (Fla. 1982).

¹³⁸ *Khoury v Carvel Homes South, Inc.*, 403 So.2d 1043 (Fla. 1st DCA 1981), petition den. 412 So.2d 467 (Fla. 1981).

¹³⁹ *Tri-Properties, Inc. v. Moonspinner Condominium Association, Inc.*, 447 So.2d 965 (Fla. 1st DCA 1984).

¹⁴⁰ *Pomponio v Claridge of Pompano Condominium, Inc.*, 378 So.2d 774 (Fla. 1979).

importance of the state’s objective, or whether it unreasonably intrudes into the parties’ bargain to a degree greater than is necessary to achieve that objective.”¹⁴¹

Mandatory Binding Arbitration

The bill amends ss. 723.079(5) and 723.1255, F.S., to require mobile home homeowners’ associations and members to submit certain disputes to the Department of Business and Professional Regulation for mandatory binding arbitration. The application of these provisions is unclear and it is unknown how the department will implement them. However, it appears that the outcome of the arbitration is meant to be the final action on the dispute; the bill may prevent a party to the dispute from appealing or taking other legal recourse, thereby limiting a party’s access to courts.

This provision may implicate concerns related to the constitutional right of access to courts. Article I, s. 21 of the Florida Constitution, provides: “The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.” No similar provision exists in the federal constitution. If the Legislature asserts a valid public purpose, it can restrict access to the courts as long as it provides a reasonable alternative to litigation. In *Nationwide Mut. Fire Ins. Co. v. Pinnacle Medical, Inc.*, the Florida Supreme Court held that requiring mandatory binding arbitration of medical expense claims under the no-fault law without also providing for an appeal to the circuit court for a trial de novo is an unconstitutional denial of access to court.¹⁴² Alternatively, in *Lasky v. State Farm Ins. Co.*,¹⁴³ the Florida Supreme Court upheld the constitutionality of the state’s no-fault automobile insurance statute, although the statute restricted access to the courts. Unless medical expenses reached a certain level, the statute restricted an injured party from bringing a tort action to recover for pain and suffering. The court reasoned that because the statute required every owner of a motor vehicle to obtain insurance, a reasonable alternative to traditional tort actions was available. The court concluded that the statute did not deprive the appellants of their right to a trial by jury because it only abolished the right of recovery in narrow circumstances where it left “nothing to be tried by jury”¹⁴⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

While the extent to which the prioritizing of SAIL funding for youth aging out of foster care will lead to the development of such housing, any housing created will be to the benefit of such youth and any campus that provides such housing.

¹⁴¹ *Id.* at 780.

¹⁴² *Nationwide Mut. Fire Ins. Co. v. Pinnacle Medical, Inc.*, 753 So.2d 55 (Fla. 2000).

¹⁴³ *Lasky v. State Farm Ins. Co.*, 296 So.2d 9 (Fla. 1974).

¹⁴⁴ *Id.* at 22. See generally Mark M. Hager, *No Fault Drives Again: A Contemporary Primer*, 52 U. Miami L. Rev. 793 (1998).

The Florida Housing Coalition, as provider of the Catalyst Program, will incur new costs related to the administration of statewide regional affordable housing workshops for locally elected officials and required reporting as specified in sections 15 and 17 of the bill. The coalitions estimates that the workshops and report may cost approximately \$72,900 to \$101,000, depending on the number of regions and whether the method of delivery is by teleconference or in person.¹⁴⁵ SB 2500 includes an appropriation of \$500,000 in nonrecurring funds to the Catalyst Program.¹⁴⁶

A recreational vehicle dealer may avoid the costs of obtaining a garage insurance policy, if the dealer sells only park trailers.

Mobile home dealers may benefit by only being required to have enough space to display a manufactured home as a mobile home.

Mobile home park homeowners' associations may incur costs to change bylaws and related policies to meet the requirements of the bill, including those related to elections, and costs related to notifications required to the park owner by certified mail.

Mobile home owners and homeowners' associations will bear the costs of any disputes about elections, recalls, or inspection and copying of records that must be submitted to mandatory binding arbitration.

C. Government Sector Impact:

Local governments may incur indeterminate, but likely insignificant, expenses to comply with certain provisions related to affordable housing and reporting information about impact fees and expenditures for affordable housing.

There is currently no appropriation in SB 2500, the Senate's General Appropriations Bill for Fiscal Year 2020-2021, for the Community Workforce Housing Innovation Pilot Program (CWHIP) or its successor program under the bill. It is unknown if the FHFC would dedicate funds to the program without a specific appropriation in the General Appropriations Act (section 14 of the bill)

The amount of funds set aside for persons with special needs that the FHFC would prioritize for the housing for youth aging out of foster care as provided in section 13 of the bill is unknown. The cost to the FHFC and the Department of Children and Families to create minimum criteria can likely be absorbed within existing resources.

Local governments may incur travel expenses linked to elected official attendance at regional affordable housing workshops.

¹⁴⁵ Kody Glazer, Legal Director, Florida Housing Coalition, *Senate Bill 998: Cost Estimate of Proposed Catalyst Additions*, February 14, 2020 (on file with the Senate Appropriations Committee).

¹⁴⁶ Specific Appropriation 2282, s. 6, SB 2500 (2020).

The costs to the Department of Business and Professional Regulation to conduct the mandatory binding arbitration required under section 31 of the bill is unknown at this time. However, the bill does require the costs to be borne by the parties.

VI. Technical Deficiencies:

Sections 9 and 10 of the bill change references to a repair and remodeling code for mobile and manufactured homes. Currently, Rule 15C-2.0081, F.A.C., references the “Mobile/Manufactured Home Repair and Remodeling Code,” not the “Mobile and Manufactured Home Repair and Remodeling Code” referenced by the bill. Additionally, the title of s. 320.8232, F.S., is currently “Establishment of uniform standards for used recreational vehicles and repair and remodeling code for mobile homes.” The sponsor may wish to amend the bill to update the title of the statute to include “manufactured homes.”¹⁴⁷

VII. Related Issues:

The FHFC is authorized to adopt rules to implement the Community Workforce Housing Loan Program created in section 14 of the bill.

The Division of Condominiums, Timeshares, and Mobile Homes is required to adopt procedural rules to:

- Govern mobile home park homeowners’ association elections, including, but not limited to, rules for providing notice by electronic transmission and rules for maintaining secrecy of ballots in section 28 of the bill.
- Govern mandatory binding arbitration for disputes of election of homeowners’ association officers, recall of officers, and inspection and photocopying of official records in section 29 of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.01055, 129.03, 163.31771, 163.31801, 166.04151, 166.241, 320.77, 320.771, 320.822, 320.8232, 367.022, 420.5087, 420.5095, 420.531, 420.9075, 420.9076, 723.011, 723.012, 723.023, 723.031, 723.037, 723.041, 723.042, 723.059, 723.061, 723.076, 723.078, 723.079, and 723.1255.

The bill reenacts the following sections of the Florida Statutes: 193.018 and 420.507.

The bill creates section 420.518 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/CS/CS by Appropriations on March 3, 2020:

The committee substitute:

¹⁴⁷ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis SB 998*, February 12, 2020 (on file with the Senate Committee on Infrastructure and Security).

- Requires counties, municipalities, and special districts to report on each exception and waiver of impact fees for affordable housing within the annual financial audit report submitted to the Department of Financial Services.
- Requires counties and municipalities to report annually on all funds spent on affordable housing, including federal, state, local, and other funds expended, in their annual reports of economic status information to the Office of Economic and Demographic Research.
- Authorizes the FHFC to preclude applicants and affiliates of applicants from participation in FHFC programs for certain actions and provides procedures for such preclusion.
- Clarifies that the required notice to a mobile home park owner is of the new board members, not new homeowners' association members.
- Moves the provisions related to prioritization of SAIL funds for housing for youth aging out of foster care into the SAIL statute (the provision was drafted in the SHIP statute).
- Makes technical amendments to the title.
- Removes all provisions of the bill related to property tax exemptions, which:
 - Authorized counties and municipalities to grant property tax exemptions for property that is being used to provide or being prepared to provide affordable housing;
 - Extended a current property tax exemption for affordable housing to vacant units within an affordable housing property, as well as units occupied by persons who no longer meet the income limitations of affordable housing, but who did meet those limitations at the time they became tenants;
 - Authorized a current property tax exemption for affordable housing to apply when owned by multiple limited liability companies or limited partnerships, as long as the ultimate owner is a 501(c)(3) organization; and
 - Extended the current tax exemption for housing authority property to instrumentalities of the housing authority.

CS/CS by Infrastructure and Security on February 17, 2020:

- Reverts accessory dwelling units back to optional instead of mandatory for local governments.
- Allows property used for certain purpose to be eligible for exemption from ad valorem taxes.
- Modifies the CWHIP program into a loan program, and removes workforce housing set aside requirements.
- Modifies numerous issues related to the mobile home park owners, mobile home owners, and mobile home homeowners' associations.
- Allows a mobile home park to be rebuilt to same density as was approved, permitted, and built prior to destruction from natural force. The bill allows for "same density as was approved, permitted, or built."
- Changes mobile home eviction notification back to current law requiring certified or registered mail, return receipt requested.

CS by Community Affairs on January 13, 2020:

- Removes a provision prohibiting local governments from collecting impact fees and specified other fees for the development or construction of affordable housing.
- Restores language set for removal in the original bill providing that local governments granting impact fee waivers for affordable housing do not have to use revenues to offset such waivers.
- Provides that the bill's required local government ordinance allowing ADUs applies in areas zoned for single-family residential use rather than areas zoned for any residential use.
- Removes a newly proposed process for local government approvals of development permits, construction permits, or certificates of occupancy which would apply specifically for affordable housing.
- Changes an intended priority funding criteria within the Workforce Housing Loan Program to set aside "at least 50 percent of units" for workforce housing.
- Removes a newly proposed Rental to Homeownership Program tied to the awarding of rental funding in ch. 420, F.S.
- Authorizes the FHFC to withhold up to 5 percent of annual Local Government Housing Trust Fund distributions to fund transitional housing for persons aging out of foster care.
- Removes proposed changes to funding reservation percentage categories and administrative cost caps in the SHIP Program.
- Adds data reporting within a SHIP entity's submissions to the FHFC on applications received, approved and denied.
- Changes the frequency of proposed locally elected regional workshops on affordable housing from quarterly to biannually and permits three absences (rather than one) before the FHFC may withhold a local government's SHIP funding.
- Removes some cross references and statutory reenactments made unnecessary by the other changes in the bill.
- Clarifies provisions exempting mobile home park owners from the jurisdiction of the PSC when they provide water and wastewater.

B. Amendments:

None.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Hutson) recommended the following:

- 1 **Senate Amendment (with title amendment)**
- 2
- 3 Delete lines 201 - 1257
- 4 and insert:
- 5 Section 2. Paragraph (d) of subsection (3) of section
- 6 129.03, Florida Statutes, is amended to read:
- 7 129.03 Preparation and adoption of budget.—
- 8 (3) The county budget officer, after tentatively



9 ascertaining the proposed fiscal policies of the board for the
10 next fiscal year, shall prepare and present to the board a
11 tentative budget for the next fiscal year for each of the funds
12 provided in this chapter, including all estimated receipts,
13 taxes to be levied, and balances expected to be brought forward
14 and all estimated expenditures, reserves, and balances to be
15 carried over at the end of the year.

16 (d) By ~~October 15, 2019,~~ and each October 15 annually
17 ~~thereafter,~~ the county budget officer shall electronically
18 submit the following information regarding the final budget and
19 the county's economic status to the Office of Economic and
20 Demographic Research in the format specified by the office:

21 1. Government spending per resident, including, at a
22 minimum, the spending per resident for the previous 5 fiscal
23 years.

24 2. Government debt per resident, including, at a minimum,
25 the debt per resident for the previous 5 fiscal years.

26 3. Median income within the county.

27 4. The average county employee salary.

28 5. Percent of budget spent on salaries and benefits for
29 county employees.

30 6. Number of special taxing districts, wholly or partially,
31 within the county.

32 7. Annual county expenditures providing for the financing,
33 acquisition, construction, reconstruction, or rehabilitation of
34 housing that is affordable, as that term is defined in s.
35 420.0004. The reported expenditures must indicate the source of
36 such funds as "federal," "state," "local," or "other," as
37 applicable. The information required by this subparagraph must



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38 be included in the submission due by October 15, 2020, and each
39 annual submission thereafter.

40 Section 3. Subsections (3) and (4) of section 163.31771,
41 Florida Statutes, are amended to read:

42 163.31771 Accessory dwelling units.—

43 (3) ~~A Upon a finding by a local government that there is a~~
44 ~~shortage of affordable rentals within its jurisdiction, the~~
45 local government may adopt an ordinance to allow accessory
46 dwelling units in any area zoned for single-family residential
47 use.

48 (4) ~~If the local government adopts an ordinance under this~~
49 ~~section,~~ An application for a building permit to construct an
50 accessory dwelling unit must include an affidavit from the
51 applicant which attests that the unit will be rented at an
52 affordable rate to an extremely-low-income, very-low-income,
53 low-income, or moderate-income person or persons.

54 Section 4. Subsection (10) is added to section 163.31801,
55 Florida Statutes, to read:

56 163.31801 Impact fees; short title; intent; minimum
57 requirements; audits; challenges.—

58 (10) In addition to the items that must be reported in the
59 annual financial reports under s. 218.32, a county,
60 municipality, or special district must report all of the
61 following data on all impact fees charged:

62 (a) The specific purpose of the impact fee, including the
63 specific infrastructure needs to be met, including, but not
64 limited to, transportation, parks, water, sewer, and schools.

65 (b) The impact fee schedule policy describing the method of
66 calculating impact fees, such as flat fees, tiered scales based



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67 on number of bedrooms, or tiered scales based on square footage.

68 (c) The amount assessed for each purpose and for each type
69 of dwelling.

70 (d) The total amount of impact fees charged by type of
71 dwelling.

72 (e) Each exception and waiver provided for construction or
73 development of housing that is affordable.

74 Section 5. Subsection (4) is added to section 166.04151,
75 Florida Statutes, to read:

76 166.04151 Affordable housing.—

77 (4) Notwithstanding any other law or local ordinance or
78 regulation to the contrary, the governing body of a municipality
79 may approve the development of housing that is affordable, as
80 defined in s. 420.0004, on any parcel zoned for residential,
81 commercial, or industrial use.

82 Section 6. Paragraph (g) is added to subsection (4) of
83 section 166.241, Florida Statutes, to read:

84 166.241 Fiscal years, budgets, and budget amendments.—

85 (4) By ~~Beginning October 15, 2019,~~ and each October 15
86 ~~thereafter,~~ the municipal budget officer shall electronically
87 submit the following information regarding the final budget and
88 the municipality's economic status to the Office of Economic and
89 Demographic Research in the format specified by the office:

90 (g) Annual municipal expenditures providing for the
91 financing, acquisition, construction, reconstruction, or
92 rehabilitation of housing that is affordable, as that term is
93 defined in s. 420.0004. The reported expenditures must indicate
94 the source of such funds as "federal," "state," "local," or
95 "other," as applicable. This information must be included in the



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96 submission due by October 15, 2020, and each annual submission
97 thereafter.

98 Section 7. Paragraph (h) of subsection (3) of section
99 320.77, Florida Statutes, is amended to read:

100 320.77 License required of mobile home dealers.-

101 (3) APPLICATION.-The application for such license shall be
102 in the form prescribed by the department and subject to such
103 rules as may be prescribed by it. The application shall be
104 verified by oath or affirmation and shall contain:

105 (h) Certification by the applicant:

106 1. That the location is a permanent one, not a tent or a
107 temporary stand or other temporary quarters. ~~;~~ ~~and,~~

108 2. Except in the case of a mobile home broker, that the
109 location affords sufficient ~~unoccupied~~ space to display ~~store~~
110 ~~all mobile homes offered and displayed~~ for sale. A space to
111 display a manufactured home as a model home is sufficient to
112 satisfy this requirement. ~~;~~ ~~and that~~ The location must be ~~is~~ a
113 suitable place in which the applicant can in good faith carry on
114 business and keep and maintain books, records, and files
115 necessary to conduct such business, which must ~~will~~ be available
116 at all reasonable hours to inspection by the department or any
117 of its inspectors or other employees.

118
119 This paragraph does ~~subsection shall~~ not preclude a licensed
120 mobile home dealer from displaying and offering for sale mobile
121 homes in a mobile home park.

122
123 The department shall, if it deems necessary, cause an
124 investigation to be made to ascertain if the facts set forth in



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125 the application are true and shall not issue a license to the
126 applicant until it is satisfied that the facts set forth in the
127 application are true.

128 Section 8. Paragraph (j) of subsection (3) of section
129 320.771, Florida Statutes, is amended to read:

130 320.771 License required of recreational vehicle dealers.-

131 (3) APPLICATION.-The application for such license shall be
132 in the form prescribed by the department and subject to such
133 rules as may be prescribed by it. The application shall be
134 verified by oath or affirmation and shall contain:

135 (j) A statement that the applicant is insured under a
136 garage liability insurance policy, which shall include, at a
137 minimum, \$25,000 combined single-limit liability coverage,
138 including bodily injury and property damage protection, and
139 \$10,000 personal injury protection, if the applicant is to be
140 licensed as a dealer in, or intends to sell, recreational
141 vehicles. However, a garage liability policy is not required for
142 the licensure of a mobile home dealer who sells only park
143 trailers.

144
145 The department shall, if it deems necessary, cause an
146 investigation to be made to ascertain if the facts set forth in
147 the application are true and shall not issue a license to the
148 applicant until it is satisfied that the facts set forth in the
149 application are true.

150 Section 9. Paragraph (c) of subsection (2) of section
151 320.822, Florida Statutes, is amended to read:

152 320.822 Definitions; ss. 320.822-320.862.-In construing ss.
153 320.822-320.862, unless the context otherwise requires, the



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154 following words or phrases have the following meanings:

155 (2) "Code" means the appropriate standards found in:

156 (c) The Mobile and Manufactured Home Repair and Remodeling
157 Code and the Used Recreational Vehicle Code.

158 Section 10. Subsection (2) of section 320.8232, Florida
159 Statutes, is amended to read:

160 320.8232 Establishment of uniform standards for used
161 recreational vehicles and repair and remodeling code for mobile
162 homes.—

163 (2) The Mobile and Manufactured Home ~~provisions of the~~
164 Repair and Remodeling Code must be a uniform code, must shall
165 ensure safe and livable housing, and may shall not be more
166 stringent than those standards required to be met in the
167 manufacture of mobile homes. Such code must provisions shall
168 include, ~~but not be limited to,~~ standards for structural
169 adequacy, plumbing, heating, electrical systems, and fire and
170 life safety. All repairs and remodeling of mobile and
171 manufactured homes must be performed in accordance with
172 department rules.

173 Section 11. Subsection (9) of section 367.022, Florida
174 Statutes, is amended, and subsection (14) is added to that
175 section, to read:

176 367.022 Exemptions.—The following are not subject to
177 regulation by the commission as a utility nor are they subject
178 to the provisions of this chapter, except as expressly provided:

179 (9) Any person who resells water service to his or her
180 tenants or to individually metered residents for a fee that does
181 not exceed the actual purchase price of the water and wastewater
182 service plus the actual cost of meter reading and billing, not



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183 to exceed 9 percent of the actual cost of service.

184 (14) The owner of a mobile home park operating both as a
185 mobile home park and a mobile home subdivision, as those terms
186 are defined in s. 723.003, who provides service within the park
187 and subdivision to a combination of both tenants and lot owners,
188 provided that the service to tenants is without specific
189 compensation.

190 Section 12. Section 420.518, Florida Statutes, is created
191 to read:

192 420.518 Fraudulent or material misrepresentation.—

193 (1) An applicant or affiliate of an applicant may be
194 precluded from participation in any corporation program if the
195 applicant or affiliate of the applicant has:

196 1. Made a material misrepresentation or engaged in
197 fraudulent actions in connection with any corporation program.

198 2. Been convicted or found guilty of, or entered a plea of
199 guilty or nolo contendere to, regardless of adjudication, a
200 crime in any jurisdiction which directly relates to the
201 financing, construction, or management of affordable housing or
202 the fraudulent procurement of state or federal funds. The record
203 of a conviction certified or authenticated in such form as to be
204 admissible in evidence under the laws of the state shall be
205 admissible as prima facie evidence of such guilt.

206 3. Been excluded from any federal funding program related
207 to the provision of housing.

208 4. Been excluded from any Florida procurement programs.

209 5. Offered or given consideration, other than the
210 consideration to provide affordable housing, with respect to a
211 local contribution.



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212 6. Demonstrated a pattern of noncompliance and a failure to
213 correct any such noncompliance after notice from the corporation
214 in the construction, operation, or management of one or more
215 developments funded through a corporation program.

216 (2) Upon a determination by the board of directors of the
217 corporation that an applicant or affiliate of the applicant be
218 precluded from participation in any corporation program, the
219 board may issue an order taking any or all of the following
220 actions:

221 (a) Preclude such applicant or affiliate from applying for
222 funding from any corporation program for a specified period. The
223 period may be a specified period of time or permanent in nature.
224 With regard to establishing the duration, the board shall
225 consider the facts and circumstances, inclusive of the
226 compliance history of the applicant or affiliate of the
227 applicant, the type of action under subsection (1), and the
228 degree of harm to the corporation's programs that has been or
229 may be done.

230 (b) Revoke any funding previously awarded by the
231 corporation for any development for which construction or
232 rehabilitation has not commenced.

233 (3) Before any order issued under this section can be
234 final, an administrative complaint must be served on the
235 applicant, affiliate of the applicant, or its registered agent
236 that provides notification of findings of the board, the
237 intended action, and the opportunity to request a proceeding
238 pursuant to ss. 120.569 and 120.57.

239 (4) Any funding, allocation of federal housing credits,
240 credit underwriting procedures, or application review for any



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241 development for which construction or rehabilitation has not
242 commenced may be suspended by the corporation upon the service
243 of an administrative complaint on the applicant, affiliate of
244 the applicant, or its registered agent. The suspension shall be
245 effective from the date the administrative complaint is served
246 until an order issued by the corporation in regard to that
247 complaint becomes final.

248 Section 13. Paragraph (c) of subsection (6) of section
249 420.5087, Florida Statutes, is amended, and subsection (10) is
250 added to that section, to read:

251 420.5087 State Apartment Incentive Loan Program.—There is
252 hereby created the State Apartment Incentive Loan Program for
253 the purpose of providing first, second, or other subordinated
254 mortgage loans or loan guarantees to sponsors, including for-
255 profit, nonprofit, and public entities, to provide housing
256 affordable to very-low-income persons.

257 (6) On all state apartment incentive loans, except loans
258 made to housing communities for the elderly to provide for
259 lifesafety, building preservation, health, sanitation, or
260 security-related repairs or improvements, the following
261 provisions shall apply:

262 (c) The corporation shall provide by rule for the
263 establishment of a review committee for the competitive
264 evaluation and selection of applications submitted in this
265 program, including, but not limited to, the following criteria:

266 1. Tenant income and demographic targeting objectives of
267 the corporation.

268 2. Targeting objectives of the corporation which will
269 ensure an equitable distribution of loans between rural and



- 270 urban areas.
- 271 3. Sponsor's agreement to reserve the units for persons or
272 families who have incomes below 50 percent of the state or local
273 median income, whichever is higher, for a time period that
274 exceeds the minimum required by federal law or this part.
- 275 4. Sponsor's agreement to reserve more than:
- 276 a. Twenty percent of the units in the project for persons
277 or families who have incomes that do not exceed 50 percent of
278 the state or local median income, whichever is higher; or
- 279 b. Forty percent of the units in the project for persons or
280 families who have incomes that do not exceed 60 percent of the
281 state or local median income, whichever is higher, without
282 requiring a greater amount of the loans as provided in this
283 section.
- 284 5. Provision for tenant counseling.
- 285 6. Sponsor's agreement to accept rental assistance
286 certificates or vouchers as payment for rent.
- 287 7. Projects requiring the least amount of a state apartment
288 incentive loan compared to overall project cost, except that the
289 share of the loan attributable to units serving extremely-low-
290 income persons must be excluded from this requirement.
- 291 8. Local government contributions and local government
292 comprehensive planning and activities that promote affordable
293 housing and policies that promote access to public
294 transportation, reduce the need for onsite parking, and expedite
295 permits for affordable housing projects.
- 296 9. Project feasibility.
- 297 10. Economic viability of the project.
- 298 11. Commitment of first mortgage financing.



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299 12. Sponsor's prior experience.
300 13. Sponsor's ability to proceed with construction.
301 14. Projects that directly implement or assist welfare-to-
302 work transitioning.
303 15. Projects that reserve units for extremely-low-income
304 persons.
305 16. Projects that include green building principles, storm-
306 resistant construction, or other elements that reduce long-term
307 costs relating to maintenance, utilities, or insurance.
308 17. Job-creation rate of the developer and general
309 contractor, as provided in s. 420.507(47).
310 (10) The corporation may prioritize a portion of the
311 program funds set aside under paragraph (3)(d) for persons with
312 special needs as defined in s. 420.0004(13) to provide funding
313 for the development of newly constructed permanent rental
314 housing on a campus that provides housing for persons in foster
315 care or persons aging out of foster care pursuant to s.
316 409.1451. Such housing shall promote and facilitate access to
317 community-based supportive, educational, and employment services
318 and resources that assist persons aging out of foster care to
319 successfully transition to independent living and adulthood. The
320 corporation must consult with the Department of Children and
321 Families to create minimum criteria for such housing.
322 Section 14. Section 420.5095, Florida Statutes, is amended
323 to read:
324 420.5095 Community Workforce Housing Loan Innovation Pilot
325 Program.—
326 (1) The Legislature finds and declares that recent rapid
327 increases in the median purchase price of a home and the cost of



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328 rental housing have far outstripped the increases in median
329 income in the state, ~~preventing essential services personnel~~
330 ~~from living in the communities where they serve and thereby~~
331 creating the need for innovative solutions for the provision of
332 housing opportunities ~~for essential services personnel.~~

333 (2) The Community Workforce Housing Loan Innovation Pilot
334 Program is created to provide ~~affordable rental and home~~
335 ~~ownership community~~ workforce housing for persons ~~essential~~
336 ~~services personnel~~ affected by the high cost of housing, ~~using~~
337 ~~regulatory incentives and state and local funds to promote local~~
338 ~~public-private partnerships and leverage government and private~~
339 ~~resources.~~

340 (3) For purposes of this section, the term:

341 ~~(a)~~ "workforce housing" means housing affordable to natural
342 persons or families whose total annual household income does not
343 exceed 80 ~~140~~ percent of the area median income, adjusted for
344 household size, or 120 ~~150~~ percent of area median income,
345 adjusted for household size, in areas of critical state concern
346 designated under s. 380.05, for which the Legislature has
347 declared its intent to provide affordable housing, and areas
348 that were designated as areas of critical state concern for at
349 least 20 consecutive years before ~~prior to~~ removal of the
350 designation.

351 ~~(b)~~ "Public-private partnership" means ~~any form of business~~
352 ~~entity that includes substantial involvement of at least one~~
353 ~~county, one municipality, or one public sector entity, such as a~~
354 ~~school district or other unit of local government in which the~~
355 ~~project is to be located, and at least one private sector for-~~
356 ~~profit or not-for-profit business or charitable entity, and may~~



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357 ~~be any form of business entity, including a joint venture or~~
358 ~~contractual agreement.~~

359 (4) The Florida Housing Finance Corporation is authorized
360 to provide loans under the ~~Community Workforce Housing~~
361 ~~Innovation Pilot~~ program loans to applicants ~~an applicant~~ for
362 construction ~~or rehabilitation~~ of workforce housing ~~in eligible~~
363 areas. This funding is intended to be used with other public and
364 private sector resources.

365 (5) The corporation shall establish a loan application
366 process under s. 420.5087 ~~by rule which includes selection~~
367 ~~criteria, an application review process, and a funding process.~~
368 ~~The corporation shall also establish an application review~~
369 ~~committee that may include up to three private citizens~~
370 ~~representing the areas of housing or real estate development,~~
371 ~~banking, community planning, or other areas related to the~~
372 ~~development or financing of workforce and affordable housing.~~

373 ~~(a) The selection criteria and application review process~~
374 ~~must include a procedure for curing errors in the loan~~
375 ~~applications which do not make a substantial change to the~~
376 ~~proposed project.~~

377 ~~(b) To achieve the goals of the pilot program, the~~
378 ~~application review committee may approve or reject loan~~
379 ~~applications or responses to questions raised during the review~~
380 ~~of an application due to the insufficiency of information~~
381 ~~provided.~~

382 ~~(c) The application review committee shall make~~
383 ~~recommendations concerning program participation and funding to~~
384 ~~the corporation's board of directors.~~

385 ~~(d) The board of directors shall approve or reject loan~~



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386 ~~applications, determine the tentative loan amount available to~~
387 ~~each applicant, and rank all approved applications.~~

388 ~~(c) The board of directors shall decide which approved~~
389 ~~applicants will become program participants and determine the~~
390 ~~maximum loan amount for each program participant.~~

391 ~~(6) The corporation shall provide incentives for local~~
392 ~~governments in eligible areas to use local affordable housing~~
393 ~~funds, such as those from the State Housing Initiatives~~
394 ~~Partnership Program, to assist in meeting the affordable housing~~
395 ~~needs of persons eligible under this program. Local governments~~
396 ~~are authorized to use State Housing Initiative Partnership~~
397 ~~Program funds for persons or families whose total annual~~
398 ~~household income does not exceed:~~

399 ~~(a) One hundred and forty percent of the area median~~
400 ~~income, adjusted for household size; or~~

401 ~~(b) One hundred and fifty percent of the area median~~
402 ~~income, adjusted for household size, in areas that were~~
403 ~~designated as areas of critical state concern for at least 20~~
404 ~~consecutive years prior to the removal of the designation and in~~
405 ~~areas of critical state concern, designated under s. 380.05, for~~
406 ~~which the Legislature has declared its intent to provide~~
407 ~~affordable housing.~~

408 ~~(7) Funding shall be targeted to innovative projects in~~
409 ~~areas where the disparity between the area median income and the~~
410 ~~median sales price for a single-family home is greatest, and~~
411 ~~where population growth as a percentage rate of increase is~~
412 ~~greatest. The corporation may also fund projects in areas where~~
413 ~~innovative regulatory and financial incentives are made~~
414 ~~available. The corporation shall fund at least one eligible~~



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415 ~~project in as many counties and regions of the state as is~~
416 ~~practicable, consistent with program goals.~~

417 ~~(6)(8) Projects must be given shall receive priority~~
418 ~~consideration for funding if where:~~

419 ~~(a) the local jurisdiction has adopted, or is committed to~~
420 ~~adopting, appropriate regulatory incentives, ~~or the local~~~~
421 ~~jurisdiction or public-private partnership has adopted or is~~
422 ~~committed to adopting local contributions or financial~~
423 ~~strategies, or other funding sources to promote the development~~
424 ~~and ongoing financial viability of such projects. Local~~
425 ~~incentives include such actions as expediting review of~~
426 ~~development orders and permits, supporting development near~~
427 ~~transportation hubs and major employment centers, and adopting~~
428 ~~land development regulations designed to allow flexibility in~~
429 ~~densities, use of accessory units, mixed-use developments, and~~
430 ~~flexible lot configurations. Financial strategies include such~~
431 ~~actions as promoting employer-assisted housing programs,~~
432 ~~providing tax increment financing, and providing land.~~

433 ~~(b) Projects are innovative and include new construction or~~
434 ~~rehabilitation; mixed-income housing; commercial and housing~~
435 ~~mixed-use elements; innovative design; green building~~
436 ~~principles; storm-resistant construction; or other elements that~~
437 ~~reduce long-term costs relating to maintenance, utilities, or~~
438 ~~insurance and promote homeownership. The program funding may not~~
439 ~~exceed the costs attributable to the portion of the project that~~
440 ~~is set aside to provide housing for the targeted population.~~

441 ~~(c) Projects that set aside at least 80 percent of units~~
442 ~~for workforce housing and at least 50 percent for essential~~
443 ~~services personnel and for projects that require the least~~



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444 ~~amount of program funding compared to the overall housing costs~~
445 ~~for the project.~~

446 ~~(9) Notwithstanding s. 163.3184(4)(b)-(d), any local~~
447 ~~government comprehensive plan amendment to implement a Community~~
448 ~~Workforce Housing Innovation Pilot Program project found~~
449 ~~consistent with this section shall be expedited as provided in~~
450 ~~this subsection. At least 30 days prior to adopting a plan~~
451 ~~amendment under this subsection, the local government shall~~
452 ~~notify the state land planning agency of its intent to adopt~~
453 ~~such an amendment, and the notice shall include its evaluation~~
454 ~~related to site suitability and availability of facilities and~~
455 ~~services. The public notice of the hearing required by s.~~
456 ~~163.3184(11)(b)2. shall include a statement that the local~~
457 ~~government intends to use the expedited adoption process~~
458 ~~authorized by this subsection. Such amendments shall require~~
459 ~~only a single public hearing before the governing board, which~~
460 ~~shall be an adoption hearing as described in s. 163.3184(4)(e).~~
461 ~~Any further proceedings shall be governed by s. 163.3184(5)-~~
462 ~~(13).~~

463 ~~(10) The processing of approvals of development orders or~~
464 ~~development permits, as defined in s. 163.3164, for innovative~~
465 ~~community workforce housing projects shall be expedited.~~

466 ~~(7)(11) The corporation shall award loans with a 1 interest~~
467 ~~rates set at 1 to 3 percent interest rate for a term that does~~
468 ~~not exceed 15 years, which may be made forgivable when long term~~
469 ~~affordability is provided and when at least 80 percent of the~~
470 ~~units are set aside for workforce housing and at least 50~~
471 ~~percent of the units are set aside for essential services~~
472 ~~personnel.~~



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473 ~~(12) All eligible applications shall:~~
474 ~~(a) For home ownership, limit the sales price of a detached~~
475 ~~unit, townhome, or condominium unit to not more than 90 percent~~
476 ~~of the median sales price for that type of unit in that county,~~
477 ~~or the statewide median sales price for that type of unit,~~
478 ~~whichever is higher, and require that all eligible purchasers of~~
479 ~~home ownership units occupy the homes as their primary~~
480 ~~residence.~~
481 ~~(b) For rental units, restrict rents for all workforce~~
482 ~~housing serving those with incomes at or below 120 percent of~~
483 ~~area median income at the appropriate income level using the~~
484 ~~restricted rents for the federal low-income housing tax credit~~
485 ~~program and, for workforce housing units serving those with~~
486 ~~incomes above 120 percent of area median income, restrict rents~~
487 ~~to those established by the corporation, not to exceed 30~~
488 ~~percent of the maximum household income adjusted to unit size.~~
489 ~~(c) Demonstrate that the applicant is a public-private~~
490 ~~partnership in an agreement, contract, partnership agreement,~~
491 ~~memorandum of understanding, or other written instrument signed~~
492 ~~by all the project partners.~~
493 ~~(d) Have grants, donations of land, or contributions from~~
494 ~~the public-private partnership or other sources collectively~~
495 ~~totaling at least 10 percent of the total development cost or \$2~~
496 ~~million, whichever is less. Such grants, donations of land, or~~
497 ~~contributions must be evidenced by a letter of commitment,~~
498 ~~agreement, contract, deed, memorandum of understanding, or other~~
499 ~~written instrument at the time of application. Grants, donations~~
500 ~~of land, or contributions in excess of 10 percent of the~~
501 ~~development cost shall increase the application score.~~



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502 ~~(e) Demonstrate how the applicant will use the regulatory~~
503 ~~incentives and financial strategies outlined in subsection (8)~~
504 ~~from the local jurisdiction in which the proposed project is to~~
505 ~~be located. The corporation may consult with the Department of~~
506 ~~Economic Opportunity in evaluating the use of regulatory~~
507 ~~incentives by applicants.~~

508 ~~(f) Demonstrate that the applicant possesses title to or~~
509 ~~site control of land and evidences availability of required~~
510 ~~infrastructure.~~

511 ~~(g) Demonstrate the applicant's affordable housing~~
512 ~~development and management experience.~~

513 ~~(h) Provide any research or facts available supporting the~~
514 ~~demand and need for rental or home ownership workforce housing~~
515 ~~for eligible persons in the market in which the project is~~
516 ~~proposed.~~

517 ~~(13) Projects may include manufactured housing constructed~~
518 ~~after June 1994 and installed in accordance with mobile home~~
519 ~~installation standards of the Department of Highway Safety and~~
520 ~~Motor Vehicles.~~

521 ~~(8)~~(14) The corporation may adopt rules pursuant to ss.
522 120.536(1) and 120.54 to implement this section.

523 ~~(15) The corporation may use a maximum of 2 percent of the~~
524 ~~annual program appropriation for administration and compliance~~
525 ~~monitoring.~~

526 ~~(16) The corporation shall review the success of the~~
527 ~~Community Workforce Housing Innovation Pilot Program to~~
528 ~~ascertain whether the projects financed by the program are~~
529 ~~useful in meeting the housing needs of eligible areas and shall~~
530 ~~include its findings in the annual report required under s.~~



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531 ~~420.511(3).~~

532 Section 15. Section 420.531, Florida Statutes, is amended
533 to read:

534 420.531 Affordable Housing Catalyst Program.—

535 (1) The corporation shall operate the Affordable Housing
536 Catalyst Program for the purpose of securing the expertise
537 necessary to provide specialized technical support to local
538 governments and community-based organizations to implement the
539 HOME Investment Partnership Program, State Apartment Incentive
540 Loan Program, State Housing Initiatives Partnership Program, and
541 other affordable housing programs. To the maximum extent
542 feasible, the entity to provide the necessary expertise must be
543 recognized by the Internal Revenue Service as a nonprofit tax-
544 exempt organization. It must have as its primary mission the
545 provision of affordable housing training and technical
546 assistance, an ability to provide training and technical
547 assistance statewide, and a proven track record of successfully
548 providing training and technical assistance under the Affordable
549 Housing Catalyst Program. The technical support shall, at a
550 minimum, include training relating to the following key elements
551 of the partnership programs:

552 (a)~~(1)~~ Formation of local and regional housing partnerships
553 as a means of bringing together resources to provide affordable
554 housing.

555 (b)~~(2)~~ Implementation of regulatory reforms to reduce the
556 risk and cost of developing affordable housing.

557 (c)~~(3)~~ Implementation of affordable housing programs
558 included in local government comprehensive plans.

559 (d)~~(4)~~ Compliance with requirements of federally funded



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560 housing programs.

561 (2) In consultation with the corporation, the entity
562 providing statewide training and technical assistance shall
563 convene and administer biannual, regional workshops for the
564 locally elected officials serving on affordable housing advisory
565 committees as provided in s. 420.9076. The regional workshops
566 may be conducted through teleconferencing or other technological
567 means and must include processes and programming that facilitate
568 peer-to-peer identification and sharing of best affordable
569 housing practices among the locally elected officials. Annually,
570 calendar year reports summarizing the deliberations, actions,
571 and recommendations of each region, as well as the attendance
572 records of locally elected officials, must be compiled by the
573 entity providing statewide training and technical assistance for
574 the Affordable Housing Catalyst Program and must be submitted to
575 the President of the Senate, the Speaker of the House of
576 Representatives, and the corporation by March 31 of the
577 following year.

578 Section 16. Paragraph (j) is added to subsection (10) of
579 section 420.9075, Florida Statutes, to read:

580 420.9075 Local housing assistance plans; partnerships.—

581 (10) Each county or eligible municipality shall submit to
582 the corporation by September 15 of each year a report of its
583 affordable housing programs and accomplishments through June 30
584 immediately preceding submittal of the report. The report shall
585 be certified as accurate and complete by the local government's
586 chief elected official or his or her designee. Transmittal of
587 the annual report by a county's or eligible municipality's chief
588 elected official, or his or her designee, certifies that the



589 local housing incentive strategies, or, if applicable, the local
590 housing incentive plan, have been implemented or are in the
591 process of being implemented pursuant to the adopted schedule
592 for implementation. The report must include, but is not limited
593 to:

594 (j) The number of affordable housing applications
595 submitted, the number approved, and the number denied.

596 Section 17. Subsections (2) and (4) of section 420.9076,
597 Florida Statutes, are amended, and subsection (10) is added to
598 that section, to read:

599 420.9076 Adoption of affordable housing incentive
600 strategies; committees.—

601 (2) The governing board of a county or municipality shall
602 appoint the members of the affordable housing advisory
603 committee. Pursuant to the terms of any interlocal agreement, a
604 county and municipality may create and jointly appoint an
605 advisory committee. The local action adopted pursuant to s.
606 420.9072 which creates the advisory committee and appoints the
607 advisory committee members must name at least 8 but not more
608 than 11 committee members and specify their terms. Effective
609 October 1, 2020, the committee must consist of one locally
610 elected official from each county or municipality participating
611 in the State Housing Initiatives Partnership Program and one
612 representative from at least six of the categories below:

613 (a) A citizen who is actively engaged in the residential
614 home building industry in connection with affordable housing.

615 (b) A citizen who is actively engaged in the banking or
616 mortgage banking industry in connection with affordable housing.

617 (c) A citizen who is a representative of those areas of



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618 labor actively engaged in home building in connection with
619 affordable housing.

620 (d) A citizen who is actively engaged as an advocate for
621 low-income persons in connection with affordable housing.

622 (e) A citizen who is actively engaged as a for-profit
623 provider of affordable housing.

624 (f) A citizen who is actively engaged as a not-for-profit
625 provider of affordable housing.

626 (g) A citizen who is actively engaged as a real estate
627 professional in connection with affordable housing.

628 (h) A citizen who actively serves on the local planning
629 agency pursuant to s. 163.3174. If the local planning agency is
630 comprised of the governing board of the county or municipality,
631 the governing board may appoint a designee who is knowledgeable
632 in the local planning process.

633 (i) A citizen who resides within the jurisdiction of the
634 local governing body making the appointments.

635 (j) A citizen who represents employers within the
636 jurisdiction.

637 (k) A citizen who represents essential services personnel,
638 as defined in the local housing assistance plan.

639 (4) Annually ~~Triennially~~, the advisory committee shall
640 review the established policies and procedures, ordinances, land
641 development regulations, and adopted local government
642 comprehensive plan of the appointing local government and shall
643 recommend specific actions or initiatives to encourage or
644 facilitate affordable housing while protecting the ability of
645 the property to appreciate in value. The recommendations may
646 include the modification or repeal of existing policies,



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647 procedures, ordinances, regulations, or plan provisions; the
648 creation of exceptions applicable to affordable housing; or the
649 adoption of new policies, procedures, regulations, ordinances,
650 or plan provisions, including recommendations to amend the local
651 government comprehensive plan and corresponding regulations,
652 ordinances, and other policies. At a minimum, each advisory
653 committee shall submit an annual ~~a~~ report to the local governing
654 body and to the entity providing statewide training and
655 technical assistance for the Affordable Housing Catalyst Program
656 which ~~that~~ includes recommendations on, ~~and triennially~~
657 ~~thereafter evaluates~~ the implementation of, ~~7~~ affordable housing
658 incentives in the following areas:

659 (a) The processing of approvals of development orders or
660 permits for affordable housing projects is expedited to a
661 greater degree than other projects, as provided in s.
662 163.3177(6)(f)3.

663 (b) All allowable fee waivers provided ~~The modification of~~
664 ~~impact-fee requirements, including reduction or waiver of fees~~
665 ~~and alternative methods of fee payment for the development or~~
666 construction of affordable housing.

667 (c) The allowance of flexibility in densities for
668 affordable housing.

669 (d) The reservation of infrastructure capacity for housing
670 for very-low-income persons, low-income persons, and moderate-
671 income persons.

672 (e) ~~The allowance of~~ Affordable accessory residential units
673 ~~in residential zoning districts.~~

674 (f) The reduction of parking and setback requirements for
675 affordable housing.



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676 (g) The allowance of flexible lot configurations, including
677 zero-lot-line configurations for affordable housing.

678 (h) The modification of street requirements for affordable
679 housing.

680 (i) The establishment of a process by which a local
681 government considers, before adoption, policies, procedures,
682 ordinances, regulations, or plan provisions that increase the
683 cost of housing.

684 (j) The preparation of a printed inventory of locally owned
685 public lands suitable for affordable housing.

686 (k) The support of development near transportation hubs and
687 major employment centers and mixed-use developments.

688
689 The advisory committee recommendations may also include other
690 affordable housing incentives identified by the advisory
691 committee. Local governments that receive the minimum allocation
692 under the State Housing Initiatives Partnership Program shall
693 perform an ~~the~~ initial review but may elect to not perform the
694 annual ~~triennial~~ review.

695 (10) The locally elected official serving on an advisory
696 committee, or a locally elected designee, must attend biannual
697 regional workshops convened and administered under the
698 Affordable Housing Catalyst Program as provided in s.
699 420.531(2). If the locally elected official or a locally elected
700 designee fails to attend three consecutive regional workshops,
701 the corporation may withhold funds pending the person's
702 attendance at the next regularly scheduled biannual meeting.

703 Section 18. Section 423.02, Florida Statutes, is amended to
704 read:



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705 423.02 Housing projects exempted from taxes and
706 assessments; payments in lieu thereof.—The housing projects,
707 including all property of housing authorities used for or in
708 connection therewith or appurtenant thereto, of housing
709 authorities, or their nonprofit instrumentalities as authorized
710 by s. 421.08(8), shall be exempt from all taxes and special
711 assessments of the state or any city, town, county, or political
712 subdivision of the state, provided, however, that in lieu of
713 such taxes or special assessments, a housing authority or its
714 nonprofit instrumentality may agree to make payments to any
715 city, town, county, or political subdivision of the state for
716 services, improvements, or facilities furnished by such city,
717 town, county, or political subdivision for the benefit of a
718 housing project owned by the housing authority or its nonprofit
719 instrumentality, but in no event shall such payments exceed the
720 estimated cost to such city, town, county, or political
721 subdivision of the services, improvements, or facilities to be
722 so furnished. A city, town, county, or political subdivision of
723 the state may not rename, modify terminology, or otherwise
724 change a tax or assessment with the intent to circumvent the
725 exemption provided under this section, which must be interpreted
726 broadly to protect housing authorities or their nonprofit
727 instrumentalities from taxation or assessment.

728 Section 19. Subsection (4) of section 723.011, Florida
729 Statutes, is amended to read:

730 723.011 Disclosure prior to rental of a mobile home lot;
731 prospectus, filing, approval.—

732 (4) With regard to a tenancy in existence on the effective
733 date of this chapter, the prospectus or offering circular



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734 offered by the mobile home park owner must ~~shall~~ contain the
735 same terms and conditions as rental agreements offered to all
736 other mobile home owners residing in the park on the effective
737 date of this act, excepting only rent variations based upon lot
738 location and size, and may ~~shall~~ not require any mobile home
739 owner to install any permanent improvements, except that the
740 mobile home owner may be required to install permanent
741 improvements to the mobile home as disclosed in the prospectus.

742 Section 20. Subsection (5) of section 723.012, Florida
743 Statutes, is amended to read:

744 723.012 Prospectus or offering circular.—The prospectus or
745 offering circular, which is required to be provided by s.
746 723.011, must contain the following information:

747 (5) A description of the recreational and other common
748 facilities, if any, that will be used by the mobile home owners,
749 including, but not limited to:

750 (a) The number of buildings and each room thereof and its
751 intended purposes, location, approximate floor area, and
752 capacity in numbers of people.

753 (b) Each swimming pool, as to its general location,
754 approximate size and depths, and approximate deck size and
755 capacity and whether heated.

756 (c) All other facilities and permanent improvements that
757 ~~which~~ will serve the mobile home owners.

758 (d) A general description of the items of personal property
759 available for use by the mobile home owners.

760 (e) A general description of the days and hours that
761 facilities will be available for use.

762 (f) A statement as to whether all improvements are complete



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763 and, if not, their estimated completion dates.

764

765 If a mobile home park owner intends to include additional
766 property and mobile home lots and to increase the number of lots
767 that will use the shared facilities of the park, the mobile home
768 park owner must amend the prospectus to disclose such additions.

769 If the number of mobile home lots in the park increases by more
770 than 15 percent of the total number of lots in the original
771 prospectus, the mobile home park owner must reasonably offset
772 the impact of the additional lots by increasing the shared
773 facilities. The amendment to the prospectus must include a
774 reasonable timeframe for providing the required additional
775 shared facilities. The costs and expenses necessary to increase
776 the shared facilities may not be passed on or passed through to
777 the existing mobile home owners.

778 Section 21. Section 723.023, Florida Statutes, is amended
779 to read:

780 723.023 Mobile home owner's general obligations.—A mobile
781 home owner shall ~~at all times~~:

782 (1) At all times comply with all obligations imposed on
783 mobile home owners by applicable provisions of building,
784 housing, and health codes, including compliance with all
785 building permits and construction requirements for construction
786 on the mobile home and lot. The home owner is responsible for
787 all fines imposed by the local government for noncompliance with
788 any local codes.

789 (2) At all times keep the mobile home lot that ~~which~~ he or
790 she occupies clean, neat, and sanitary, and maintained in
791 compliance with all local codes.



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792 (3) At all times comply with properly promulgated park
793 rules and regulations and require other persons on the premises
794 with his or her consent to comply with such rules and to conduct
795 themselves, and other persons on the premises with his or her
796 consent, in a manner that does not unreasonably disturb other
797 residents of the park or constitute a breach of the peace.

798 (4) Receive written approval from the mobile home park
799 owner before making any exterior modification or addition to the
800 home.

801 (5) When vacating the premises, remove any debris and other
802 property of any kind which is left on the mobile home lot.

803 Section 22. Subsection (5) of section 723.031, Florida
804 Statutes, is amended to read:

805 723.031 Mobile home lot rental agreements.—

806 (5) The rental agreement must ~~shall~~ contain the lot rental
807 amount and services included. An increase in lot rental amount
808 upon expiration of the term of the lot rental agreement must
809 ~~shall~~ be in accordance with ss. 723.033 and 723.037 or s.
810 723.059(4), whichever is applicable; ~~it~~ provided that, pursuant to
811 s. 723.059(4), the amount of the lot rental increase is
812 disclosed and agreed to by the purchaser, in writing. An
813 increase in lot rental amount shall not be arbitrary or
814 discriminatory between similarly situated tenants in the park. A
815 lot rental amount may not be increased during the term of the
816 lot rental agreement, except:

817 (a) When the manner of the increase is disclosed in a lot
818 rental agreement with a term exceeding 12 months and which
819 provides for such increases not more frequently than annually.

820 (b) For pass-through charges as defined in s. 723.003.



821 (c) That a charge may not be collected which results in
822 payment of money for sums previously collected as part of the
823 lot rental amount. The provisions hereof notwithstanding, the
824 mobile home park owner may pass on, at any time during the term
825 of the lot rental agreement, ad valorem property taxes, non-ad
826 valorem assessments, and utility charges, or increases of
827 either, provided that the ad valorem property taxes, non-ad
828 valorem assessments, and utility charges are not otherwise being
829 collected in the remainder of the lot rental amount and provided
830 further that the passing on of such ad valorem taxes, non-ad
831 valorem assessments, or utility charges, or increases of either,
832 was disclosed prior to tenancy, was being passed on as a matter
833 of custom between the mobile home park owner and the mobile home
834 owner, or such passing on was authorized by law. A park owner is
835 deemed to have disclosed the passing on of ad valorem property
836 taxes and non-ad valorem assessments if ad valorem property
837 taxes or non-ad valorem assessments were disclosed as a separate
838 charge or a factor for increasing the lot rental amount in the
839 prospectus or rental agreement. Such ad valorem taxes, non-ad
840 valorem assessments, and utility charges shall be a part of the
841 lot rental amount as defined by this chapter. The term "non-ad
842 valorem assessments" has the same meaning as provided in s.
843 197.3632(1)(d). Other provisions of this chapter
844 notwithstanding, pass-on charges may be passed on only within 1
845 year of the date a mobile home park owner remits payment of the
846 charge. A mobile home park owner is prohibited from passing on
847 any fine, interest, fee, or increase in a charge resulting from
848 a park owner's payment of the charge after the date such charges
849 become delinquent. A mobile home park owner is prohibited from



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850 charging or collecting from the mobile home owners any sum for
851 ad valorem taxes or non-ad valorem tax charges in an amount in
852 excess of the sums remitted by the park owner to the tax
853 collector. Nothing herein shall prohibit a park owner and a
854 homeowner from mutually agreeing to an alternative manner of
855 payment to the park owner of the charges.

856 (d) If a notice of increase in lot rental amount is not
857 given 90 days before the renewal date of the rental agreement,
858 the rental agreement must remain under the same terms until a
859 90-day notice of increase in lot rental amount is given. The
860 notice may provide for a rental term shorter than 1 year in
861 order to maintain the same renewal date.

862 Section 23. Subsection (1) and paragraph (a) of subsection
863 (4) of section 723.037, Florida Statutes, are amended to read:

864 723.037 Lot rental increases; reduction in services or
865 utilities; change in rules and regulations; mediation.—

866 (1) A park owner shall give written notice to each affected
867 mobile home owner and the board of directors of the homeowners'
868 association, if one has been formed, at least 90 days before any
869 increase in lot rental amount or reduction in services or
870 utilities provided by the park owner or change in rules and
871 regulations. The park owner may give notice of all increases in
872 lot rental amount for multiple anniversary dates in the same 90-
873 day notice. The notice must ~~shall~~ identify all other affected
874 homeowners, which may be by lot number, name, group, or phase.
875 If the affected homeowners are not identified by name, the park
876 owner shall make the names and addresses available upon request.
877 However, this requirement does not authorize the release of the
878 names, addresses, or other private information about the



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879 homeowners to the association or any other person for any other
880 purpose. The home owner's right to the 90-day notice may not be
881 waived or precluded by a home owner, or the homeowners'
882 committee, in an agreement with the park owner. Rules adopted as
883 a result of restrictions imposed by governmental entities and
884 required to protect the public health, safety, and welfare may
885 be enforced prior to the expiration of the 90-day period but are
886 not otherwise exempt from the requirements of this chapter.
887 Pass-through charges must be separately listed as to the amount
888 of the charge, the name of the governmental entity mandating the
889 capital improvement, and the nature or type of the pass-through
890 charge being levied. Notices of increase in the lot rental
891 amount due to a pass-through charge must ~~shall~~ state the
892 additional payment and starting and ending dates of each pass-
893 through charge. The homeowners' association shall have no
894 standing to challenge the increase in lot rental amount,
895 reduction in services or utilities, or change of rules and
896 regulations unless a majority of the affected homeowners agree,
897 in writing, to such representation.

898 (4) (a) A committee, not to exceed five in number,
899 designated by a majority of the affected mobile home owners or
900 by the board of directors of the homeowners' association, if
901 applicable, and the park owner shall meet, at a mutually
902 convenient time and place no later than 60 days before the
903 effective date of the change to discuss the reasons for the
904 increase in lot rental amount, reduction in services or
905 utilities, or change in rules and regulations. The negotiating
906 committee shall make a written request for a meeting with the
907 park owner or subdivision developer to discuss those matters



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908 addressed in the 90-day notice, and may include in the request a
909 listing of any other issue, with supporting documentation, that
910 the committee intends to raise and discuss at the meeting. The
911 committee shall address all lot rental amount increases that are
912 specified in the notice of lot rental amount increase,
913 regardless of the effective date of the increase.

914
915 This subsection is not intended to be enforced by civil or
916 administrative action. Rather, the meetings and discussions are
917 intended to be in the nature of settlement discussions prior to
918 the parties proceeding to mediation of any dispute.

919 Section 24. Subsections (5) and (6) are added to section
920 723.041, Florida Statutes, to read:

921 723.041 Entrance fees; refunds; exit fees prohibited;
922 replacement homes.—

923 (5) A mobile home park that is damaged or destroyed due to
924 wind, water, or other natural force may be rebuilt on the same
925 site with the same density as was approved, permitted, and built
926 before the park was damaged or destroyed.

927 (6) This section does not limit the regulation of the
928 uniform firesafety standards established under s. 633.206, but
929 supersedes any other density, separation, setback, or lot size
930 regulation adopted after initial permitting and construction of
931 the mobile home park.

932 Section 25. Section 723.042, Florida Statutes, is amended
933 to read:

934 723.042 Provision of improvements.—A No person may not
935 ~~shall~~ be required by a mobile home park owner or developer, as a
936 condition of residence in the mobile home park, to provide any



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937 improvement unless the requirement is disclosed pursuant to s.
938 723.012(7) ~~s. 723.011~~ prior to occupancy in the mobile home
939 park.

940 Section 26. Section 723.059, Florida Statutes, is amended
941 to read:

942 723.059 ~~Rights of Purchaser of a mobile home within a~~
943 mobile home park.-

944 (1) The purchaser of a mobile home within a mobile home
945 park may become a tenant of the park if such purchaser would
946 otherwise qualify with the requirements of entry into the park
947 under the park rules and regulations, subject to the approval of
948 the park owner, but such approval may not be unreasonably
949 withheld. The purchaser of the mobile home may cancel or rescind
950 the contract for purchase of the mobile home if the purchaser's
951 tenancy has not been approved by the park owner 5 days before
952 the closing of the purchase.

953 (2) Properly promulgated rules may provide for the
954 screening of any prospective purchaser to determine whether or
955 not such purchaser is qualified to become a tenant of the park.

956 (3) The purchaser of a mobile home who intends to become
957 ~~becomes~~ a resident of the mobile home park in accordance with
958 this section has the right to assume the remainder of the term
959 of any rental agreement then in effect between the mobile home
960 park owner and the seller and may assume the seller's
961 prospectus. However, nothing herein shall prohibit a mobile home
962 park owner from offering the purchaser of a mobile home any
963 approved prospectus shall be entitled to rely on the terms and
964 conditions of the prospectus or offering circular as delivered
965 to the initial recipient.



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966 (4) However, nothing herein shall be construed to prohibit
967 a mobile home park owner from increasing the rental amount to be
968 paid by the purchaser upon the expiration of the assumed rental
969 agreement in an amount deemed appropriate by the mobile home
970 park owner, so long as such increase is disclosed to the
971 purchaser prior to his or her occupancy and is imposed in a
972 manner consistent with the purchaser's initial offering circular
973 ~~or~~ prospectus and this act.

974 (5) Lifetime leases and the renewal provisions in
975 automatically renewable leases, both those existing and those
976 entered into after July 1, 1986, are not assumable unless
977 otherwise provided in the mobile home lot rental agreement or
978 unless the transferee is the home owner's spouse. The right to
979 an assumption of the lease by a spouse may be exercised only one
980 time during the term of that lease.

981 Section 27. Paragraph (d) of subsection (1) of section
982 723.061, Florida Statutes, is amended, and subsection (5) is
983 added to that section, to read:

984 723.061 Eviction; grounds, proceedings.—

985 (1) A mobile home park owner may evict a mobile home owner,
986 a mobile home tenant, a mobile home occupant, or a mobile home
987 only on one or more of the following grounds:

988 (d) Change in use of the land comprising the mobile home
989 park, or the portion thereof from which mobile homes are to be
990 evicted, from mobile home lot rentals to some other use, if:

991 1. The park owner gives written notice to the homeowners'
992 association formed and operating under ss. 723.075-723.079 of
993 its right to purchase the mobile home park, if the land
994 comprising the mobile home park is changing use from mobile home



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995 lot rentals to a different use, at the price and under the terms
996 and conditions set forth in the written notice.

997 a. The notice shall be delivered to the officers of the
998 homeowners' association by United States mail. Within 45 days
999 after the date of mailing of the notice, the homeowners'
1000 association may execute and deliver a contract to the park owner
1001 to purchase the mobile home park at the price and under the
1002 terms and conditions set forth in the notice. If the contract
1003 between the park owner and the homeowners' association is not
1004 executed and delivered to the park owner within the 45-day
1005 period, the park owner is under no further obligation to the
1006 homeowners' association except as provided in sub-subparagraph
1007 b.

1008 b. If the park owner elects to offer or sell the mobile
1009 home park at a price lower than the price specified in her or
1010 his initial notice to the officers of the homeowners'
1011 association, the homeowners' association has an additional 10
1012 days to meet the revised price, terms, and conditions of the
1013 park owner by executing and delivering a revised contract to the
1014 park owner.

1015 c. The park owner is not obligated under this subparagraph
1016 or s. 723.071 to give any other notice to, or to further
1017 negotiate with, the homeowners' association for the sale of the
1018 mobile home park to the homeowners' association after 6 months
1019 after the date of the mailing of the initial notice under sub-
1020 subparagraph a.

1021 2. The park owner gives the affected mobile home owners and
1022 tenants at least 6 months' notice of the eviction due to the
1023 projected change in use and of their need to secure other



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1024 accommodations. Within 20 days after giving an eviction notice
1025 to a mobile home owner, the park owner must provide the division
1026 with a copy of the notice. The division must provide the
1027 executive director of the Florida Mobile Home Relocation
1028 Corporation with a copy of the notice.

1029 a. The notice of eviction due to a change in use of the
1030 land must include in a font no smaller than the body of the
1031 notice the following statement:

1032
1033 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME
1034 RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME
1035 RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS
1036 AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND
1037 PROFESSIONAL REGULATION.

1038
1039 b. The park owner may not give a notice of increase in lot
1040 rental amount within 90 days before giving notice of a change in
1041 use.

1042 (5) A park owner who accepts payment of any portion of the
1043 lot rental amount with actual knowledge of noncompliance after
1044 notice and termination of the rental agreement due to a
1045 violation under paragraph (1)(b), paragraph (1)(c), or paragraph
1046 (1)(e) does not waive the right to terminate the rental
1047 agreement or the right to bring a civil action for the
1048 noncompliance, but not for any subsequent or continuing
1049 noncompliance. Any rent so received must be accounted for at the
1050 final hearing.

1051 Section 28. Subsection (1) of section 723.076, Florida
1052 Statutes, is amended to read:



1053 723.076 Incorporation; notification of park owner.—
1054 (1) Upon receipt of its certificate of incorporation, the
1055 homeowners' association shall notify the park owner in writing
1056 of such incorporation and shall advise the park owner of the
1057 names and addresses of the officers of the homeowners'
1058 association by personal delivery upon the park owner's
1059 representative as designated in the prospectus or by certified
1060 mail, return receipt requested. Thereafter, the homeowners'
1061 association shall notify the park owner in writing by certified
1062 mail, return receipt requested, of any change of names and
1063 addresses of its president or registered agent. Upon election or
1064 appointment of new officers or board members, the homeowners'
1065 association shall notify the park owner in writing by certified
1066 mail, return receipt requested, of the names and addresses of
1067 the new officers or board members.

1068
1069 ===== T I T L E A M E N D M E N T =====

1070 And the title is amended as follows:
1071 Delete lines 6 - 150
1072 and insert:
1073 industrial use; amending s. 129.03, F.S.; revising the
1074 information required to be annually submitted by
1075 county budget officers to the Office of Economic and
1076 Demographic Research; requiring certain information to
1077 be included beginning in a specified submission;
1078 amending s. 163.31771, F.S.; revising conditions under
1079 which local governments are authorized to adopt
1080 ordinances that allow accessory dwelling units in any
1081 area zoned for single-family residential use; amending



1082 s. 163.31801, F.S.; requiring counties,
1083 municipalities, and special districts to include
1084 certain data relating to impact fees in their annual
1085 financial reports; amending s. 166.04151, F.S.;
1086 authorizing governing bodies of municipalities to
1087 approve the development of affordable housing on any
1088 parcel zoned for residential, commercial, or
1089 industrial use; amending s. 166.241, F.S.; revising
1090 the information required to be annually submitted by
1091 municipal budget officers to the Office of Economic
1092 and Demographic Research; requiring certain
1093 information to be included beginning in a specified
1094 submission; amending s. 320.77, F.S.; revising a
1095 certification requirement for mobile home dealer
1096 applicants relating to the applicant's business
1097 location; amending s. 320.771, F.S.; exempting certain
1098 recreational vehicle dealer applicants from a garage
1099 liability insurance requirement; amending s. 320.822,
1100 F.S.; revising the definition of the term "code";
1101 amending s. 320.8232, F.S.; revising applicable
1102 standards for the repair and remodeling of mobile and
1103 manufactured homes; amending s. 367.022, F.S.;
1104 revising an exemption from regulation for certain
1105 water service resellers; exempting certain mobile home
1106 park and mobile home subdivision owners from
1107 regulation by the Florida Public Service Commission
1108 relating to water and wastewater systems; creating
1109 420.518, F.S.; precluding participating in Florida
1110 Housing Finance Corporation programs by an applicant



1111 or affiliate of an applicant under certain conditions;
1112 authorizing the board of directors of the corporation
1113 to preclude the applicant for a period of time or
1114 revoke and applicant's funding; providing application;
1115 providing for a suspension for period of time;
1116 amending s. 420.5087, F.S.; revising the criteria used
1117 by a review committee when evaluating and selecting
1118 specified applications for state apartment incentive
1119 loans; authorizing the Florida Housing Finance
1120 Corporation to prioritize a portion of the State
1121 Apartment Incentive Loan funding set aside for certain
1122 purposes; requiring that such funding be used for
1123 housing for certain persons in foster care or persons
1124 aging out of foster care; providing requirements for
1125 such housing; requiring the corporation to consult
1126 with the Department of Children and Families to create
1127 minimum criteria for such housing; amending s.
1128 420.5095, F.S.; renaming the Community Workforce
1129 Housing Innovation Pilot Program as the Community
1130 Workforce Housing Loan Program to provide workforce
1131 housing for persons affected by the high cost of
1132 housing; revising the definition of the term
1133 "workforce housing"; deleting the definition of the
1134 term "public-private partnership"; authorizing the
1135 corporation to provide loans under the program to
1136 applicants for construction of workforce housing;
1137 requiring the corporation to establish a certain loan
1138 application process; deleting provisions requiring the
1139 corporation to provide incentives for local



1140 governments to use certain funds; requiring projects
1141 to receive priority consideration for funding under
1142 certain circumstances; deleting a provision providing
1143 for the expedition of local government comprehensive
1144 plan amendments to implement a program project;
1145 requiring that the corporation award loans at a
1146 specified interest rate and for a limited term;
1147 conforming provisions to changes made by the act;
1148 deleting a provision authorizing the corporation to
1149 use a maximum percentage of a specified appropriation
1150 for administration and compliance; amending s.
1151 420.531, F.S.; specifying that technical support
1152 provided to local governments and community-based
1153 organizations includes implementation of the State
1154 Apartment Incentive Loan Program; requiring the entity
1155 providing training and technical assistance to convene
1156 and administer biannual workshops; providing
1157 requirements for such workshops; requiring such entity
1158 to annually compile and submit certain information to
1159 the Legislature and the corporation by a specified
1160 date; amending s. 420.9075, F.S.; revising
1161 requirements for reports submitted to the corporation
1162 by counties and certain municipalities; amending s.
1163 420.9076, F.S.; beginning on a specified date,
1164 revising the membership of local affordable housing
1165 advisory committees; requiring the committees to
1166 perform specified duties annually instead of
1167 triennially; revising duties of the committees;
1168 requiring locally elected officials serving on



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1169 advisory committees, or their designees, to attend
1170 biannual regional workshops; providing a penalty;
1171 amending s. 423.02, F.S.; exempting certain nonprofit
1172 instrumentalities from all taxes and special
1173 assessments of the state or any city, town, county, or
1174 political subdivision of the state under certain
1175 conditions; authorizing such nonprofit
1176 instrumentalities to agree to make payments to any
1177 city, town, county, or political subdivision of the
1178 state for services, improvements, or facilities
1179 furnished by such city, town, county, or political
1180 subdivision for the benefit of a certain housing
1181 project; prohibiting a city, town, county, or
1182 political subdivision of the state from renaming,
1183 modifying terminology, or otherwise changing a tax or
1184 assessment with a certain intent; amending s. 723.011,
1185 F.S.; providing that a mobile home owner may be
1186 required to install permanent improvements as
1187 disclosed in the mobile home park prospectus; amending
1188 s. 723.012, F.S.; requiring a mobile home park owner
1189 to amend its prospectus under certain circumstances;
1190 requiring a mobile home park owner to increase shared
1191 facilities under certain circumstances; providing a
1192 requirement for the prospectus amendment; prohibiting
1193 certain costs and expenses from being passed on or
1194 passed through to existing mobile home owners;
1195 amending s. 723.023, F.S.; revising general
1196 obligations for mobile home owners; amending s.
1197 723.031, F.S.; revising construction relating to a



1198 park owner's disclosure of certain taxes and
1199 assessments; prohibiting a mobile home park owner from
1200 charging or collecting certain taxes or charges in
1201 excess of a certain amount; amending s. 723.037, F.S.;
1202 authorizing mobile home park owners to give notice of
1203 lot rental increases for multiple anniversary dates in
1204 one notice; providing construction; revising a
1205 requirement for a lot rental negotiation committee;
1206 amending s. 723.041, F.S.; providing that a mobile
1207 home park damaged or destroyed due to natural force
1208 may be rebuilt with the same density as previously
1209 approved, permitted, and built; providing
1210 construction; amending s. 723.042, F.S.; .; revising
1211 conditions under which a person is required by a
1212 mobile home park owner or developer to provide
1213 improvements as a condition of residence in a mobile
1214 home park; amending s. 723.059, F.S.; authorizing
1215 certain mobile home purchasers to assume the seller's
1216 prospectus; authorizing a mobile home park owner to
1217 offer a purchaser any approved prospectus; amending s.
1218 723.061, F.S.; revising requirements related to the
1219 provision of eviction notices by mobile home park
1220 owners to specified entities; specifying the waiver
1221 and nonwaiver of certain rights of mobile home park
1222 owners under certain circumstances; requiring the
1223 accounting at final hearing of rents received;
1224 amending s. 723.076, F.S.; providing a notice
1225 requirement for homeowners' associations to park
1226 owners after the election or appointment of new



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1227

officers or board members; amending s. 723.078, F.S.;



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Hutson) recommended the following:

1 **Senate Substitute for Amendment (385228) (with title**
2 **amendment)**

3
4 Delete lines 201 - 1257
5 and insert:

6 Section 2. Paragraph (d) of subsection (3) of section
7 129.03, Florida Statutes, is amended to read:



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8 129.03 Preparation and adoption of budget.-

9 (3) The county budget officer, after tentatively
10 ascertaining the proposed fiscal policies of the board for the
11 next fiscal year, shall prepare and present to the board a
12 tentative budget for the next fiscal year for each of the funds
13 provided in this chapter, including all estimated receipts,
14 taxes to be levied, and balances expected to be brought forward
15 and all estimated expenditures, reserves, and balances to be
16 carried over at the end of the year.

17 (d) By ~~October 15, 2019,~~ and each October 15 annually
18 ~~thereafter~~, the county budget officer shall electronically
19 submit the following information regarding the final budget and
20 the county's economic status to the Office of Economic and
21 Demographic Research in the format specified by the office:

22 1. Government spending per resident, including, at a
23 minimum, the spending per resident for the previous 5 fiscal
24 years.

25 2. Government debt per resident, including, at a minimum,
26 the debt per resident for the previous 5 fiscal years.

27 3. Median income within the county.

28 4. The average county employee salary.

29 5. Percent of budget spent on salaries and benefits for
30 county employees.

31 6. Number of special taxing districts, wholly or partially,
32 within the county.

33 7. Annual county expenditures providing for the financing,
34 acquisition, construction, reconstruction, or rehabilitation of
35 housing that is affordable, as that term is defined in s.

36 420.0004. The reported expenditures must indicate the source of



37 such funds as "federal," "state," "local," or "other," as
38 applicable. The information required by this subparagraph must
39 be included in the submission due by October 15, 2020, and each
40 annual submission thereafter.

41 Section 3. Subsections (3) and (4) of section 163.31771,
42 Florida Statutes, are amended to read:

43 163.31771 Accessory dwelling units.-

44 ~~(3) A Upon a finding by a local government that there is a~~
45 ~~shortage of affordable rentals within its jurisdiction, the~~
46 local government may adopt an ordinance to allow accessory
47 dwelling units in any area zoned for single-family residential
48 use.

49 ~~(4) If the local government adopts an ordinance under this~~
50 ~~section,~~ An application for a building permit to construct an
51 accessory dwelling unit must include an affidavit from the
52 applicant which attests that the unit will be rented at an
53 affordable rate to an extremely-low-income, very-low-income,
54 low-income, or moderate-income person or persons.

55 Section 4. Subsection (10) is added to section 163.31801,
56 Florida Statutes, to read:

57 163.31801 Impact fees; short title; intent; minimum
58 requirements; audits; challenges.-

59 (10) In addition to the items that must be reported in the
60 annual financial reports under s. 218.32, a county,
61 municipality, or special district must report all of the
62 following data on all impact fees charged:

63 (a) The specific purpose of the impact fee, including the
64 specific infrastructure needs to be met, including, but not
65 limited to, transportation, parks, water, sewer, and schools.



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66 (b) The impact fee schedule policy describing the method of
67 calculating impact fees, such as flat fees, tiered scales based
68 on number of bedrooms, or tiered scales based on square footage.

69 (c) The amount assessed for each purpose and for each type
70 of dwelling.

71 (d) The total amount of impact fees charged by type of
72 dwelling.

73 (e) Each exception and waiver provided for construction or
74 development of housing that is affordable.

75 Section 5. Subsection (4) is added to section 166.04151,
76 Florida Statutes, to read:

77 166.04151 Affordable housing.—

78 (4) Notwithstanding any other law or local ordinance or
79 regulation to the contrary, the governing body of a municipality
80 may approve the development of housing that is affordable, as
81 defined in s. 420.0004, on any parcel zoned for residential,
82 commercial, or industrial use.

83 Section 6. Paragraph (g) is added to subsection (4) of
84 section 166.241, Florida Statutes, to read:

85 166.241 Fiscal years, budgets, and budget amendments.—

86 (4) ~~By Beginning October 15, 2019, and each October 15~~
87 ~~thereafter~~, the municipal budget officer shall electronically
88 submit the following information regarding the final budget and
89 the municipality's economic status to the Office of Economic and
90 Demographic Research in the format specified by the office:

91 (g) Annual municipal expenditures providing for the
92 financing, acquisition, construction, reconstruction, or
93 rehabilitation of housing that is affordable, as that term is
94 defined in s. 420.0004. The reported expenditures must indicate



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95 the source of such funds as "federal," "state," "local," or
96 "other," as applicable. This information must be included in the
97 submission due by October 15, 2020, and each annual submission
98 thereafter.

99 Section 7. Paragraph (h) of subsection (3) of section
100 320.77, Florida Statutes, is amended to read:

101 320.77 License required of mobile home dealers.-

102 (3) APPLICATION.-The application for such license shall be
103 in the form prescribed by the department and subject to such
104 rules as may be prescribed by it. The application shall be
105 verified by oath or affirmation and shall contain:

106 (h) Certification by the applicant:

107 1. That the location is a permanent one, not a tent or a
108 temporary stand or other temporary quarters. ~~;~~ ~~and,~~

109 2. Except in the case of a mobile home broker, that the
110 location affords sufficient ~~unoccupied~~ space to display ~~store~~
111 ~~all mobile homes offered and displayed~~ for sale. A space to
112 display a manufactured home as a model home is sufficient to
113 satisfy this requirement. ~~;~~ ~~and that~~ The location must be ~~is~~ a
114 suitable place in which the applicant can in good faith carry on
115 business and keep and maintain books, records, and files
116 necessary to conduct such business, which must ~~will~~ be available
117 at all reasonable hours to inspection by the department or any
118 of its inspectors or other employees.

119
120 This paragraph does ~~subsection shall~~ not preclude a licensed
121 mobile home dealer from displaying and offering for sale mobile
122 homes in a mobile home park.

123



124 The department shall, if it deems necessary, cause an
125 investigation to be made to ascertain if the facts set forth in
126 the application are true and shall not issue a license to the
127 applicant until it is satisfied that the facts set forth in the
128 application are true.

129 Section 8. Paragraph (j) of subsection (3) of section
130 320.771, Florida Statutes, is amended to read:

131 320.771 License required of recreational vehicle dealers.-

132 (3) APPLICATION.-The application for such license shall be
133 in the form prescribed by the department and subject to such
134 rules as may be prescribed by it. The application shall be
135 verified by oath or affirmation and shall contain:

136 (j) A statement that the applicant is insured under a
137 garage liability insurance policy, which shall include, at a
138 minimum, \$25,000 combined single-limit liability coverage,
139 including bodily injury and property damage protection, and
140 \$10,000 personal injury protection, if the applicant is to be
141 licensed as a dealer in, or intends to sell, recreational
142 vehicles. However, a garage liability policy is not required for
143 the licensure of a mobile home dealer who sells only park
144 trailers.

145
146 The department shall, if it deems necessary, cause an
147 investigation to be made to ascertain if the facts set forth in
148 the application are true and shall not issue a license to the
149 applicant until it is satisfied that the facts set forth in the
150 application are true.

151 Section 9. Paragraph (c) of subsection (2) of section
152 320.822, Florida Statutes, is amended to read:



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153 320.822 Definitions; ss. 320.822-320.862.-In construing ss.
154 320.822-320.862, unless the context otherwise requires, the
155 following words or phrases have the following meanings:

156 (2) "Code" means the appropriate standards found in:

157 (c) The Mobile and Manufactured Home Repair and Remodeling
158 Code and the Used Recreational Vehicle Code.

159 Section 10. Subsection (2) of section 320.8232, Florida
160 Statutes, is amended to read:

161 320.8232 Establishment of uniform standards for used
162 recreational vehicles and repair and remodeling code for mobile
163 homes.-

164 (2) The Mobile and Manufactured Home ~~provisions of the~~
165 Repair and Remodeling Code must be a uniform code, must ~~shall~~
166 ensure safe and livable housing, and may ~~shall~~ not be more
167 stringent than those standards required to be met in the
168 manufacture of mobile homes. Such code must ~~provisions shall~~
169 ~~include, but not be limited to,~~ standards for structural
170 adequacy, plumbing, heating, electrical systems, and fire and
171 life safety. All repairs and remodeling of mobile and
172 manufactured homes must be performed in accordance with
173 department rules.

174 Section 11. Subsection (9) of section 367.022, Florida
175 Statutes, is amended, and subsection (14) is added to that
176 section, to read:

177 367.022 Exemptions.-The following are not subject to
178 regulation by the commission as a utility nor are they subject
179 to the provisions of this chapter, except as expressly provided:

180 (9) Any person who resells water service to his or her
181 tenants or to individually metered residents for a fee that does



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182 not exceed the actual purchase price of the water and wastewater
183 service plus the actual cost of meter reading and billing, not
184 to exceed 9 percent of the actual cost of service.

185 (14) The owner of a mobile home park operating both as a
186 mobile home park and a mobile home subdivision, as those terms
187 are defined in s. 723.003, who provides service within the park
188 and subdivision to a combination of both tenants and lot owners,
189 provided that the service to tenants is without specific
190 compensation.

191 Section 12. Section 420.518, Florida Statutes, is created
192 to read:

193 420.518 Fraudulent or material misrepresentation.—

194 (1) An applicant or affiliate of an applicant may be
195 precluded from participation in any corporation program if the
196 applicant or affiliate of the applicant has:

197 1. Made a material misrepresentation or engaged in
198 fraudulent actions in connection with any corporation program.

199 2. Been convicted or found guilty of, or entered a plea of
200 guilty or nolo contendere to, regardless of adjudication, a
201 crime in any jurisdiction which directly relates to the
202 financing, construction, or management of affordable housing or
203 the fraudulent procurement of state or federal funds. The record
204 of a conviction certified or authenticated in such form as to be
205 admissible in evidence under the laws of the state shall be
206 admissible as prima facie evidence of such guilt.

207 3. Been excluded from any federal funding program related
208 to the provision of housing.

209 4. Been excluded from any Florida procurement programs.

210 5. Offered or given consideration, other than the



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211 consideration to provide affordable housing, with respect to a
212 local contribution.

213 6. Demonstrated a pattern of noncompliance and a failure to
214 correct any such noncompliance after notice from the corporation
215 in the construction, operation, or management of one or more
216 developments funded through a corporation program.

217 (2) Upon a determination by the board of directors of the
218 corporation that an applicant or affiliate of the applicant be
219 precluded from participation in any corporation program, the
220 board may issue an order taking any or all of the following
221 actions:

222 (a) Preclude such applicant or affiliate from applying for
223 funding from any corporation program for a specified period. The
224 period may be a specified period of time or permanent in nature.
225 With regard to establishing the duration, the board shall
226 consider the facts and circumstances, inclusive of the
227 compliance history of the applicant or affiliate of the
228 applicant, the type of action under subsection (1), and the
229 degree of harm to the corporation's programs that has been or
230 may be done.

231 (b) Revoke any funding previously awarded by the
232 corporation for any development for which construction or
233 rehabilitation has not commenced.

234 (3) Before any order issued under this section can be
235 final, an administrative complaint must be served on the
236 applicant, affiliate of the applicant, or its registered agent
237 that provides notification of findings of the board, the
238 intended action, and the opportunity to request a proceeding
239 pursuant to ss. 120.569 and 120.57.



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240 (4) Any funding, allocation of federal housing credits,
241 credit underwriting procedures, or application review for any
242 development for which construction or rehabilitation has not
243 commenced may be suspended by the corporation upon the service
244 of an administrative complaint on the applicant, affiliate of
245 the applicant, or its registered agent. The suspension shall be
246 effective from the date the administrative complaint is served
247 until an order issued by the corporation in regard to that
248 complaint becomes final.

249 Section 13. Paragraph (c) of subsection (6) of section
250 420.5087, Florida Statutes, is amended, and subsection (10) is
251 added to that section, to read:

252 420.5087 State Apartment Incentive Loan Program.—There is
253 hereby created the State Apartment Incentive Loan Program for
254 the purpose of providing first, second, or other subordinated
255 mortgage loans or loan guarantees to sponsors, including for-
256 profit, nonprofit, and public entities, to provide housing
257 affordable to very-low-income persons.

258 (6) On all state apartment incentive loans, except loans
259 made to housing communities for the elderly to provide for
260 lifesafety, building preservation, health, sanitation, or
261 security-related repairs or improvements, the following
262 provisions shall apply:

263 (c) The corporation shall provide by rule for the
264 establishment of a review committee for the competitive
265 evaluation and selection of applications submitted in this
266 program, including, but not limited to, the following criteria:

267 1. Tenant income and demographic targeting objectives of
268 the corporation.



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269 2. Targeting objectives of the corporation which will
270 ensure an equitable distribution of loans between rural and
271 urban areas.

272 3. Sponsor's agreement to reserve the units for persons or
273 families who have incomes below 50 percent of the state or local
274 median income, whichever is higher, for a time period that
275 exceeds the minimum required by federal law or this part.

276 4. Sponsor's agreement to reserve more than:

277 a. Twenty percent of the units in the project for persons
278 or families who have incomes that do not exceed 50 percent of
279 the state or local median income, whichever is higher; or

280 b. Forty percent of the units in the project for persons or
281 families who have incomes that do not exceed 60 percent of the
282 state or local median income, whichever is higher, without
283 requiring a greater amount of the loans as provided in this
284 section.

285 5. Provision for tenant counseling.

286 6. Sponsor's agreement to accept rental assistance
287 certificates or vouchers as payment for rent.

288 7. Projects requiring the least amount of a state apartment
289 incentive loan compared to overall project cost, except that the
290 share of the loan attributable to units serving extremely-low-
291 income persons must be excluded from this requirement.

292 8. Local government contributions and local government
293 comprehensive planning and activities that promote affordable
294 housing and policies that promote access to public
295 transportation, reduce the need for onsite parking, and expedite
296 permits for affordable housing projects.

297 9. Project feasibility.



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- 298 10. Economic viability of the project.
299 11. Commitment of first mortgage financing.
300 12. Sponsor's prior experience.
301 13. Sponsor's ability to proceed with construction.
302 14. Projects that directly implement or assist welfare-to-
303 work transitioning.
304 15. Projects that reserve units for extremely-low-income
305 persons.
306 16. Projects that include green building principles, storm-
307 resistant construction, or other elements that reduce long-term
308 costs relating to maintenance, utilities, or insurance.
309 17. Job-creation rate of the developer and general
310 contractor, as provided in s. 420.507(47).
311 (10) The corporation may prioritize a portion of the
312 program funds set aside under paragraph (3)(d) for persons with
313 special needs as defined in s. 420.0004(13) to provide funding
314 for the development of newly constructed permanent rental
315 housing on a campus that provides housing for persons in foster
316 care or persons aging out of foster care pursuant to s.
317 409.1451. Such housing shall promote and facilitate access to
318 community-based supportive, educational, and employment services
319 and resources that assist persons aging out of foster care to
320 successfully transition to independent living and adulthood. The
321 corporation must consult with the Department of Children and
322 Families to create minimum criteria for such housing.
323 Section 14. Section 420.5095, Florida Statutes, is amended
324 to read:
325 420.5095 Community Workforce Housing Loan ~~Innovation Pilot~~
326 Program.—



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327 (1) The Legislature finds and declares that recent rapid
328 increases in the median purchase price of a home and the cost of
329 rental housing have far outstripped the increases in median
330 income in the state, ~~preventing essential services personnel~~
331 ~~from living in the communities where they serve and thereby~~
332 creating the need for innovative solutions for the provision of
333 housing opportunities ~~for essential services personnel.~~

334 (2) The Community Workforce Housing Loan Innovation Pilot
335 Program is created to provide affordable rental and home
336 ownership community workforce housing for persons essential
337 ~~services personnel~~ affected by the high cost of housing, ~~using~~
338 ~~regulatory incentives and state and local funds to promote local~~
339 ~~public-private partnerships and leverage government and private~~
340 ~~resources.~~

341 (3) For purposes of this section, the term:

342 (a) "workforce housing" means housing affordable to natural
343 persons or families whose total annual household income does not
344 exceed 80 ~~140~~ percent of the area median income, adjusted for
345 household size, or 120 ~~150~~ percent of area median income,
346 adjusted for household size, in areas of critical state concern
347 designated under s. 380.05, for which the Legislature has
348 declared its intent to provide affordable housing, and areas
349 that were designated as areas of critical state concern for at
350 least 20 consecutive years before ~~prior to~~ removal of the
351 designation.

352 (b) ~~"Public-private partnership" means any form of business~~
353 ~~entity that includes substantial involvement of at least one~~
354 ~~county, one municipality, or one public sector entity, such as a~~
355 ~~school district or other unit of local government in which the~~



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356 ~~project is to be located, and at least one private sector for-~~
357 ~~profit or not-for-profit business or charitable entity, and may~~
358 ~~be any form of business entity, including a joint venture or~~
359 ~~contractual agreement.~~

360 (4) The Florida Housing Finance Corporation is authorized
361 to provide loans under the Community Workforce Housing
362 ~~Innovation Pilot~~ program loans to applicants ~~an applicant~~ for
363 construction ~~or rehabilitation~~ of workforce housing in eligible
364 areas. This funding is intended to be used with other public and
365 private sector resources.

366 (5) The corporation shall establish a loan application
367 process under s. 420.5087 ~~by rule which includes selection~~
368 ~~criteria, an application review process, and a funding process.~~
369 The corporation shall also establish an application review
370 committee that may include up to three private citizens
371 representing the areas of housing or real estate development,
372 banking, community planning, or other areas related to the
373 development or financing of workforce and affordable housing.

374 (a) ~~The selection criteria and application review process~~
375 ~~must include a procedure for curing errors in the loan~~
376 ~~applications which do not make a substantial change to the~~
377 ~~proposed project.~~

378 (b) ~~To achieve the goals of the pilot program, the~~
379 ~~application review committee may approve or reject loan~~
380 ~~applications or responses to questions raised during the review~~
381 ~~of an application due to the insufficiency of information~~
382 ~~provided.~~

383 (c) ~~The application review committee shall make~~
384 ~~recommendations concerning program participation and funding to~~



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385 ~~the corporation's board of directors.~~

386 ~~(d) The board of directors shall approve or reject loan~~
387 ~~applications, determine the tentative loan amount available to~~
388 ~~each applicant, and rank all approved applications.~~

389 ~~(e) The board of directors shall decide which approved~~
390 ~~applicants will become program participants and determine the~~
391 ~~maximum loan amount for each program participant.~~

392 ~~(6) The corporation shall provide incentives for local~~
393 ~~governments in eligible areas to use local affordable housing~~
394 ~~funds, such as those from the State Housing Initiatives~~
395 ~~Partnership Program, to assist in meeting the affordable housing~~
396 ~~needs of persons eligible under this program. Local governments~~
397 ~~are authorized to use State Housing Initiative Partnership~~
398 ~~Program funds for persons or families whose total annual~~
399 ~~household income does not exceed:~~

400 ~~(a) One hundred and forty percent of the area median~~
401 ~~income, adjusted for household size; or~~

402 ~~(b) One hundred and fifty percent of the area median~~
403 ~~income, adjusted for household size, in areas that were~~
404 ~~designated as areas of critical state concern for at least 20~~
405 ~~consecutive years prior to the removal of the designation and in~~
406 ~~areas of critical state concern, designated under s. 380.05, for~~
407 ~~which the Legislature has declared its intent to provide~~
408 ~~affordable housing.~~

409 ~~(7) Funding shall be targeted to innovative projects in~~
410 ~~areas where the disparity between the area median income and the~~
411 ~~median sales price for a single-family home is greatest, and~~
412 ~~where population growth as a percentage rate of increase is~~
413 ~~greatest. The corporation may also fund projects in areas where~~



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414 ~~innovative regulatory and financial incentives are made~~
415 ~~available. The corporation shall fund at least one eligible~~
416 ~~project in as many counties and regions of the state as is~~
417 ~~practicable, consistent with program goals.~~

418 ~~(6)(8) Projects must be given shall receive priority~~
419 ~~consideration for funding if where:~~

420 ~~(a) the local jurisdiction has adopted, or is committed to~~
421 ~~adopting, appropriate regulatory incentives, or the local~~
422 ~~jurisdiction or public-private partnership has adopted or is~~
423 ~~committed to adopting local contributions or financial~~
424 ~~strategies, or other funding sources to promote the development~~
425 ~~and ongoing financial viability of such projects. Local~~
426 ~~incentives include such actions as expediting review of~~
427 ~~development orders and permits, supporting development near~~
428 ~~transportation hubs and major employment centers, and adopting~~
429 ~~land development regulations designed to allow flexibility in~~
430 ~~densities, use of accessory units, mixed-use developments, and~~
431 ~~flexible lot configurations. Financial strategies include such~~
432 ~~actions as promoting employer-assisted housing programs,~~
433 ~~providing tax increment financing, and providing land.~~

434 ~~(b) Projects are innovative and include new construction or~~
435 ~~rehabilitation; mixed-income housing; commercial and housing~~
436 ~~mixed-use elements; innovative design; green building~~
437 ~~principles; storm-resistant construction; or other elements that~~
438 ~~reduce long-term costs relating to maintenance, utilities, or~~
439 ~~insurance and promote homeownership. The program funding may not~~
440 ~~exceed the costs attributable to the portion of the project that~~
441 ~~is set aside to provide housing for the targeted population.~~

442 ~~(c) Projects that set aside at least 80 percent of units~~



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443 ~~for workforce housing and at least 50 percent for essential~~
444 ~~services personnel and for projects that require the least~~
445 ~~amount of program funding compared to the overall housing costs~~
446 ~~for the project.~~

447 ~~(9) Notwithstanding s. 163.3184(4) (b)-(d), any local~~
448 ~~government comprehensive plan amendment to implement a Community~~
449 ~~Workforce Housing Innovation Pilot Program project found~~
450 ~~consistent with this section shall be expedited as provided in~~
451 ~~this subsection. At least 30 days prior to adopting a plan~~
452 ~~amendment under this subsection, the local government shall~~
453 ~~notify the state land planning agency of its intent to adopt~~
454 ~~such an amendment, and the notice shall include its evaluation~~
455 ~~related to site suitability and availability of facilities and~~
456 ~~services. The public notice of the hearing required by s.~~
457 ~~163.3184(11) (b)2. shall include a statement that the local~~
458 ~~government intends to use the expedited adoption process~~
459 ~~authorized by this subsection. Such amendments shall require~~
460 ~~only a single public hearing before the governing board, which~~
461 ~~shall be an adoption hearing as described in s. 163.3184(4) (e).~~
462 ~~Any further proceedings shall be governed by s. 163.3184(5)-~~
463 ~~(13).~~

464 ~~(10) The processing of approvals of development orders or~~
465 ~~development permits, as defined in s. 163.3164, for innovative~~
466 ~~community workforce housing projects shall be expedited.~~

467 ~~(7)-(11) The corporation shall award loans with a 1 interest~~
468 ~~rates set at 1 to 3 percent interest rate for a term that does~~
469 ~~not exceed 15 years, which may be made forgivable when long-term~~
470 ~~affordability is provided and when at least 80 percent of the~~
471 ~~units are set aside for workforce housing and at least 50~~



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472 ~~percent of the units are set aside for essential services~~
473 ~~personnel.~~

474 ~~(12) All eligible applications shall:~~

475 ~~(a) For home ownership, limit the sales price of a detached~~
476 ~~unit, townhome, or condominium unit to not more than 90 percent~~
477 ~~of the median sales price for that type of unit in that county,~~
478 ~~or the statewide median sales price for that type of unit,~~
479 ~~whichever is higher, and require that all eligible purchasers of~~
480 ~~home ownership units occupy the homes as their primary~~
481 ~~residence.~~

482 ~~(b) For rental units, restrict rents for all workforce~~
483 ~~housing serving those with incomes at or below 120 percent of~~
484 ~~area median income at the appropriate income level using the~~
485 ~~restricted rents for the federal low-income housing tax credit~~
486 ~~program and, for workforce housing units serving those with~~
487 ~~incomes above 120 percent of area median income, restrict rents~~
488 ~~to those established by the corporation, not to exceed 30~~
489 ~~percent of the maximum household income adjusted to unit size.~~

490 ~~(c) Demonstrate that the applicant is a public-private~~
491 ~~partnership in an agreement, contract, partnership agreement,~~
492 ~~memorandum of understanding, or other written instrument signed~~
493 ~~by all the project partners.~~

494 ~~(d) Have grants, donations of land, or contributions from~~
495 ~~the public-private partnership or other sources collectively~~
496 ~~totaling at least 10 percent of the total development cost or \$2~~
497 ~~million, whichever is less. Such grants, donations of land, or~~
498 ~~contributions must be evidenced by a letter of commitment,~~
499 ~~agreement, contract, deed, memorandum of understanding, or other~~
500 ~~written instrument at the time of application. Grants, donations~~



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501 ~~of land, or contributions in excess of 10 percent of the~~
502 ~~development cost shall increase the application score.~~

503 ~~(c) Demonstrate how the applicant will use the regulatory~~
504 ~~incentives and financial strategies outlined in subsection (8)~~
505 ~~from the local jurisdiction in which the proposed project is to~~
506 ~~be located. The corporation may consult with the Department of~~
507 ~~Economic Opportunity in evaluating the use of regulatory~~
508 ~~incentives by applicants.~~

509 ~~(f) Demonstrate that the applicant possesses title to or~~
510 ~~site control of land and evidences availability of required~~
511 ~~infrastructure.~~

512 ~~(g) Demonstrate the applicant's affordable housing~~
513 ~~development and management experience.~~

514 ~~(h) Provide any research or facts available supporting the~~
515 ~~demand and need for rental or home ownership workforce housing~~
516 ~~for eligible persons in the market in which the project is~~
517 ~~proposed.~~

518 ~~(13) Projects may include manufactured housing constructed~~
519 ~~after June 1994 and installed in accordance with mobile home~~
520 ~~installation standards of the Department of Highway Safety and~~
521 ~~Motor Vehicles.~~

522 ~~(8)~~ (14) The corporation may adopt rules pursuant to ss.
523 120.536(1) and 120.54 to implement this section.

524 ~~(15) The corporation may use a maximum of 2 percent of the~~
525 ~~annual program appropriation for administration and compliance~~
526 ~~monitoring.~~

527 ~~(16) The corporation shall review the success of the~~
528 ~~Community Workforce Housing Innovation Pilot Program to~~
529 ~~ascertain whether the projects financed by the program are~~



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530 ~~useful in meeting the housing needs of eligible areas and shall~~
531 ~~include its findings in the annual report required under s.~~
532 ~~420.511(3).~~

533 Section 15. Section 420.531, Florida Statutes, is amended
534 to read:

535 420.531 Affordable Housing Catalyst Program.—

536 (1) The corporation shall operate the Affordable Housing
537 Catalyst Program for the purpose of securing the expertise
538 necessary to provide specialized technical support to local
539 governments and community-based organizations to implement the
540 HOME Investment Partnership Program, State Apartment Incentive
541 Loan Program, State Housing Initiatives Partnership Program, and
542 other affordable housing programs. To the maximum extent
543 feasible, the entity to provide the necessary expertise must be
544 recognized by the Internal Revenue Service as a nonprofit tax-
545 exempt organization. It must have as its primary mission the
546 provision of affordable housing training and technical
547 assistance, an ability to provide training and technical
548 assistance statewide, and a proven track record of successfully
549 providing training and technical assistance under the Affordable
550 Housing Catalyst Program. The technical support shall, at a
551 minimum, include training relating to the following key elements
552 of the partnership programs:

553 (a)~~(1)~~ Formation of local and regional housing partnerships
554 as a means of bringing together resources to provide affordable
555 housing.

556 (b)~~(2)~~ Implementation of regulatory reforms to reduce the
557 risk and cost of developing affordable housing.

558 (c)~~(3)~~ Implementation of affordable housing programs



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559 included in local government comprehensive plans.

560 (d)~~(4)~~ Compliance with requirements of federally funded
561 housing programs.

562 (2) In consultation with the corporation, the entity
563 providing statewide training and technical assistance shall
564 convene and administer biannual, regional workshops for the
565 locally elected officials serving on affordable housing advisory
566 committees as provided in s. 420.9076. The regional workshops
567 may be conducted through teleconferencing or other technological
568 means and must include processes and programming that facilitate
569 peer-to-peer identification and sharing of best affordable
570 housing practices among the locally elected officials. Annually,
571 calendar year reports summarizing the deliberations, actions,
572 and recommendations of each region, as well as the attendance
573 records of locally elected officials, must be compiled by the
574 entity providing statewide training and technical assistance for
575 the Affordable Housing Catalyst Program and must be submitted to
576 the President of the Senate, the Speaker of the House of
577 Representatives, and the corporation by March 31 of the
578 following year.

579 Section 16. Paragraph (j) is added to subsection (10) of
580 section 420.9075, Florida Statutes, to read:

581 420.9075 Local housing assistance plans; partnerships.-

582 (10) Each county or eligible municipality shall submit to
583 the corporation by September 15 of each year a report of its
584 affordable housing programs and accomplishments through June 30
585 immediately preceding submittal of the report. The report shall
586 be certified as accurate and complete by the local government's
587 chief elected official or his or her designee. Transmittal of



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588 the annual report by a county's or eligible municipality's chief
589 elected official, or his or her designee, certifies that the
590 local housing incentive strategies, or, if applicable, the local
591 housing incentive plan, have been implemented or are in the
592 process of being implemented pursuant to the adopted schedule
593 for implementation. The report must include, but is not limited
594 to:

595 (j) The number of affordable housing applications
596 submitted, the number approved, and the number denied.

597 Section 17. Subsections (2) and (4) of section 420.9076,
598 Florida Statutes, are amended, and subsection (10) is added to
599 that section, to read:

600 420.9076 Adoption of affordable housing incentive
601 strategies; committees.—

602 (2) The governing board of a county or municipality shall
603 appoint the members of the affordable housing advisory
604 committee. Pursuant to the terms of any interlocal agreement, a
605 county and municipality may create and jointly appoint an
606 advisory committee. The local action adopted pursuant to s.
607 420.9072 which creates the advisory committee and appoints the
608 advisory committee members must name at least 8 but not more
609 than 11 committee members and specify their terms. Effective
610 October 1, 2020, the committee must consist of one locally
611 elected official from each county or municipality participating
612 in the State Housing Initiatives Partnership Program and one
613 representative from at least six of the categories below:

614 (a) A citizen who is actively engaged in the residential
615 home building industry in connection with affordable housing.

616 (b) A citizen who is actively engaged in the banking or



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617 mortgage banking industry in connection with affordable housing.

618 (c) A citizen who is a representative of those areas of
619 labor actively engaged in home building in connection with
620 affordable housing.

621 (d) A citizen who is actively engaged as an advocate for
622 low-income persons in connection with affordable housing.

623 (e) A citizen who is actively engaged as a for-profit
624 provider of affordable housing.

625 (f) A citizen who is actively engaged as a not-for-profit
626 provider of affordable housing.

627 (g) A citizen who is actively engaged as a real estate
628 professional in connection with affordable housing.

629 (h) A citizen who actively serves on the local planning
630 agency pursuant to s. 163.3174. If the local planning agency is
631 comprised of the governing board of the county or municipality,
632 the governing board may appoint a designee who is knowledgeable
633 in the local planning process.

634 (i) A citizen who resides within the jurisdiction of the
635 local governing body making the appointments.

636 (j) A citizen who represents employers within the
637 jurisdiction.

638 (k) A citizen who represents essential services personnel,
639 as defined in the local housing assistance plan.

640 (4) Annually ~~Triennially~~, the advisory committee shall
641 review the established policies and procedures, ordinances, land
642 development regulations, and adopted local government
643 comprehensive plan of the appointing local government and shall
644 recommend specific actions or initiatives to encourage or
645 facilitate affordable housing while protecting the ability of



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646 the property to appreciate in value. The recommendations may
647 include the modification or repeal of existing policies,
648 procedures, ordinances, regulations, or plan provisions; the
649 creation of exceptions applicable to affordable housing; or the
650 adoption of new policies, procedures, regulations, ordinances,
651 or plan provisions, including recommendations to amend the local
652 government comprehensive plan and corresponding regulations,
653 ordinances, and other policies. At a minimum, each advisory
654 committee shall submit an annual a report to the local governing
655 body and to the entity providing statewide training and
656 technical assistance for the Affordable Housing Catalyst Program
657 which that includes recommendations on, ~~and triennially~~
658 ~~thereafter evaluates~~ the implementation of, affordable housing
659 incentives in the following areas:

660 (a) The processing of approvals of development orders or
661 permits for affordable housing projects is expedited to a
662 greater degree than other projects, as provided in s.
663 163.3177(6)(f)3.

664 (b) All allowable fee waivers provided ~~The modification of~~
665 ~~impact-fee requirements, including reduction or waiver of fees~~
666 ~~and alternative methods of fee payment~~ for the development or
667 construction of affordable housing.

668 (c) The allowance of flexibility in densities for
669 affordable housing.

670 (d) The reservation of infrastructure capacity for housing
671 for very-low-income persons, low-income persons, and moderate-
672 income persons.

673 (e) ~~The allowance of~~ Affordable accessory residential units
674 ~~in residential zoning districts.~~



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675 (f) The reduction of parking and setback requirements for
676 affordable housing.

677 (g) The allowance of flexible lot configurations, including
678 zero-lot-line configurations for affordable housing.

679 (h) The modification of street requirements for affordable
680 housing.

681 (i) The establishment of a process by which a local
682 government considers, before adoption, policies, procedures,
683 ordinances, regulations, or plan provisions that increase the
684 cost of housing.

685 (j) The preparation of a printed inventory of locally owned
686 public lands suitable for affordable housing.

687 (k) The support of development near transportation hubs and
688 major employment centers and mixed-use developments.

689

690 The advisory committee recommendations may also include other
691 affordable housing incentives identified by the advisory
692 committee. Local governments that receive the minimum allocation
693 under the State Housing Initiatives Partnership Program shall
694 perform an ~~the~~ initial review but may elect to not perform the
695 annual ~~triennial~~ review.

696 (10) The locally elected official serving on an advisory
697 committee, or a locally elected designee, must attend biannual
698 regional workshops convened and administered under the
699 Affordable Housing Catalyst Program as provided in s.
700 420.531(2). If the locally elected official or a locally elected
701 designee fails to attend three consecutive regional workshops,
702 the corporation may withhold funds pending the person's
703 attendance at the next regularly scheduled biannual meeting.



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704 Section 18. Subsection (4) of section 723.011, Florida
705 Statutes, is amended to read:

706 723.011 Disclosure prior to rental of a mobile home lot;
707 prospectus, filing, approval.—

708 (4) With regard to a tenancy in existence on the effective
709 date of this chapter, the prospectus or offering circular
710 offered by the mobile home park owner must ~~shall~~ contain the
711 same terms and conditions as rental agreements offered to all
712 other mobile home owners residing in the park on the effective
713 date of this act, excepting only rent variations based upon lot
714 location and size, and may ~~shall~~ not require any mobile home
715 owner to install any permanent improvements, except that the
716 mobile home owner may be required to install permanent
717 improvements to the mobile home as disclosed in the prospectus.

718 Section 19. Subsection (5) of section 723.012, Florida
719 Statutes, is amended to read:

720 723.012 Prospectus or offering circular.—The prospectus or
721 offering circular, which is required to be provided by s.
722 723.011, must contain the following information:

723 (5) A description of the recreational and other common
724 facilities, if any, that will be used by the mobile home owners,
725 including, but not limited to:

726 (a) The number of buildings and each room thereof and its
727 intended purposes, location, approximate floor area, and
728 capacity in numbers of people.

729 (b) Each swimming pool, as to its general location,
730 approximate size and depths, and approximate deck size and
731 capacity and whether heated.

732 (c) All other facilities and permanent improvements that



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733 ~~which~~ will serve the mobile home owners.

734 (d) A general description of the items of personal property
735 available for use by the mobile home owners.

736 (e) A general description of the days and hours that
737 facilities will be available for use.

738 (f) A statement as to whether all improvements are complete
739 and, if not, their estimated completion dates.

740

741 If a mobile home park owner intends to include additional
742 property and mobile home lots and to increase the number of lots
743 that will use the shared facilities of the park, the mobile home
744 park owner must amend the prospectus to disclose such additions.

745 If the number of mobile home lots in the park increases by more
746 than 15 percent of the total number of lots in the original
747 prospectus, the mobile home park owner must reasonably offset
748 the impact of the additional lots by increasing the shared
749 facilities. The amendment to the prospectus must include a
750 reasonable timeframe for providing the required additional
751 shared facilities. The costs and expenses necessary to increase
752 the shared facilities may not be passed on or passed through to
753 the existing mobile home owners.

754 Section 20. Section 723.023, Florida Statutes, is amended
755 to read:

756 723.023 Mobile home owner's general obligations.—A mobile
757 home owner shall ~~at all times~~:

758 (1) At all times comply with all obligations imposed on
759 mobile home owners by applicable provisions of building,
760 housing, and health codes, including compliance with all
761 building permits and construction requirements for construction



762 on the mobile home and lot. The home owner is responsible for
763 all fines imposed by the local government for noncompliance with
764 any local codes.

765 (2) At all times keep the mobile home lot that ~~which~~ he or
766 she occupies clean, neat, and sanitary, and maintained in
767 compliance with all local codes.

768 (3) At all times comply with properly promulgated park
769 rules and regulations and require other persons on the premises
770 with his or her consent to comply with such rules and to conduct
771 themselves, and other persons on the premises with his or her
772 consent, in a manner that does not unreasonably disturb other
773 residents of the park or constitute a breach of the peace.

774 (4) Receive written approval from the mobile home park
775 owner before making any exterior modification or addition to the
776 home.

777 (5) When vacating the premises, remove any debris and other
778 property of any kind which is left on the mobile home lot.

779 Section 21. Subsection (5) of section 723.031, Florida
780 Statutes, is amended to read:

781 723.031 Mobile home lot rental agreements.—

782 (5) The rental agreement must ~~shall~~ contain the lot rental
783 amount and services included. An increase in lot rental amount
784 upon expiration of the term of the lot rental agreement must
785 ~~shall~~ be in accordance with ss. 723.033 and 723.037 or s.
786 723.059(4), whichever is applicable; ~~it~~ provided that, pursuant to
787 s. 723.059(4), the amount of the lot rental increase is
788 disclosed and agreed to by the purchaser, in writing. An
789 increase in lot rental amount shall not be arbitrary or
790 discriminatory between similarly situated tenants in the park. A



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791 lot rental amount may not be increased during the term of the
792 lot rental agreement, except:

793 (a) When the manner of the increase is disclosed in a lot
794 rental agreement with a term exceeding 12 months and which
795 provides for such increases not more frequently than annually.

796 (b) For pass-through charges as defined in s. 723.003.

797 (c) That a charge may not be collected which results in
798 payment of money for sums previously collected as part of the
799 lot rental amount. The provisions hereof notwithstanding, the
800 mobile home park owner may pass on, at any time during the term
801 of the lot rental agreement, ad valorem property taxes, non-ad
802 valorem assessments, and utility charges, or increases of
803 either, provided that the ad valorem property taxes, non-ad
804 valorem assessments, and utility charges are not otherwise being
805 collected in the remainder of the lot rental amount and provided
806 further that the passing on of such ad valorem taxes, non-ad
807 valorem assessments, or utility charges, or increases of either,
808 was disclosed prior to tenancy, was being passed on as a matter
809 of custom between the mobile home park owner and the mobile home
810 owner, or such passing on was authorized by law. A park owner is
811 deemed to have disclosed the passing on of ad valorem property
812 taxes and non-ad valorem assessments if ad valorem property
813 taxes or non-ad valorem assessments were disclosed as a separate
814 charge or a factor for increasing the lot rental amount in the
815 prospectus or rental agreement. Such ad valorem taxes, non-ad
816 valorem assessments, and utility charges shall be a part of the
817 lot rental amount as defined by this chapter. The term "non-ad
818 valorem assessments" has the same meaning as provided in s.
819 197.3632(1)(d). Other provisions of this chapter



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820 notwithstanding, pass-on charges may be passed on only within 1
821 year of the date a mobile home park owner remits payment of the
822 charge. A mobile home park owner is prohibited from passing on
823 any fine, interest, fee, or increase in a charge resulting from
824 a park owner's payment of the charge after the date such charges
825 become delinquent. A mobile home park owner is prohibited from
826 charging or collecting from the mobile home owners any sum for
827 ad valorem taxes or non-ad valorem tax charges in an amount in
828 excess of the sums remitted by the park owner to the tax
829 collector. Nothing herein shall prohibit a park owner and a
830 homeowner from mutually agreeing to an alternative manner of
831 payment to the park owner of the charges.

832 (d) If a notice of increase in lot rental amount is not
833 given 90 days before the renewal date of the rental agreement,
834 the rental agreement must remain under the same terms until a
835 90-day notice of increase in lot rental amount is given. The
836 notice may provide for a rental term shorter than 1 year in
837 order to maintain the same renewal date.

838 Section 22. Subsection (1) and paragraph (a) of subsection
839 (4) of section 723.037, Florida Statutes, are amended to read:

840 723.037 Lot rental increases; reduction in services or
841 utilities; change in rules and regulations; mediation.—

842 (1) A park owner shall give written notice to each affected
843 mobile home owner and the board of directors of the homeowners'
844 association, if one has been formed, at least 90 days before any
845 increase in lot rental amount or reduction in services or
846 utilities provided by the park owner or change in rules and
847 regulations. The park owner may give notice of all increases in
848 lot rental amount for multiple anniversary dates in the same 90-



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849 day notice. The notice must ~~shall~~ identify all other affected
850 homeowners, which may be by lot number, name, group, or phase.
851 If the affected homeowners are not identified by name, the park
852 owner shall make the names and addresses available upon request.
853 However, this requirement does not authorize the release of the
854 names, addresses, or other private information about the
855 homeowners to the association or any other person for any other
856 purpose. The home owner's right to the 90-day notice may not be
857 waived or precluded by a home owner, or the homeowners'
858 committee, in an agreement with the park owner. Rules adopted as
859 a result of restrictions imposed by governmental entities and
860 required to protect the public health, safety, and welfare may
861 be enforced prior to the expiration of the 90-day period but are
862 not otherwise exempt from the requirements of this chapter.
863 Pass-through charges must be separately listed as to the amount
864 of the charge, the name of the governmental entity mandating the
865 capital improvement, and the nature or type of the pass-through
866 charge being levied. Notices of increase in the lot rental
867 amount due to a pass-through charge must ~~shall~~ state the
868 additional payment and starting and ending dates of each pass-
869 through charge. The homeowners' association shall have no
870 standing to challenge the increase in lot rental amount,
871 reduction in services or utilities, or change of rules and
872 regulations unless a majority of the affected homeowners agree,
873 in writing, to such representation.

874 (4) (a) A committee, not to exceed five in number,
875 designated by a majority of the affected mobile home owners or
876 by the board of directors of the homeowners' association, if
877 applicable, and the park owner shall meet, at a mutually



878 convenient time and place no later than 60 days before the
879 effective date of the change to discuss the reasons for the
880 increase in lot rental amount, reduction in services or
881 utilities, or change in rules and regulations. The negotiating
882 committee shall make a written request for a meeting with the
883 park owner or subdivision developer to discuss those matters
884 addressed in the 90-day notice, and may include in the request a
885 listing of any other issue, with supporting documentation, that
886 the committee intends to raise and discuss at the meeting. The
887 committee shall address all lot rental amount increases that are
888 specified in the notice of lot rental amount increase,
889 regardless of the effective date of the increase.

890
891 This subsection is not intended to be enforced by civil or
892 administrative action. Rather, the meetings and discussions are
893 intended to be in the nature of settlement discussions prior to
894 the parties proceeding to mediation of any dispute.

895 Section 23. Subsections (5) and (6) are added to section
896 723.041, Florida Statutes, to read:

897 723.041 Entrance fees; refunds; exit fees prohibited;
898 replacement homes.—

899 (5) A mobile home park that is damaged or destroyed due to
900 wind, water, or other natural force may be rebuilt on the same
901 site with the same density as was approved, permitted, and built
902 before the park was damaged or destroyed.

903 (6) This section does not limit the regulation of the
904 uniform firesafety standards established under s. 633.206, but
905 supersedes any other density, separation, setback, or lot size
906 regulation adopted after initial permitting and construction of



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907 the mobile home park.

908 Section 24. Section 723.042, Florida Statutes, is amended
909 to read:

910 723.042 Provision of improvements.—A No person may not
911 ~~shall~~ be required by a mobile home park owner or developer, as a
912 condition of residence in the mobile home park, to provide any
913 improvement unless the requirement is disclosed pursuant to s.
914 723.012(7) ~~s. 723.011~~ prior to occupancy in the mobile home
915 park.

916 Section 25. Section 723.059, Florida Statutes, is amended
917 to read:

918 723.059 ~~Rights of Purchaser of a mobile home within a~~
919 mobile home park.—

920 (1) The purchaser of a mobile home within a mobile home
921 park may become a tenant of the park if such purchaser would
922 otherwise qualify with the requirements of entry into the park
923 under the park rules and regulations, subject to the approval of
924 the park owner, but such approval may not be unreasonably
925 withheld. The purchaser of the mobile home may cancel or rescind
926 the contract for purchase of the mobile home if the purchaser's
927 tenancy has not been approved by the park owner 5 days before
928 the closing of the purchase.

929 (2) Properly promulgated rules may provide for the
930 screening of any prospective purchaser to determine whether or
931 not such purchaser is qualified to become a tenant of the park.

932 (3) The purchaser of a mobile home who intends to become
933 ~~becomes~~ a resident of the mobile home park in accordance with
934 this section has the right to assume the remainder of the term
935 of any rental agreement then in effect between the mobile home



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936 park owner and the seller and may assume the seller's
937 prospectus. However, nothing herein shall prohibit a mobile home
938 park owner from offering the purchaser of a mobile home any
939 approved prospectus shall be entitled to rely on the terms and
940 conditions of the prospectus or offering circular as delivered
941 to the initial recipient.

942 (4) However, nothing herein shall be construed to prohibit
943 a mobile home park owner from increasing the rental amount to be
944 paid by the purchaser upon the expiration of the assumed rental
945 agreement in an amount deemed appropriate by the mobile home
946 park owner, so long as such increase is disclosed to the
947 purchaser prior to his or her occupancy and is imposed in a
948 manner consistent with the purchaser's initial offering circular
949 ~~or~~ prospectus and this act.

950 (5) Lifetime leases and the renewal provisions in
951 automatically renewable leases, both those existing and those
952 entered into after July 1, 1986, are not assumable unless
953 otherwise provided in the mobile home lot rental agreement or
954 unless the transferee is the home owner's spouse. The right to
955 an assumption of the lease by a spouse may be exercised only one
956 time during the term of that lease.

957 Section 26. Paragraph (d) of subsection (1) of section
958 723.061, Florida Statutes, is amended, and subsection (5) is
959 added to that section, to read:

960 723.061 Eviction; grounds, proceedings.—

961 (1) A mobile home park owner may evict a mobile home owner,
962 a mobile home tenant, a mobile home occupant, or a mobile home
963 only on one or more of the following grounds:

964 (d) Change in use of the land comprising the mobile home



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965 park, or the portion thereof from which mobile homes are to be
966 evicted, from mobile home lot rentals to some other use, if:

967 1. The park owner gives written notice to the homeowners'
968 association formed and operating under ss. 723.075-723.079 of
969 its right to purchase the mobile home park, if the land
970 comprising the mobile home park is changing use from mobile home
971 lot rentals to a different use, at the price and under the terms
972 and conditions set forth in the written notice.

973 a. The notice shall be delivered to the officers of the
974 homeowners' association by United States mail. Within 45 days
975 after the date of mailing of the notice, the homeowners'
976 association may execute and deliver a contract to the park owner
977 to purchase the mobile home park at the price and under the
978 terms and conditions set forth in the notice. If the contract
979 between the park owner and the homeowners' association is not
980 executed and delivered to the park owner within the 45-day
981 period, the park owner is under no further obligation to the
982 homeowners' association except as provided in sub-subparagraph
983 b.

984 b. If the park owner elects to offer or sell the mobile
985 home park at a price lower than the price specified in her or
986 his initial notice to the officers of the homeowners'
987 association, the homeowners' association has an additional 10
988 days to meet the revised price, terms, and conditions of the
989 park owner by executing and delivering a revised contract to the
990 park owner.

991 c. The park owner is not obligated under this subparagraph
992 or s. 723.071 to give any other notice to, or to further
993 negotiate with, the homeowners' association for the sale of the



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994 mobile home park to the homeowners' association after 6 months
995 after the date of the mailing of the initial notice under sub-
996 subparagraph a.

997 2. The park owner gives the affected mobile home owners and
998 tenants at least 6 months' notice of the eviction due to the
999 projected change in use and of their need to secure other
1000 accommodations. Within 20 days after giving an eviction notice
1001 to a mobile home owner, the park owner must provide the division
1002 with a copy of the notice. The division must provide the
1003 executive director of the Florida Mobile Home Relocation
1004 Corporation with a copy of the notice.

1005 a. The notice of eviction due to a change in use of the
1006 land must include in a font no smaller than the body of the
1007 notice the following statement:

1008
1009 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME
1010 RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME
1011 RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS
1012 AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND
1013 PROFESSIONAL REGULATION.

1014
1015 b. The park owner may not give a notice of increase in lot
1016 rental amount within 90 days before giving notice of a change in
1017 use.

1018 (5) A park owner who accepts payment of any portion of the
1019 lot rental amount with actual knowledge of noncompliance after
1020 notice and termination of the rental agreement due to a
1021 violation under paragraph (1)(b), paragraph (1)(c), or paragraph
1022 (1)(e) does not waive the right to terminate the rental



1023 agreement or the right to bring a civil action for the
1024 noncompliance, but not for any subsequent or continuing
1025 noncompliance. Any rent so received must be accounted for at the
1026 final hearing.

1027 Section 27. Subsection (1) of section 723.076, Florida
1028 Statutes, is amended to read:

1029 723.076 Incorporation; notification of park owner.—

1030 (1) Upon receipt of its certificate of incorporation, the
1031 homeowners' association shall notify the park owner in writing
1032 of such incorporation and shall advise the park owner of the
1033 names and addresses of the officers of the homeowners'
1034 association by personal delivery upon the park owner's
1035 representative as designated in the prospectus or by certified
1036 mail, return receipt requested. Thereafter, the homeowners'
1037 association shall notify the park owner in writing by certified
1038 mail, return receipt requested, of any change of names and
1039 addresses of its president or registered agent. Upon election or
1040 appointment of new officers or board members, the homeowners'
1041 association shall notify the park owner in writing by certified
1042 mail, return receipt requested, of the names and addresses of
1043 the new officers or board members.

1044
1045 ===== T I T L E A M E N D M E N T =====

1046 And the title is amended as follows:

1047 Delete lines 6 - 150

1048 and insert:

1049 industrial use; amending s. 129.03, F.S.; revising the
1050 information required to be annually submitted by
1051 county budget officers to the Office of Economic and



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1052 Demographic Research; requiring certain information to
1053 be included beginning in a specified submission;
1054 amending s. 163.31771, F.S.; revising conditions under
1055 which local governments are authorized to adopt
1056 ordinances that allow accessory dwelling units in any
1057 area zoned for single-family residential use; amending
1058 s. 163.31801, F.S.; requiring counties,
1059 municipalities, and special districts to include
1060 certain data relating to impact fees in their annual
1061 financial reports; amending s. 166.04151, F.S.;
1062 authorizing governing bodies of municipalities to
1063 approve the development of affordable housing on any
1064 parcel zoned for residential, commercial, or
1065 industrial use; amending s. 166.241, F.S.; revising
1066 the information required to be annually submitted by
1067 municipal budget officers to the Office of Economic
1068 and Demographic Research; requiring certain
1069 information to be included beginning in a specified
1070 submission; amending s. 320.77, F.S.; revising a
1071 certification requirement for mobile home dealer
1072 applicants relating to the applicant's business
1073 location; amending s. 320.771, F.S.; exempting certain
1074 recreational vehicle dealer applicants from a garage
1075 liability insurance requirement; amending s. 320.822,
1076 F.S.; revising the definition of the term "code";
1077 amending s. 320.8232, F.S.; revising applicable
1078 standards for the repair and remodeling of mobile and
1079 manufactured homes; amending s. 367.022, F.S.;
1080 revising an exemption from regulation for certain



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1081 water service resellers; exempting certain mobile home
1082 park and mobile home subdivision owners from
1083 regulation by the Florida Public Service Commission
1084 relating to water and wastewater systems; creating
1085 420.518, F.S.; precluding participating in Florida
1086 Housing Finance Corporation programs by an applicant
1087 or affiliate of an applicant under certain conditions;
1088 authorizing the board of directors of the corporation
1089 to preclude the applicant for a period of time or
1090 revoke and applicant's funding; providing application;
1091 providing for a suspension for period of time;
1092 amending s. 420.5087, F.S.; revising the criteria used
1093 by a review committee when evaluating and selecting
1094 specified applications for state apartment incentive
1095 loans; authorizing the Florida Housing Finance
1096 Corporation to prioritize a portion of the State
1097 Apartment Incentive Loan funding set aside for certain
1098 purposes; requiring that such funding be used for
1099 housing for certain persons in foster care or persons
1100 aging out of foster care; providing requirements for
1101 such housing; requiring the corporation to consult
1102 with the Department of Children and Families to create
1103 minimum criteria for such housing; amending s.
1104 420.5095, F.S.; renaming the Community Workforce
1105 Housing Innovation Pilot Program as the Community
1106 Workforce Housing Loan Program to provide workforce
1107 housing for persons affected by the high cost of
1108 housing; revising the definition of the term
1109 "workforce housing"; deleting the definition of the



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1110 term "public-private partnership"; authorizing the
1111 corporation to provide loans under the program to
1112 applicants for construction of workforce housing;
1113 requiring the corporation to establish a certain loan
1114 application process; deleting provisions requiring the
1115 corporation to provide incentives for local
1116 governments to use certain funds; requiring projects
1117 to receive priority consideration for funding under
1118 certain circumstances; deleting a provision providing
1119 for the expedition of local government comprehensive
1120 plan amendments to implement a program project;
1121 requiring that the corporation award loans at a
1122 specified interest rate and for a limited term;
1123 conforming provisions to changes made by the act;
1124 deleting a provision authorizing the corporation to
1125 use a maximum percentage of a specified appropriation
1126 for administration and compliance; amending s.
1127 420.531, F.S.; specifying that technical support
1128 provided to local governments and community-based
1129 organizations includes implementation of the State
1130 Apartment Incentive Loan Program; requiring the entity
1131 providing training and technical assistance to convene
1132 and administer biannual workshops; providing
1133 requirements for such workshops; requiring such entity
1134 to annually compile and submit certain information to
1135 the Legislature and the corporation by a specified
1136 date; amending s. 420.9075, F.S.; revising
1137 requirements for reports submitted to the corporation
1138 by counties and certain municipalities; amending s.



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1139 420.9076, F.S.; beginning on a specified date,
1140 revising the membership of local affordable housing
1141 advisory committees; requiring the committees to
1142 perform specified duties annually instead of
1143 triennially; revising duties of the committees;
1144 requiring locally elected officials serving on
1145 advisory committees, or their designees, to attend
1146 biannual regional workshops; providing a penalty;
1147 amending s. 723.011, F.S.; providing that a mobile
1148 home owner may be required to install permanent
1149 improvements as disclosed in the mobile home park
1150 prospectus; amending s. 723.012, F.S.; requiring a
1151 mobile home park owner to amend its prospectus under
1152 certain circumstances; requiring a mobile home park
1153 owner to increase shared facilities under certain
1154 circumstances; providing a requirement for the
1155 prospectus amendment; prohibiting certain costs and
1156 expenses from being passed on or passed through to
1157 existing mobile home owners; amending s. 723.023,
1158 F.S.; revising general obligations for mobile home
1159 owners; amending s. 723.031, F.S.; revising
1160 construction relating to a park owner's disclosure of
1161 certain taxes and assessments; prohibiting a mobile
1162 home park owner from charging or collecting certain
1163 taxes or charges in excess of a certain amount;
1164 amending s. 723.037, F.S.; authorizing mobile home
1165 park owners to give notice of lot rental increases for
1166 multiple anniversary dates in one notice; providing
1167 construction; revising a requirement for a lot rental



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1168 negotiation committee; amending s. 723.041, F.S.;

1169 providing that a mobile home park damaged or destroyed

1170 due to natural force may be rebuilt with the same

1171 density as previously approved, permitted, and built;

1172 providing construction; amending s. 723.042, F.S.; .;

1173 revising conditions under which a person is required

1174 by a mobile home park owner or developer to provide

1175 improvements as a condition of residence in a mobile

1176 home park; amending s. 723.059, F.S.; authorizing

1177 certain mobile home purchasers to assume the seller's

1178 prospectus; authorizing a mobile home park owner to

1179 offer a purchaser any approved prospectus; amending s.

1180 723.061, F.S.; revising requirements related to the

1181 provision of eviction notices by mobile home park

1182 owners to specified entities; specifying the waiver

1183 and nonwaiver of certain rights of mobile home park

1184 owners under certain circumstances; requiring the

1185 accounting at final hearing of rents received;

1186 amending s. 723.076, F.S.; providing a notice

1187 requirement for homeowners' associations to park

1188 owners after the election or appointment of new

1189 officers or board members; amending s. 723.078, F.S.;

By the Committees on Infrastructure and Security; and Community Affairs; and Senator Hutson

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1 A bill to be entitled
 2 An act relating to housing; amending s. 125.01055,
 3 F.S.; authorizing a board of county commissioners to
 4 approve development of affordable housing on any
 5 parcel zoned for residential, commercial, or
 6 industrial use; amending s. 163.31771, F.S.; revising
 7 conditions under which local governments are
 8 authorized to adopt ordinances that allow accessory
 9 dwelling units in any area zoned for single-family
 10 residential use; amending s. 163.31801, F.S.;
 11 requiring counties, municipalities, and special
 12 districts to include certain data relating to impact
 13 fees in their annual financial reports; amending s.
 14 166.04151, F.S.; authorizing governing bodies of
 15 municipalities to approve the development of
 16 affordable housing on any parcel zoned for
 17 residential, commercial, or industrial use; amending
 18 s. 196.196, F.S.; providing that property owned by a
 19 person granted a specified exemption is used for a
 20 charitable purpose under certain circumstances;
 21 authorizing the board of county commissioners of a
 22 county or the governing authority of a municipality to
 23 adopt certain ordinances related to ad valorem tax
 24 exemptions; amending s. 196.1978, F.S.; requiring
 25 certain units to be treated as portions of property
 26 exempt from ad valorem taxation under certain
 27 circumstances; amending s. 320.77, F.S.; revising a
 28 certification requirement for mobile home dealer
 29 applicants relating to the applicant's business

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30 location; amending s. 320.771, F.S.; exempting certain
 31 recreational vehicle dealer applicants from a garage
 32 liability insurance requirement; amending s. 320.822,
 33 F.S.; revising the definition of the term "code";
 34 amending s. 320.8232, F.S.; revising applicable
 35 standards for the repair and remodeling of mobile and
 36 manufactured homes; amending s. 367.022, F.S.;
 37 revising an exemption from regulation for certain
 38 water service resellers; exempting certain mobile home
 39 park and mobile home subdivision owners from
 40 regulation by the Florida Public Service Commission
 41 relating to water and wastewater systems; amending s.
 42 420.5087, F.S.; revising the criteria used by a review
 43 committee when evaluating and selecting specified
 44 applications for state apartment incentive loans;
 45 amending s. 420.5095, F.S.; renaming the Community
 46 Workforce Housing Innovation Pilot Program as the
 47 Community Workforce Housing Loan Program to provide
 48 workforce housing for persons affected by the high
 49 cost of housing; revising the definition of the term
 50 "workforce housing"; deleting the definition of the
 51 term "public-private partnership"; authorizing the
 52 corporation to provide loans under the program to
 53 applicants for construction of workforce housing;
 54 requiring the corporation to establish a certain loan
 55 application process; deleting provisions requiring the
 56 corporation to provide incentives for local
 57 governments to use certain funds; requiring projects
 58 to receive priority consideration for funding under

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59 certain circumstances; deleting a provision providing
 60 for the expedition of local government comprehensive
 61 plan amendments to implement a program project;
 62 requiring that the corporation award loans at a
 63 specified interest rate and for a limited term;
 64 conforming provisions to changes made by the act;
 65 deleting a provision authorizing the corporation to
 66 use a maximum percentage of a specified appropriation
 67 for administration and compliance; amending s.
 68 420.531, F.S.; specifying that technical support
 69 provided to local governments and community-based
 70 organizations includes implementation of the State
 71 Apartment Incentive Loan Program; requiring the entity
 72 providing training and technical assistance to convene
 73 and administer biannual workshops; providing
 74 requirements for such workshops; requiring such entity
 75 to annually compile and submit certain information to
 76 the Legislature and the corporation by a specified
 77 date; amending s. 420.9073, F.S.; authorizing the
 78 corporation to prioritize a portion of the State
 79 Apartment Incentive Loan funding set aside for certain
 80 purposes; requiring that such funding be used for
 81 housing for certain persons in foster care or persons
 82 aging out of foster care; providing requirements for
 83 such housing; requiring the corporation to consult
 84 with the Department of Children and Families to create
 85 minimum criteria for such housing; amending s.
 86 420.9075, F.S.; revising requirements for reports
 87 submitted to the corporation by counties and certain

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88 municipalities; amending s. 420.9076, F.S.; beginning
 89 on a specified date, revising the membership of local
 90 affordable housing advisory committees; requiring the
 91 committees to perform specified duties annually
 92 instead of triennially; revising duties of the
 93 committees; requiring locally elected officials
 94 serving on advisory committees, or their designees, to
 95 attend biannual regional workshops; providing a
 96 penalty; amending s. 423.02, F.S.; exempting certain
 97 nonprofit instrumentalities from all taxes and special
 98 assessments of the state or any city, town, county, or
 99 political subdivision of the state under certain
 100 conditions; authorizing such nonprofit
 101 instrumentalities to agree to make payments to any
 102 city, town, county, or political subdivision of the
 103 state for services, improvements, or facilities
 104 furnished by such city, town, county, or political
 105 subdivision for the benefit of a certain housing
 106 project; prohibiting a city, town, county, or
 107 political subdivision of the state from renaming,
 108 modifying terminology, or otherwise changing a tax or
 109 assessment with a certain intent; amending s. 723.011,
 110 F.S.; providing that a mobile home owner may be
 111 required to install permanent improvements as
 112 disclosed in the mobile home park prospectus; amending
 113 s. 723.012, F.S.; requiring a mobile home park owner
 114 to amend its prospectus under certain circumstances;
 115 requiring a mobile home park owner to increase shared
 116 facilities under certain circumstances; providing a

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117 requirement for the prospectus amendment; prohibiting
 118 certain costs and expenses from being passed on or
 119 passed through to existing mobile home owners;
 120 amending s. 723.023, F.S.; revising general
 121 obligations for mobile home owners; amending s.
 122 723.031, F.S.; revising construction relating to a
 123 park owner's disclosure of certain taxes and
 124 assessments; prohibiting a mobile home park owner from
 125 charging or collecting certain taxes or charges in
 126 excess of a certain amount; amending s. 723.037, F.S.;
 127 authorizing mobile home park owners to give notice of
 128 lot rental increases for multiple anniversary dates in
 129 one notice; providing construction; revising a
 130 requirement for a lot rental negotiation committee;
 131 amending s. 723.041, F.S.; providing that a mobile
 132 home park damaged or destroyed due to natural force
 133 may be rebuilt with the same density as previously
 134 approved, permitted, and built; providing
 135 construction; amending s. 723.042, F.S.; conforming a
 136 provision to changes made by the act; amending s.
 137 723.059, F.S.; authorizing certain mobile home
 138 purchasers to assume the seller's prospectus;
 139 authorizing a mobile home park owner to offer a
 140 purchaser any approved prospectus; amending s.
 141 723.061, F.S.; revising requirements related to the
 142 provision of eviction notices by mobile home park
 143 owners to specified entities; specifying the waiver
 144 and nonwaiver of certain rights of mobile home park
 145 owners under certain circumstances; requiring the

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146 accounting at final hearing of rents received;
 147 amending s. 723.076, F.S.; providing a notice
 148 requirement for homeowners' associations to park
 149 owners after the election or appointment of new
 150 officers or members; amending s. 723.078, F.S.;
 151 revising requirements for homeowners' association
 152 board elections and ballots; requiring an impartial
 153 committee to be responsible for overseeing the
 154 election process and complying with ballot
 155 requirements; defining the term "impartial committee";
 156 requiring that association bylaws provide a method for
 157 determining the winner of an election under certain
 158 circumstances; requiring the division to adopt
 159 procedural rules; revising the types of meetings that
 160 are not required to be open to members; providing an
 161 exception to a requirement for an officer of an
 162 association to provide an affidavit affirming certain
 163 information; authorizing meeting notices to be
 164 provided by electronic means; providing that the
 165 minutes of certain board and committee meetings are
 166 privileged and confidential; conforming provisions to
 167 changes made by the act; amending s. 723.079, F.S.;
 168 revising homeowners' association recordkeeping
 169 requirements; revising the timeframes during which
 170 certain records are required to be retained and be
 171 made available for inspection or photocopying;
 172 limiting the amount of damages for which an
 173 association is liable when a member is denied access
 174 to official records; requiring that certain disputes

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175 be submitted to mandatory binding arbitration with the
 176 division; providing requirements for such arbitration;
 177 amending s. 723.1255, F.S.; requiring that certain
 178 disputes be submitted to mandatory binding arbitration
 179 with the division; providing requirements for such
 180 arbitration and responsibility for fees and costs;
 181 requiring the division to adopt procedural rules;
 182 reenacting s. 420.507(22)(i), F.S., relating to powers
 183 of the Florida Housing Finance Corporation, to
 184 incorporate the amendment made to s. 420.5087, F.S.,
 185 in a reference thereto; reenacting s. 193.018(2),
 186 F.S., relating to land owned by a community land trust
 187 used to provide affordable housing, to incorporate the
 188 amendment made to s. 420.5095, F.S., in a reference
 189 thereto; providing an effective date.

190
 191 Be It Enacted by the Legislature of the State of Florida:

192
 193 Section 1. Subsection (4) is added to section 125.01055,
 194 Florida Statutes, to read:

195 125.01055 Affordable housing.—

196 (4) Notwithstanding any other law or local ordinance or
 197 regulation to the contrary, the board of county commissioners
 198 may approve the development of housing that is affordable, as
 199 defined in s. 420.0004, on any parcel zoned for residential,
 200 commercial, or industrial use.

201 Section 2. Subsections (3) and (4) of section 163.31771,
 202 Florida Statutes, are amended to read:

203 163.31771 Accessory dwelling units.—

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204 (3) ~~Upon a finding by a local government that there is a~~
 205 ~~shortage of affordable rentals within its jurisdiction, the~~
 206 local government may adopt an ordinance to allow accessory
 207 dwelling units in any area zoned for single-family residential
 208 use.

209 ~~If the local government adopts an ordinance under this~~
 210 ~~section,~~ An application for a building permit to construct an
 211 accessory dwelling unit must include an affidavit from the
 212 applicant which attests that the unit will be rented at an
 213 affordable rate to an extremely-low-income, very-low-income,
 214 low-income, or moderate-income person or persons.

215 Section 3. Subsection (10) is added to section 163.31801,
 216 Florida Statutes, to read:

217 163.31801 Impact fees; short title; intent; minimum
 218 requirements; audits; challenges.—

219 (10) In addition to the items that must be reported in the
 220 annual financial reports under s. 218.32, a county,
 221 municipality, or special district must report all of the
 222 following data on all impact fees charged:

223 (a) The specific purpose of the impact fee, including the
 224 specific infrastructure needs to be met, including, but not
 225 limited to, transportation, parks, water, sewer, and schools.

226 (b) The impact fee schedule policy describing the method of
 227 calculating impact fees, such as flat fees, tiered scales based
 228 on number of bedrooms, or tiered scales based on square footage.

229 (c) The amount assessed for each purpose and for each type
 230 of dwelling.

231 (d) The total amount of impact fees charged by type of
 232 dwelling.

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233 Section 4. Subsection (4) is added to section 166.04151,
234 Florida Statutes, to read:

235 166.04151 Affordable housing.—

236 (4) Notwithstanding any other law or local ordinance or
237 regulation to the contrary, the governing body of a municipality
238 may approve the development of housing that is affordable, as
239 defined in s. 420.0004, on any parcel zoned for residential,
240 commercial, or industrial use.

241 Section 5. Subsection (5) of section 196.196, Florida
242 Statutes, is amended to read:

243 196.196 Determining whether property is entitled to
244 charitable, religious, scientific, or literary exemption.—

245 (5) (a) Property owned by an exempt organization qualified
246 as charitable under s. 501(c) (3) of the Internal Revenue Code,
247 and property owned by a person granted an exemption under
248 paragraph (b), is used for a charitable purpose if the
249 organization or person has taken affirmative steps to prepare
250 the property to provide affordable housing to persons or
251 families that meet the extremely-low-income, very-low-income,
252 low-income, or moderate-income limits, as specified in s.
253 420.0004. The term "affirmative steps" means environmental or
254 land use permitting activities, creation of architectural plans
255 or schematic drawings, land clearing or site preparation,
256 construction or renovation activities, or other similar
257 activities that demonstrate a commitment of the property to
258 providing affordable housing.

259 (b) The board of county commissioners of any county, or the
260 governing authority of any municipality, may adopt an ordinance
261 to grant an ad valorem tax exemption under s. 3, Art. VII of the

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262 State Constitution, for property used for the charitable purpose
263 of providing affordable housing, if the person owning such
264 property has taken affirmative steps as defined in paragraph (a)
265 to prepare the property to provide affordable housing to persons
266 or families that meet the extremely-low-income, very-low-income,
267 low-income, or moderate-income limits, as specified in s.
268 420.0004.

269 (c) ~~(b)~~ 1. If property owned by an organization or person
270 granted an exemption under this subsection is transferred for a
271 purpose other than directly providing affordable homeownership
272 or rental housing to persons or families who meet the extremely-
273 low-income, very-low-income, low-income, or moderate-income
274 limits, as specified in s. 420.0004, or is not in actual use to
275 provide such affordable housing within 5 years after the date
276 the organization or person is granted the exemption, the
277 property appraiser making such determination shall serve upon
278 the organization or person that illegally or improperly received
279 the exemption a notice of intent to record in the public records
280 of the county a notice of tax lien against any property owned by
281 that organization or person in the county, and such property
282 must ~~shall~~ be identified in the notice of tax lien. The
283 organization or person owning such property is subject to the
284 taxes otherwise due and owing as a result of the failure to use
285 the property to provide affordable housing plus 15 percent
286 interest per annum and a penalty of 50 percent of the taxes
287 owed.

288 2. Such lien, when filed, attaches to any property
289 identified in the notice of tax lien owned by the organization
290 or person that illegally or improperly received the exemption.

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291 If such organization or person no longer owns property in the
 292 county but owns property in any other county in the state, the
 293 property appraiser shall record in each such other county a
 294 notice of tax lien identifying the property owned by such
 295 organization or person in such county which shall become a lien
 296 against the identified property. Before any such lien may be
 297 filed, the organization or person so notified must be given 30
 298 days to pay the taxes, penalties, and interest.

299 3. If an exemption is improperly granted as a result of a
 300 clerical mistake or an omission by the property appraiser, the
 301 organization or person improperly receiving the exemption shall
 302 not be assessed a penalty or interest.

303 4. The 5-year limitation specified in this subsection may
 304 be extended if the holder of the exemption continues to take
 305 affirmative steps to develop the property for the purposes
 306 specified in this subsection.

307 Section 6. Subsection (1) of section 196.1978, Florida
 308 Statutes, is amended to read:

309 196.1978 Affordable housing property exemption.—

310 (1) Property used to provide affordable housing to eligible
 311 persons as defined by s. 159.603 and natural persons or families
 312 meeting the extremely-low-income, very-low-income, low-income,
 313 or moderate-income limits specified in s. 420.0004, which is
 314 owned entirely by a nonprofit entity that is a corporation not
 315 for profit, qualified as charitable under s. 501(c)(3) of the
 316 Internal Revenue Code and in compliance with Rev. Proc. 96-32,
 317 1996-1 C.B. 717, is considered property owned by an exempt
 318 entity and used for a charitable purpose, and those portions of
 319 the affordable housing property that provide housing to natural

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320 persons or families classified as extremely low income, very low
 321 income, low income, or moderate income under s. 420.0004 are
 322 exempt from ad valorem taxation to the extent authorized under
 323 s. 196.196. Units that are vacant or that are occupied by
 324 tenants who were natural persons or families meeting the
 325 extremely-low-income, very-low-income, low-income, or moderate-
 326 income limits specified in s. 420.0004 at the time they
 327 initially became tenants, but who no longer meet those income
 328 limits, shall be treated as portions of the property exempt from
 329 ad valorem taxation under s. 196.196 provided that the property
 330 is subject to a recorded land use restriction agreement in favor
 331 of the Florida Housing Finance Agency or any other governmental
 332 or quasi-governmental jurisdiction. All property identified in
 333 this section must comply with the criteria provided under s.
 334 196.195 for determining exempt status and applied by property
 335 appraisers on an annual basis. The Legislature intends that any
 336 property owned by one or more limited liability companies or
 337 limited partnerships, each of which is a ~~limited liability~~
 338 ~~company which is disregarded as an~~ entity for federal income tax
 339 purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii)
 340 shall be treated as owned by the ultimate ~~the~~ sole member s.
 341 501(c)(3) nonprofit corporation.

342 Section 7. Paragraph (h) of subsection (3) of section
 343 320.77, Florida Statutes, is amended to read:

344 320.77 License required of mobile home dealers.—

345 (3) APPLICATION.—The application for such license shall be
 346 in the form prescribed by the department and subject to such
 347 rules as may be prescribed by it. The application shall be
 348 verified by oath or affirmation and shall contain:

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349 (h) Certification by the applicant:

350 1. That the location is a permanent one, not a tent or a
351 temporary stand or other temporary quarters. ~~and,~~

352 2. Except in the case of a mobile home broker, that the
353 location affords sufficient ~~unoccupied~~ space to display ~~store~~
354 ~~all mobile homes offered and displayed for sale. A space to~~
355 display a manufactured home as a model home is sufficient to
356 satisfy this requirement. ~~and that~~ The location ~~must be~~ is a
357 suitable place in which the applicant can in good faith carry on
358 business and keep and maintain books, records, and files
359 necessary to conduct such business, which must ~~will~~ be available
360 at all reasonable hours to inspection by the department or any
361 of its inspectors or other employees.

362

363 This paragraph does subsection shall not preclude a licensed
364 mobile home dealer from displaying and offering for sale mobile
365 homes in a mobile home park.

366

367 The department shall, if it deems necessary, cause an
368 investigation to be made to ascertain if the facts set forth in
369 the application are true and shall not issue a license to the
370 applicant until it is satisfied that the facts set forth in the
371 application are true.

372 Section 8. Paragraph (j) of subsection (3) of section
373 320.771, Florida Statutes, is amended to read:

374 320.771 License required of recreational vehicle dealers.—

375 (3) APPLICATION.—The application for such license shall be
376 in the form prescribed by the department and subject to such
377 rules as may be prescribed by it. The application shall be

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378 verified by oath or affirmation and shall contain:

379 (j) A statement that the applicant is insured under a
380 garage liability insurance policy, which shall include, at a
381 minimum, \$25,000 combined single-limit liability coverage,
382 including bodily injury and property damage protection, and
383 \$10,000 personal injury protection, if the applicant is to be
384 licensed as a dealer in, or intends to sell, recreational
385 vehicles. However, a garage liability policy is not required for
386 the licensure of a mobile home dealer who sells only park
387 trailers.

388

389 The department shall, if it deems necessary, cause an
390 investigation to be made to ascertain if the facts set forth in
391 the application are true and shall not issue a license to the
392 applicant until it is satisfied that the facts set forth in the
393 application are true.

394 Section 9. Paragraph (c) of subsection (2) of section
395 320.822, Florida Statutes, is amended to read:

396 320.822 Definitions; ss. 320.822-320.862.—In construing ss.
397 320.822-320.862, unless the context otherwise requires, the
398 following words or phrases have the following meanings:

399 (2) "Code" means the appropriate standards found in:

400 (c) The Mobile and Manufactured Home Repair and Remodeling
401 Code and the Used Recreational Vehicle Code.

402 Section 10. Subsection (2) of section 320.8232, Florida
403 Statutes, is amended to read:

404 320.8232 Establishment of uniform standards for used
405 recreational vehicles and repair and remodeling code for mobile
406 homes.—

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407 (2) The Mobile and Manufactured Home ~~provisions of the~~
 408 Repair and Remodeling Code must be a uniform code, must shall
 409 ensure safe and livable housing, and may shall not be more
 410 stringent than those standards required to be met in the
 411 manufacture of mobile homes. Such code must ~~provisions shall~~
 412 include, but not be limited to, standards for structural
 413 adequacy, plumbing, heating, electrical systems, and fire and
 414 life safety. All repairs and remodeling of mobile and
 415 manufactured homes must be performed in accordance with
 416 department rules.

417 Section 11. Subsection (9) of section 367.022, Florida
 418 Statutes, is amended, and subsection (14) is added to that
 419 section, to read:

420 367.022 Exemptions.—The following are not subject to
 421 regulation by the commission as a utility nor are they subject
 422 to the provisions of this chapter, except as expressly provided:

423 (9) Any person who resells water service to his or her
 424 tenants or to individually metered residents for a fee that does
 425 not exceed the actual purchase price of the water and wastewater
 426 service plus the actual cost of meter reading and billing, not
 427 to exceed 9 percent of the actual cost of service.

428 (14) The owner of a mobile home park operating both as a
 429 mobile home park and a mobile home subdivision, as those terms
 430 are defined in s. 723.003, who provides service within the park
 431 and subdivision to a combination of both tenants and lot owners,
 432 provided that the service to tenants is without specific
 433 compensation.

434 Section 12. Paragraph (c) of subsection (6) of section
 435 420.5087, Florida Statutes, is amended to read:

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436 420.5087 State Apartment Incentive Loan Program.—There is
 437 hereby created the State Apartment Incentive Loan Program for
 438 the purpose of providing first, second, or other subordinated
 439 mortgage loans or loan guarantees to sponsors, including for-
 440 profit, nonprofit, and public entities, to provide housing
 441 affordable to very-low-income persons.

442 (6) On all state apartment incentive loans, except loans
 443 made to housing communities for the elderly to provide for
 444 lifesafety, building preservation, health, sanitation, or
 445 security-related repairs or improvements, the following
 446 provisions shall apply:

447 (c) The corporation shall provide by rule for the
 448 establishment of a review committee for the competitive
 449 evaluation and selection of applications submitted in this
 450 program, including, but not limited to, the following criteria:

451 1. Tenant income and demographic targeting objectives of
 452 the corporation.

453 2. Targeting objectives of the corporation which will
 454 ensure an equitable distribution of loans between rural and
 455 urban areas.

456 3. Sponsor's agreement to reserve the units for persons or
 457 families who have incomes below 50 percent of the state or local
 458 median income, whichever is higher, for a time period that
 459 exceeds the minimum required by federal law or this part.

460 4. Sponsor's agreement to reserve more than:

461 a. Twenty percent of the units in the project for persons
 462 or families who have incomes that do not exceed 50 percent of
 463 the state or local median income, whichever is higher; or

464 b. Forty percent of the units in the project for persons or

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465 families who have incomes that do not exceed 60 percent of the
 466 state or local median income, whichever is higher, without
 467 requiring a greater amount of the loans as provided in this
 468 section.

469 5. Provision for tenant counseling.

470 6. Sponsor's agreement to accept rental assistance
 471 certificates or vouchers as payment for rent.

472 7. Projects requiring the least amount of a state apartment
 473 incentive loan compared to overall project cost, except that the
 474 share of the loan attributable to units serving extremely-low-
 475 income persons must be excluded from this requirement.

476 8. Local government contributions and local government
 477 comprehensive planning and activities that promote affordable
 478 housing and policies that promote access to public
 479 transportation, reduce the need for onsite parking, and expedite
 480 permits for affordable housing projects.

481 9. Project feasibility.

482 10. Economic viability of the project.

483 11. Commitment of first mortgage financing.

484 12. Sponsor's prior experience.

485 13. Sponsor's ability to proceed with construction.

486 14. Projects that directly implement or assist welfare-to-
 487 work transitioning.

488 15. Projects that reserve units for extremely-low-income
 489 persons.

490 16. Projects that include green building principles, storm-
 491 resistant construction, or other elements that reduce long-term
 492 costs relating to maintenance, utilities, or insurance.

493 17. Job-creation rate of the developer and general

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494 contractor, as provided in s. 420.507(47).

495 Section 13. Section 420.5095, Florida Statutes, is amended
 496 to read:

497 420.5095 Community Workforce Housing Loan Innovation Pilot
 498 Program.—

499 (1) The Legislature finds and declares that recent rapid
 500 increases in the median purchase price of a home and the cost of
 501 rental housing have far outstripped the increases in median
 502 income in the state, ~~preventing essential services personnel~~
 503 ~~from living in the communities where they serve and thereby~~
 504 creating the need for innovative solutions for the provision of
 505 housing opportunities ~~for essential services personnel.~~

506 (2) The Community Workforce Housing Loan Innovation Pilot
 507 Program is created to provide affordable rental and home
 508 ownership community workforce housing for persons essential
 509 services personnel affected by the high cost of housing, ~~using~~
 510 ~~regulatory incentives and state and local funds to promote local~~
 511 ~~public-private partnerships and leverage government and private~~
 512 ~~resources.~~

513 (3) For purposes of this section, the term+
 514 ~~(a)~~ "workforce housing" means housing affordable to natural
 515 persons or families whose total annual household income does not
 516 exceed 80 ~~140~~ percent of the area median income, adjusted for
 517 household size, or 120 ~~150~~ percent of area median income,
 518 adjusted for household size, in areas of critical state concern
 519 designated under s. 380.05, for which the Legislature has
 520 declared its intent to provide affordable housing, and areas
 521 that were designated as areas of critical state concern for at
 522 least 20 consecutive years before ~~prior to~~ removal of the

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523 designation.

524 ~~(b) "Public-private partnership" means any form of business~~
 525 ~~entity that includes substantial involvement of at least one~~
 526 ~~county, one municipality, or one public sector entity, such as a~~
 527 ~~school district or other unit of local government in which the~~
 528 ~~project is to be located, and at least one private sector for-~~
 529 ~~profit or not-for-profit business or charitable entity, and may~~
 530 ~~be any form of business entity, including a joint venture or~~
 531 ~~contractual agreement.~~

532 (4) The Florida Housing Finance Corporation is authorized
 533 to provide loans under the Community Workforce Housing
 534 Innovation Pilot program loans to applicants an applicant for
 535 construction or rehabilitation of workforce housing in eligible
 536 areas. This funding is intended to be used with other public and
 537 private sector resources.

538 (5) The corporation shall establish a loan application
 539 process under s. 420.5087 by rule which includes selection
 540 criteria, an application review process, and a funding process.
 541 The corporation shall also establish an application review
 542 committee that may include up to three private citizens
 543 representing the areas of housing or real estate development,
 544 banking, community planning, or other areas related to the
 545 development or financing of workforce and affordable housing.

546 ~~(a) The selection criteria and application review process~~
 547 ~~must include a procedure for curing errors in the loan~~
 548 ~~applications which do not make a substantial change to the~~
 549 ~~proposed project.~~

550 ~~(b) To achieve the goals of the pilot program, the~~
 551 ~~application review committee may approve or reject loan~~

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552 ~~applications or responses to questions raised during the review~~
 553 ~~of an application due to the insufficiency of information~~
 554 ~~provided.~~

555 ~~(c) The application review committee shall make~~
 556 ~~recommendations concerning program participation and funding to~~
 557 ~~the corporation's board of directors.~~

558 ~~(d) The board of directors shall approve or reject loan~~
 559 ~~applications, determine the tentative loan amount available to~~
 560 ~~each applicant, and rank all approved applications.~~

561 ~~(e) The board of directors shall decide which approved~~
 562 ~~applicants will become program participants and determine the~~
 563 ~~maximum loan amount for each program participant.~~

564 ~~(6) The corporation shall provide incentives for local~~
 565 ~~governments in eligible areas to use local affordable housing~~
 566 ~~funds, such as those from the State Housing Initiatives~~
 567 ~~Partnership Program, to assist in meeting the affordable housing~~
 568 ~~needs of persons eligible under this program. Local governments~~
 569 ~~are authorized to use State Housing Initiative Partnership~~
 570 ~~Program funds for persons or families whose total annual~~
 571 ~~household income does not exceed:~~

572 ~~(a) One hundred and forty percent of the area median~~
 573 ~~income, adjusted for household size, or~~

574 ~~(b) One hundred and fifty percent of the area median~~
 575 ~~income, adjusted for household size, in areas that were~~
 576 ~~designated as areas of critical state concern for at least 20~~
 577 ~~consecutive years prior to the removal of the designation and in~~
 578 ~~areas of critical state concern, designated under s. 380.05, for~~
 579 ~~which the Legislature has declared its intent to provide~~
 580 ~~affordable housing.~~

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581 ~~(7) Funding shall be targeted to innovative projects in~~
 582 ~~areas where the disparity between the area median income and the~~
 583 ~~median sales price for a single family home is greatest, and~~
 584 ~~where population growth as a percentage rate of increase is~~
 585 ~~greatest. The corporation may also fund projects in areas where~~
 586 ~~innovative regulatory and financial incentives are made~~
 587 ~~available. The corporation shall fund at least one eligible~~
 588 ~~project in as many counties and regions of the state as is~~
 589 ~~practicable, consistent with program goals.~~

590 (6)(8) Projects must be given shall receive priority
 591 consideration for funding if where:

592 (a) the local jurisdiction has adopted, or is committed to
 593 adopting, appropriate regulatory incentives, ~~or the local~~
 594 ~~jurisdiction or public-private partnership has adopted or is~~
 595 ~~committed to adopting~~ local contributions or financial
 596 strategies, or other funding sources to promote the development
 597 and ongoing financial viability of such projects. Local
 598 incentives include such actions as expediting review of
 599 development orders and permits, supporting development near
 600 transportation hubs and major employment centers, and adopting
 601 land development regulations designed to allow flexibility in
 602 densities, use of accessory units, mixed-use developments, and
 603 flexible lot configurations. Financial strategies include such
 604 actions as promoting employer-assisted housing programs,
 605 providing tax increment financing, and providing land.

606 ~~(b) Projects are innovative and include new construction or~~
 607 ~~rehabilitation; mixed income housing; commercial and housing~~
 608 ~~mixed-use elements; innovative design; green building~~
 609 ~~principles; storm-resistant construction; or other elements that~~

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610 ~~reduce long-term costs relating to maintenance, utilities, or~~
 611 ~~insurance and promote homeownership. The program funding may not~~
 612 ~~exceed the costs attributable to the portion of the project that~~
 613 ~~is set aside to provide housing for the targeted population.~~

614 ~~(e) Projects that set aside at least 80 percent of units~~
 615 ~~for workforce housing and at least 50 percent for essential~~
 616 ~~services personnel and for projects that require the least~~
 617 ~~amount of program funding compared to the overall housing costs~~
 618 ~~for the project.~~

619 ~~(9) Notwithstanding s. 163.3184(4)(b)-(d), any local~~
 620 ~~government comprehensive plan amendment to implement a Community~~
 621 ~~Workforce Housing Innovation Pilot Program project found~~
 622 ~~consistent with this section shall be expedited as provided in~~
 623 ~~this subsection. At least 30 days prior to adopting a plan~~
 624 ~~amendment under this subsection, the local government shall~~
 625 ~~notify the state land planning agency of its intent to adopt~~
 626 ~~such an amendment, and the notice shall include its evaluation~~
 627 ~~related to site suitability and availability of facilities and~~
 628 ~~services. The public notice of the hearing required by s.~~
 629 ~~163.3184(11)(b)2. shall include a statement that the local~~
 630 ~~government intends to use the expedited adoption process~~
 631 ~~authorized by this subsection. Such amendments shall require~~
 632 ~~only a single public hearing before the governing board, which~~
 633 ~~shall be an adoption hearing as described in s. 163.3184(4)(c).~~
 634 ~~Any further proceedings shall be governed by s. 163.3184(5)-~~
 635 ~~(13).~~

636 ~~(10) The processing of approvals of development orders or~~
 637 ~~development permits, as defined in s. 163.3164, for innovative~~
 638 ~~community workforce housing projects shall be expedited.~~

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639 ~~(7)(11)~~ The corporation shall award loans with a 1 interest
 640 rates set at 1 to 3 percent interest rate for a term that does
 641 not exceed 15 years, which may be made forgivable when long-term
 642 affordability is provided and when at least 80 percent of the
 643 units are set aside for workforce housing and at least 50
 644 percent of the units are set aside for essential services
 645 personnel.

646 ~~(12) All eligible applications shall:~~

647 ~~(a) For home ownership, limit the sales price of a detached~~
 648 ~~unit, townhome, or condominium unit to not more than 90 percent~~
 649 ~~of the median sales price for that type of unit in that county,~~
 650 ~~or the statewide median sales price for that type of unit,~~
 651 ~~whichever is higher, and require that all eligible purchasers of~~
 652 ~~home ownership units occupy the homes as their primary~~
 653 ~~residence.~~

654 ~~(b) For rental units, restrict rents for all workforce~~
 655 ~~housing serving those with incomes at or below 120 percent of~~
 656 ~~area median income at the appropriate income level using the~~
 657 ~~restricted rents for the federal low-income housing tax credit~~
 658 ~~program and, for workforce housing units serving those with~~
 659 ~~incomes above 120 percent of area median income, restrict rents~~
 660 ~~to those established by the corporation, not to exceed 30~~
 661 ~~percent of the maximum household income adjusted to unit size.~~

662 ~~(c) Demonstrate that the applicant is a public-private~~
 663 ~~partnership in an agreement, contract, partnership agreement,~~
 664 ~~memorandum of understanding, or other written instrument signed~~
 665 ~~by all the project partners.~~

666 ~~(d) Have grants, donations of land, or contributions from~~
 667 ~~the public-private partnership or other sources collectively~~

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668 ~~totaling at least 10 percent of the total development cost or \$2~~
 669 ~~million, whichever is less. Such grants, donations of land, or~~
 670 ~~contributions must be evidenced by a letter of commitment,~~
 671 ~~agreement, contract, deed, memorandum of understanding, or other~~
 672 ~~written instrument at the time of application. Grants, donations~~
 673 ~~of land, or contributions in excess of 10 percent of the~~
 674 ~~development cost shall increase the application score.~~

675 ~~(c) Demonstrate how the applicant will use the regulatory~~
 676 ~~incentives and financial strategies outlined in subsection (8)~~
 677 ~~from the local jurisdiction in which the proposed project is to~~
 678 ~~be located. The corporation may consult with the Department of~~
 679 ~~Economic Opportunity in evaluating the use of regulatory~~
 680 ~~incentives by applicants.~~

681 ~~(f) Demonstrate that the applicant possesses title to or~~
 682 ~~site control of land and evidences availability of required~~
 683 ~~infrastructure.~~

684 ~~(g) Demonstrate the applicant's affordable housing~~
 685 ~~development and management experience.~~

686 ~~(h) Provide any research or facts available supporting the~~
 687 ~~demand and need for rental or home ownership workforce housing~~
 688 ~~for eligible persons in the market in which the project is~~
 689 ~~proposed.~~

690 ~~(13) Projects may include manufactured housing constructed~~
 691 ~~after June 1994 and installed in accordance with mobile home~~
 692 ~~installation standards of the Department of Highway Safety and~~
 693 ~~Motor Vehicles.~~

694 ~~(8)(14)~~ The corporation may adopt rules pursuant to ss.
 695 120.536(1) and 120.54 to implement this section.

696 ~~(15) The corporation may use a maximum of 2 percent of the~~

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697 ~~annual program appropriation for administration and compliance~~
 698 ~~monitoring.~~

699 ~~(16) The corporation shall review the success of the~~
 700 ~~Community Workforce Housing Innovation Pilot Program to~~
 701 ~~ascertain whether the projects financed by the program are~~
 702 ~~useful in meeting the housing needs of eligible areas and shall~~
 703 ~~include its findings in the annual report required under s.~~
 704 ~~420.511(3).~~

705 Section 14. Section 420.531, Florida Statutes, is amended
 706 to read:

707 420.531 Affordable Housing Catalyst Program.—

708 (1) The corporation shall operate the Affordable Housing
 709 Catalyst Program for the purpose of securing the expertise
 710 necessary to provide specialized technical support to local
 711 governments and community-based organizations to implement the
 712 HOME Investment Partnership Program, State Apartment Incentive
 713 Loan Program, State Housing Initiatives Partnership Program, and
 714 other affordable housing programs. To the maximum extent
 715 feasible, the entity to provide the necessary expertise must be
 716 recognized by the Internal Revenue Service as a nonprofit tax-
 717 exempt organization. It must have as its primary mission the
 718 provision of affordable housing training and technical
 719 assistance, an ability to provide training and technical
 720 assistance statewide, and a proven track record of successfully
 721 providing training and technical assistance under the Affordable
 722 Housing Catalyst Program. The technical support shall, at a
 723 minimum, include training relating to the following key elements
 724 of the partnership programs:

725 (a)(1) Formation of local and regional housing partnerships

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726 as a means of bringing together resources to provide affordable
 727 housing.

728 (b)(2) Implementation of regulatory reforms to reduce the
 729 risk and cost of developing affordable housing.

730 (c)(3) Implementation of affordable housing programs
 731 included in local government comprehensive plans.

732 (d)(4) Compliance with requirements of federally funded
 733 housing programs.

734 (2) In consultation with the corporation, the entity
 735 providing statewide training and technical assistance shall
 736 convene and administer biannual, regional workshops for the
 737 locally elected officials serving on affordable housing advisory
 738 committees as provided in s. 420.9076. The regional workshops
 739 may be conducted through teleconferencing or other technological
 740 means and must include processes and programming that facilitate
 741 peer-to-peer identification and sharing of best affordable
 742 housing practices among the locally elected officials. Annually,
 743 calendar year reports summarizing the deliberations, actions,
 744 and recommendations of each region, as well as the attendance
 745 records of locally elected officials, must be compiled by the
 746 entity providing statewide training and technical assistance for
 747 the Affordable Housing Catalyst Program and must be submitted to
 748 the President of the Senate, the Speaker of the House of
 749 Representatives, and the corporation by March 31 of the
 750 following year.

751 Section 15. Present subsection (7) of section 420.9073,
 752 Florida Statutes, is redesignated as subsection (8), and a new
 753 subsection (7) is added to that section, to read:

754 420.9073 Local housing distributions.—

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755 (7) Notwithstanding subsections (1)-(4), the corporation
 756 may prioritize a portion of the State Apartment Incentive Loan
 757 Program funds set aside under s. 420.5087(3)(d) for persons with
 758 special needs as defined in s. 420.0004(13) to provide funding
 759 for the development of newly constructed permanent rental
 760 housing on a campus that provides housing for persons in foster
 761 care or persons aging out of foster care pursuant to s.
 762 409.1451. Such housing shall promote and facilitate access to
 763 community-based supportive, educational, and employment services
 764 and resources that assist persons aging out of foster care to
 765 successfully transition to independent living and adulthood. The
 766 corporation must consult with the Department of Children and
 767 Families to create minimum criteria for such housing.

768 Section 16. Paragraph (j) is added to subsection (10) of
 769 section 420.9075, Florida Statutes, to read:

770 420.9075 Local housing assistance plans; partnerships.—

771 (10) Each county or eligible municipality shall submit to
 772 the corporation by September 15 of each year a report of its
 773 affordable housing programs and accomplishments through June 30
 774 immediately preceding submittal of the report. The report shall
 775 be certified as accurate and complete by the local government's
 776 chief elected official or his or her designee. Transmittal of
 777 the annual report by a county's or eligible municipality's chief
 778 elected official, or his or her designee, certifies that the
 779 local housing incentive strategies, or, if applicable, the local
 780 housing incentive plan, have been implemented or are in the
 781 process of being implemented pursuant to the adopted schedule
 782 for implementation. The report must include, but is not limited
 783 to:

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784 (j) The number of affordable housing applications
 785 submitted, the number approved, and the number denied.

786 Section 17. Subsections (2) and (4) of section 420.9076,
 787 Florida Statutes, are amended, and subsection (10) is added to
 788 that section, to read:

789 420.9076 Adoption of affordable housing incentive
 790 strategies; committees.—

791 (2) The governing board of a county or municipality shall
 792 appoint the members of the affordable housing advisory
 793 committee. Pursuant to the terms of any interlocal agreement, a
 794 county and municipality may create and jointly appoint an
 795 advisory committee. The local action adopted pursuant to s.
 796 420.9072 which creates the advisory committee and appoints the
 797 advisory committee members must name at least 8 but not more
 798 than 11 committee members and specify their terms. Effective
 799 October 1, 2020, the committee must consist of one locally
 800 elected official from each county or municipality participating
 801 in the State Housing Initiatives Partnership Program and one
 802 representative from at least six of the categories below:

803 (a) A citizen who is actively engaged in the residential
 804 home building industry in connection with affordable housing.

805 (b) A citizen who is actively engaged in the banking or
 806 mortgage banking industry in connection with affordable housing.

807 (c) A citizen who is a representative of those areas of
 808 labor actively engaged in home building in connection with
 809 affordable housing.

810 (d) A citizen who is actively engaged as an advocate for
 811 low-income persons in connection with affordable housing.

812 (e) A citizen who is actively engaged as a for-profit

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813 provider of affordable housing.

814 (f) A citizen who is actively engaged as a not-for-profit
815 provider of affordable housing.

816 (g) A citizen who is actively engaged as a real estate
817 professional in connection with affordable housing.

818 (h) A citizen who actively serves on the local planning
819 agency pursuant to s. 163.3174. If the local planning agency is
820 comprised of the governing board of the county or municipality,
821 the governing board may appoint a designee who is knowledgeable
822 in the local planning process.

823 (i) A citizen who resides within the jurisdiction of the
824 local governing body making the appointments.

825 (j) A citizen who represents employers within the
826 jurisdiction.

827 (k) A citizen who represents essential services personnel,
828 as defined in the local housing assistance plan.

829 (4) Annually ~~Triennially~~, the advisory committee shall
830 review the established policies and procedures, ordinances, land
831 development regulations, and adopted local government
832 comprehensive plan of the appointing local government and shall
833 recommend specific actions or initiatives to encourage or
834 facilitate affordable housing while protecting the ability of
835 the property to appreciate in value. The recommendations may
836 include the modification or repeal of existing policies,
837 procedures, ordinances, regulations, or plan provisions; the
838 creation of exceptions applicable to affordable housing; or the
839 adoption of new policies, procedures, regulations, ordinances,
840 or plan provisions, including recommendations to amend the local
841 government comprehensive plan and corresponding regulations,

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842 ordinances, and other policies. At a minimum, each advisory
843 committee shall submit an annual a report to the local governing
844 body and to the entity providing statewide training and
845 technical assistance for the Affordable Housing Catalyst Program
846 ~~which that~~ includes recommendations on, ~~and triennially~~
847 ~~thereafter evaluates~~ the implementation of, affordable housing
848 incentives in the following areas:

849 (a) The processing of approvals of development orders or
850 permits for affordable housing projects is expedited to a
851 greater degree than other projects, as provided in s.
852 163.3177(6)(f)3.

853 (b) All allowable fee waivers provided ~~The modification of~~
854 ~~impact fee requirements, including reduction or waiver of fees~~
855 ~~and alternative methods of fee payment for the development or~~
856 construction of affordable housing.

857 (c) The allowance of flexibility in densities for
858 affordable housing.

859 (d) The reservation of infrastructure capacity for housing
860 for very-low-income persons, low-income persons, and moderate-
861 income persons.

862 (e) ~~The allowance of~~ Affordable accessory residential units
863 ~~in residential zoning districts.~~

864 (f) The reduction of parking and setback requirements for
865 affordable housing.

866 (g) The allowance of flexible lot configurations, including
867 zero-lot-line configurations for affordable housing.

868 (h) The modification of street requirements for affordable
869 housing.

870 (i) The establishment of a process by which a local

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871 government considers, before adoption, policies, procedures,
872 ordinances, regulations, or plan provisions that increase the
873 cost of housing.

874 (j) The preparation of a printed inventory of locally owned
875 public lands suitable for affordable housing.

876 (k) The support of development near transportation hubs and
877 major employment centers and mixed-use developments.

878

879 The advisory committee recommendations may also include other
880 affordable housing incentives identified by the advisory
881 committee. Local governments that receive the minimum allocation
882 under the State Housing Initiatives Partnership Program shall
883 perform ~~an~~ the initial review but may elect to not perform the
884 annual triennial review.

885 (10) The locally elected official serving on an advisory
886 committee, or a locally elected designee, must attend biannual
887 regional workshops convened and administered under the
888 Affordable Housing Catalyst Program as provided in s.
889 420.531(2). If the locally elected official or a locally elected
890 designee fails to attend three consecutive regional workshops,
891 the corporation may withhold funds pending the person's
892 attendance at the next regularly scheduled biannual meeting.

893 Section 18. Section 423.02, Florida Statutes, is amended to
894 read:

895 423.02 Housing projects exempted from taxes and
896 assessments; payments in lieu thereof.—The housing projects,
897 including all property of housing authorities used for or in
898 connection therewith or appurtenant thereto, of housing
899 authorities, or their nonprofit instrumentalities as authorized

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900 by s. 421.08(8), shall be exempt from all taxes and special
901 assessments of the state or any city, town, county, or political
902 subdivision of the state, provided, however, that in lieu of
903 such taxes or special assessments, a housing authority or its
904 nonprofit instrumentality may agree to make payments to any
905 city, town, county, or political subdivision of the state for
906 services, improvements, or facilities furnished by such city,
907 town, county, or political subdivision for the benefit of a
908 housing project owned by the housing authority or its nonprofit
909 instrumentality, but in no event shall such payments exceed the
910 estimated cost to such city, town, county, or political
911 subdivision of the services, improvements, or facilities to be
912 so furnished. A city, town, county, or political subdivision of
913 the state may not rename, modify terminology, or otherwise
914 change a tax or assessment with the intent to circumvent the
915 exemption provided under this section, which must be interpreted
916 broadly to protect housing authorities or their nonprofit
917 instrumentalities from taxation or assessment.

918 Section 19. Subsection (4) of section 723.011, Florida
919 Statutes, is amended to read:

920 723.011 Disclosure prior to rental of a mobile home lot;
921 prospectus, filing, approval.—

922 (4) With regard to a tenancy in existence on the effective
923 date of this chapter, the prospectus or offering circular
924 offered by the mobile home park owner ~~must shall~~ contain the
925 same terms and conditions as rental agreements offered to all
926 other mobile home owners residing in the park on the effective
927 date of this act, excepting only rent variations based upon lot
928 location and size, and ~~may shall~~ not require any mobile home

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929 owner to install any permanent improvements, except that the
 930 mobile home owner may be required to install permanent
 931 improvements to the mobile home as disclosed in the prospectus.

932 Section 20. Subsection (5) of section 723.012, Florida
 933 Statutes, is amended to read:

934 723.012 Prospectus or offering circular.—The prospectus or
 935 offering circular, which is required to be provided by s.
 936 723.011, must contain the following information:

937 (5) A description of the recreational and other common
 938 facilities, if any, that will be used by the mobile home owners,
 939 including, but not limited to:

940 (a) The number of buildings and each room thereof and its
 941 intended purposes, location, approximate floor area, and
 942 capacity in numbers of people.

943 (b) Each swimming pool, as to its general location,
 944 approximate size and depths, and approximate deck size and
 945 capacity and whether heated.

946 (c) All other facilities and permanent improvements that
 947 ~~which~~ will serve the mobile home owners.

948 (d) A general description of the items of personal property
 949 available for use by the mobile home owners.

950 (e) A general description of the days and hours that
 951 facilities will be available for use.

952 (f) A statement as to whether all improvements are complete
 953 and, if not, their estimated completion dates.

954
 955 If a mobile home park owner intends to include additional
 956 property and mobile home lots and to increase the number of lots
 957 that will use the shared facilities of the park, the mobile home

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958 park owner must amend the prospectus to disclose such additions.
 959 If the number of mobile home lots in the park increases by more
 960 than 15 percent of the total number of lots in the original
 961 prospectus, the mobile home park owner must reasonably offset
 962 the impact of the additional lots by increasing the shared
 963 facilities. The amendment to the prospectus must include a
 964 reasonable timeframe for providing the required additional
 965 shared facilities. The costs and expenses necessary to increase
 966 the shared facilities may not be passed on or passed through to
 967 the existing mobile home owners.

968 Section 21. Section 723.023, Florida Statutes, is amended
 969 to read:

970 723.023 Mobile home owner's general obligations.—A mobile
 971 home owner shall ~~at all times~~:

972 (1) At all times comply with all obligations imposed on
 973 mobile home owners by applicable provisions of building,
 974 housing, and health codes, including compliance with all
 975 building permits and construction requirements for construction
 976 on the mobile home and lot. The home owner is responsible for
 977 all fines imposed by the local government for noncompliance with
 978 any local codes.

979 (2) At all times keep the mobile home lot ~~that which~~ he or
 980 she occupies clean, neat, and sanitary, and maintained in
 981 compliance with all local codes.

982 (3) At all times comply with properly promulgated park
 983 rules and regulations and require other persons on the premises
 984 with his or her consent to comply with such rules and to conduct
 985 themselves, and other persons on the premises with his or her
 986 consent, in a manner that does not unreasonably disturb other

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987 residents of the park or constitute a breach of the peace.

988 (4) Receive written approval from the mobile home park
 989 owner before making any exterior modification or addition to the
 990 home.

991 (5) When vacating the premises, remove any debris and other
 992 property of any kind which is left on the mobile home lot.

993 Section 22. Subsection (5) of section 723.031, Florida
 994 Statutes, is amended to read:

995 723.031 Mobile home lot rental agreements.—

996 (5) The rental agreement must ~~shall~~ contain the lot rental
 997 amount and services included. An increase in lot rental amount
 998 upon expiration of the term of the lot rental agreement must
 999 ~~shall~~ be in accordance with ss. 723.033 and 723.037 or s.
 1000 723.059(4), whichever is applicable; ~~7~~ provided that, pursuant to
 1001 s. 723.059(4), the amount of the lot rental increase is
 1002 disclosed and agreed to by the purchaser, in writing. An
 1003 increase in lot rental amount shall not be arbitrary or
 1004 discriminatory between similarly situated tenants in the park. A
 1005 lot rental amount may not be increased during the term of the
 1006 lot rental agreement, except:

1007 (a) When the manner of the increase is disclosed in a lot
 1008 rental agreement with a term exceeding 12 months and which
 1009 provides for such increases not more frequently than annually.

1010 (b) For pass-through charges as defined in s. 723.003.

1011 (c) That a charge may not be collected which results in
 1012 payment of money for sums previously collected as part of the
 1013 lot rental amount. The provisions hereof notwithstanding, the
 1014 mobile home park owner may pass on, at any time during the term
 1015 of the lot rental agreement, ad valorem property taxes, non-ad

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1016 valorem assessments, and utility charges, or increases of
 1017 either, provided that the ad valorem property taxes, non-ad
 1018 valorem assessments, and utility charges are not otherwise being
 1019 collected in the remainder of the lot rental amount and provided
 1020 further that the passing on of such ad valorem taxes, non-ad
 1021 valorem assessments, or utility charges, or increases of either,
 1022 was disclosed prior to tenancy, was being passed on as a matter
 1023 of custom between the mobile home park owner and the mobile home
 1024 owner, or such passing on was authorized by law. A park owner is
 1025 deemed to have disclosed the passing on of ad valorem property
 1026 taxes and non-ad valorem assessments if ad valorem property
 1027 taxes or non-ad valorem assessments were disclosed as a separate
 1028 charge or a factor for increasing the lot rental amount in the
 1029 prospectus or rental agreement. Such ad valorem taxes, non-ad
 1030 valorem assessments, and utility charges shall be a part of the
 1031 lot rental amount as defined by this chapter. The term "non-ad
 1032 valorem assessments" has the same meaning as provided in s.
 1033 197.3632(1)(d). Other provisions of this chapter
 1034 notwithstanding, pass-on charges may be passed on only within 1
 1035 year of the date a mobile home park owner remits payment of the
 1036 charge. A mobile home park owner is prohibited from passing on
 1037 any fine, interest, fee, or increase in a charge resulting from
 1038 a park owner's payment of the charge after the date such charges
 1039 become delinquent. A mobile home park owner is prohibited from
 1040 charging or collecting from the mobile home owners any sum for
 1041 ad valorem taxes or non-ad valorem tax charges in an amount in
 1042 excess of the sums remitted by the park owner to the tax
 1043 collector. Nothing herein shall prohibit a park owner and a
 1044 homeowner from mutually agreeing to an alternative manner of

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1045 payment to the park owner of the charges.

1046 (d) If a notice of increase in lot rental amount is not
1047 given 90 days before the renewal date of the rental agreement,
1048 the rental agreement must remain under the same terms until a
1049 90-day notice of increase in lot rental amount is given. The
1050 notice may provide for a rental term shorter than 1 year in
1051 order to maintain the same renewal date.

1052 Section 23. Subsection (1) and paragraph (a) of subsection
1053 (4) of section 723.037, Florida Statutes, are amended to read:

1054 723.037 Lot rental increases; reduction in services or
1055 utilities; change in rules and regulations; mediation.-

1056 (1) A park owner shall give written notice to each affected
1057 mobile home owner and the board of directors of the homeowners'
1058 association, if one has been formed, at least 90 days before any
1059 increase in lot rental amount or reduction in services or
1060 utilities provided by the park owner or change in rules and
1061 regulations. The park owner may give notice of all increases in
1062 lot rental amount for multiple anniversary dates in the same 90-
1063 day notice. The notice ~~must~~ ~~shall~~ identify all other affected
1064 homeowners, which may be by lot number, name, group, or phase.
1065 If the affected homeowners are not identified by name, the park
1066 owner shall make the names and addresses available upon request.
1067 However, this requirement does not authorize the release of the
1068 names, addresses, or other private information about the
1069 homeowners to the association or any other person for any other
1070 purpose. The home owner's right to the 90-day notice may not be
1071 waived or precluded by a home owner, or the homeowners'
1072 committee, in an agreement with the park owner. Rules adopted as
1073 a result of restrictions imposed by governmental entities and

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1074 required to protect the public health, safety, and welfare may
1075 be enforced prior to the expiration of the 90-day period but are
1076 not otherwise exempt from the requirements of this chapter.
1077 Pass-through charges must be separately listed as to the amount
1078 of the charge, the name of the governmental entity mandating the
1079 capital improvement, and the nature or type of the pass-through
1080 charge being levied. Notices of increase in the lot rental
1081 amount due to a pass-through charge ~~must~~ ~~shall~~ state the
1082 additional payment and starting and ending dates of each pass-
1083 through charge. The homeowners' association shall have no
1084 standing to challenge the increase in lot rental amount,
1085 reduction in services or utilities, or change of rules and
1086 regulations unless a majority of the affected homeowners agree,
1087 in writing, to such representation.

1088 (4) (a) A committee, not to exceed five in number,
1089 designated by a majority of the affected mobile home owners or
1090 by the board of directors of the homeowners' association, if
1091 applicable, and the park owner shall meet, at a mutually
1092 convenient time and place no later than 60 days before the
1093 effective date of the change to discuss the reasons for the
1094 increase in lot rental amount, reduction in services or
1095 utilities, or change in rules and regulations. The negotiating
1096 committee shall make a written request for a meeting with the
1097 park owner or subdivision developer to discuss those matters
1098 addressed in the 90-day notice, and may include in the request a
1099 listing of any other issue, with supporting documentation, that
1100 the committee intends to raise and discuss at the meeting. The
1101 committee shall address all lot rental amount increases that are
1102 specified in the notice of lot rental amount increase,

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1103 regardless of the effective date of the increase.

1104

1105 This subsection is not intended to be enforced by civil or
1106 administrative action. Rather, the meetings and discussions are
1107 intended to be in the nature of settlement discussions prior to
1108 the parties proceeding to mediation of any dispute.

1109 Section 24. Subsections (5) and (6) are added to section
1110 723.041, Florida Statutes, to read:

1111 723.041 Entrance fees; refunds; exit fees prohibited;
1112 replacement homes.-

1113 (5) A mobile home park that is damaged or destroyed due to
1114 wind, water, or other natural force may be rebuilt on the same
1115 site with the same density as was approved, permitted, and built
1116 before the park was damaged or destroyed.

1117 (6) This section does not limit the regulation of the
1118 uniform firesafety standards established under s. 633.206, but
1119 supersedes any other density, separation, setback, or lot size
1120 regulation adopted after initial permitting and construction of
1121 the mobile home park.

1122 Section 25. Section 723.042, Florida Statutes, is amended
1123 to read:

1124 723.042 Provision of improvements.-~~A~~ No person may not
1125 ~~shall~~ be required by a mobile home park owner or developer, as a
1126 condition of residence in the mobile home park, to provide any
1127 improvement unless the requirement is disclosed pursuant to s.
1128 723.012(7) ~~s. 723.011~~ prior to occupancy in the mobile home
1129 park.

1130 Section 26. Section 723.059, Florida Statutes, is amended
1131 to read:

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1132 723.059 ~~Rights of~~ Purchaser of a mobile home within a
1133 mobile home park.-

1134 (1) The purchaser of a mobile home within a mobile home
1135 park may become a tenant of the park if such purchaser would
1136 otherwise qualify with the requirements of entry into the park
1137 under the park rules and regulations, subject to the approval of
1138 the park owner, but such approval may not be unreasonably
1139 withheld. The purchaser of the mobile home may cancel or rescind
1140 the contract for purchase of the mobile home if the purchaser's
1141 tenancy has not been approved by the park owner 5 days before
1142 the closing of the purchase.

1143 (2) Properly promulgated rules may provide for the
1144 screening of any prospective purchaser to determine whether or
1145 not such purchaser is qualified to become a tenant of the park.

1146 (3) The purchaser of a mobile home who intends to become
1147 ~~becomes~~ a resident of the mobile home park in accordance with
1148 this section has the right to assume the remainder of the term
1149 of any rental agreement then in effect between the mobile home
1150 park owner and the seller and may assume the seller's
1151 prospectus. However, nothing herein shall prohibit a mobile home
1152 park owner from offering the purchaser of a mobile home any
1153 approved prospectus shall be entitled to rely on the terms and
1154 conditions of the prospectus or offering circular as delivered
1155 to the initial recipient.

1156 (4) However, nothing herein shall be construed to prohibit
1157 a mobile home park owner from increasing the rental amount to be
1158 paid by the purchaser upon the expiration of the assumed rental
1159 agreement in an amount deemed appropriate by the mobile home
1160 park owner, so long as such increase is disclosed to the

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1161 purchaser prior to his or her occupancy and is imposed in a
 1162 manner consistent with the purchaser's initial offering circular
 1163 ~~or~~ prospectus and this act.

1164 (5) Lifetime leases and the renewal provisions in
 1165 automatically renewable leases, both those existing and those
 1166 entered into after July 1, 1986, are not assumable unless
 1167 otherwise provided in the mobile home lot rental agreement or
 1168 unless the transferee is the home owner's spouse. The right to
 1169 an assumption of the lease by a spouse may be exercised only one
 1170 time during the term of that lease.

1171 Section 27. Paragraph (d) of subsection (1) of section
 1172 723.061, Florida Statutes, is amended, and subsection (5) is
 1173 added to that section, to read:

1174 723.061 Eviction; grounds; proceedings.-

1175 (1) A mobile home park owner may evict a mobile home owner,
 1176 a mobile home tenant, a mobile home occupant, or a mobile home
 1177 only on one or more of the following grounds:

1178 (d) Change in use of the land comprising the mobile home
 1179 park, or the portion thereof from which mobile homes are to be
 1180 evicted, from mobile home lot rentals to some other use, if:

1181 1. The park owner gives written notice to the homeowners'
 1182 association formed and operating under ss. 723.075-723.079 of
 1183 its right to purchase the mobile home park, if the land
 1184 comprising the mobile home park is changing use from mobile home
 1185 lot rentals to a different use, at the price and under the terms
 1186 and conditions set forth in the written notice.

1187 a. The notice shall be delivered to the officers of the
 1188 homeowners' association by United States mail. Within 45 days
 1189 after the date of mailing of the notice, the homeowners'

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1190 association may execute and deliver a contract to the park owner
 1191 to purchase the mobile home park at the price and under the
 1192 terms and conditions set forth in the notice. If the contract
 1193 between the park owner and the homeowners' association is not
 1194 executed and delivered to the park owner within the 45-day
 1195 period, the park owner is under no further obligation to the
 1196 homeowners' association except as provided in sub-subparagraph
 1197 b.

1198 b. If the park owner elects to offer or sell the mobile
 1199 home park at a price lower than the price specified in her or
 1200 his initial notice to the officers of the homeowners'
 1201 association, the homeowners' association has an additional 10
 1202 days to meet the revised price, terms, and conditions of the
 1203 park owner by executing and delivering a revised contract to the
 1204 park owner.

1205 c. The park owner is not obligated under this subparagraph
 1206 or s. 723.071 to give any other notice to, or to further
 1207 negotiate with, the homeowners' association for the sale of the
 1208 mobile home park to the homeowners' association after 6 months
 1209 after the date of the mailing of the initial notice under sub-
 1210 subparagraph a.

1211 2. The park owner gives the affected mobile home owners and
 1212 tenants at least 6 months' notice of the eviction due to the
 1213 projected change in use and of their need to secure other
 1214 accommodations. Within 20 days after giving an eviction notice
 1215 to a mobile home owner, the park owner must provide the division
 1216 with a copy of the notice. The division must provide the
 1217 executive director of the Florida Mobile Home Relocation
 1218 Corporation with a copy of the notice.

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1219 a. The notice of eviction due to a change in use of the
1220 land must include in a font no smaller than the body of the
1221 notice the following statement:

1222
1223 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME
1224 RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME
1225 RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS
1226 AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND
1227 PROFESSIONAL REGULATION.

1228
1229 b. The park owner may not give a notice of increase in lot
1230 rental amount within 90 days before giving notice of a change in
1231 use.

1232 (5) A park owner who accepts payment of any portion of the
1233 lot rental amount with actual knowledge of noncompliance after
1234 notice and termination of the rental agreement due to a
1235 violation under paragraph (1) (b), paragraph (1) (c), or paragraph
1236 (1) (e) does not waive the right to terminate the rental
1237 agreement or the right to bring a civil action for the
1238 noncompliance, but not for any subsequent or continuing
1239 noncompliance. Any rent so received must be accounted for at the
1240 final hearing.

1241 Section 28. Subsection (1) of section 723.076, Florida
1242 Statutes, is amended to read:

1243 723.076 Incorporation; notification of park owner.—

1244 (1) Upon receipt of its certificate of incorporation, the
1245 homeowners' association shall notify the park owner in writing
1246 of such incorporation and shall advise the park owner of the
1247 names and addresses of the officers of the homeowners'

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1248 association by personal delivery upon the park owner's
1249 representative as designated in the prospectus or by certified
1250 mail, return receipt requested. Thereafter, the homeowners'
1251 association shall notify the park owner in writing by certified
1252 mail, return receipt requested, of any change of names and
1253 addresses of its president or registered agent. Upon election or
1254 appointment of new officers or members, the homeowners'
1255 association shall notify the park owner in writing by certified
1256 mail, return receipt requested, of the names and addresses of
1257 the new officers or members.

1258 Section 29. Paragraphs (b) through (e) of subsection (2) of
1259 section 723.078, Florida Statutes, are amended, and paragraph
1260 (i) of that subsection is reenacted, to read:

1261 723.078 Bylaws of homeowners' associations.—

1262 (2) The bylaws shall provide and, if they do not, shall be
1263 deemed to include, the following provisions:

1264 (b) *Quorum; voting requirements; proxies.*—

1265 1. Unless otherwise provided in the bylaws, 30 percent of
1266 the total membership is required to constitute a quorum.
1267 Decisions shall be made by a majority of members represented at
1268 a meeting at which a quorum is present.

1269 2.a. A member may not vote by general proxy but may vote by
1270 limited proxies substantially conforming to a limited proxy form
1271 adopted by the division. Limited proxies and general proxies may
1272 be used to establish a quorum. Limited proxies may be used for
1273 votes taken to amend the articles of incorporation or bylaws
1274 pursuant to this section, and any other matters for which this
1275 chapter requires or permits a vote of members. ~~A, except that no~~
1276 proxy, limited or general, may not be used in the election of

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1277 board members in general elections or elections to fill
 1278 vacancies caused by recall, resignation, or otherwise. Board
 1279 members must be elected by written ballot or by voting in
 1280 person. If a mobile home or subdivision lot is owned jointly,
 1281 the owners of the mobile home or subdivision lot must be counted
 1282 as one for the purpose of determining the number of votes
 1283 required for a majority. Only one vote per mobile home or
 1284 subdivision lot shall be counted. Any number greater than 50
 1285 percent of the total number of votes constitutes a majority.
 1286 Notwithstanding this section, members may vote in person at
 1287 member meetings or by secret ballot, including absentee ballots,
 1288 as defined by the division.

1289 b. Elections shall be decided by a plurality of the ballots
 1290 cast. There is no quorum requirement; however, at least 20
 1291 percent of the eligible voters must cast a ballot in order to
 1292 have a valid election. A member may not allow any other person
 1293 to cast his or her ballot, and any ballots improperly cast are
 1294 invalid. An election is not required unless there are more
 1295 candidates nominated than vacancies that exist on the board.

1296 c. Each member or other eligible person who desires to be a
 1297 candidate for the board of directors shall appear on the ballot
 1298 in alphabetical order by surname. A ballot may not indicate if
 1299 any of the candidates are incumbent on the board. All ballots
 1300 must be uniform in appearance. Write-in candidates and more than
 1301 one vote per candidate per ballot are not allowed. A ballot may
 1302 not provide a space for the signature of, or any other means of
 1303 identifying, a voter. If a ballot contains more votes than
 1304 vacancies or fewer votes than vacancies, the ballot is invalid
 1305 unless otherwise stated in the bylaws.

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1306 d. An impartial committee shall be responsible for
 1307 overseeing the election process and complying with all ballot
 1308 requirements. For purposes of this section, the term "impartial
 1309 committee" means a committee whose members do not include any of
 1310 the following people or their spouses:

1311 (I) Current board members.

1312 (II) Current association officers.

1313 (III) Candidates for the association or board.

1314 e. The association bylaws shall provide a method for
 1315 determining the winner of an election in which two or more
 1316 candidates for the same position receive the same number of
 1317 votes.

1318 f. The division shall adopt procedural rules to govern
 1319 elections, including, but not limited to, rules for providing
 1320 notice by electronic transmission and rules for maintaining the
 1321 secrecy of ballots.

1322 3. A proxy is effective only for the specific meeting for
 1323 which originally given and any lawfully adjourned meetings
 1324 thereof. In no event shall any proxy be valid for a period
 1325 longer than 90 days after the date of the first meeting for
 1326 which it was given. Every proxy shall be revocable at any time
 1327 at the pleasure of the member executing it.

1328 4. A member of the board of directors or a committee may
 1329 submit in writing his or her agreement or disagreement with any
 1330 action taken at a meeting that the member did not attend. This
 1331 agreement or disagreement may not be used as a vote for or
 1332 against the action taken and may not be used for the purposes of
 1333 creating a quorum.

1334 (c) *Board of directors' and committee meetings.-*

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1335 1. Meetings of the board of directors and meetings of its
 1336 committees at which a quorum is present shall be open to all
 1337 members. Notwithstanding any other provision of law, the
 1338 requirement that board meetings and committee meetings be open
 1339 to the members does not apply to meetings between the park owner
 1340 and the board of directors or any of the board's committees,
 1341 board or committee meetings held for the purpose of discussing
 1342 personnel matters, or meetings between the board or a committee
 1343 and the association's attorney, with respect to potential or
 1344 pending litigation, when ~~where~~ the meeting is held for the
 1345 purpose of seeking or rendering legal advice, and when ~~where~~ the
 1346 contents of the discussion would otherwise be governed by the
 1347 attorney-client privilege. Notice of all meetings open to
 1348 members shall be posted in a conspicuous place upon the park
 1349 property at least 48 hours in advance, except in an emergency.
 1350 Notice of any meeting in which dues assessments ~~against members~~
 1351 are to be considered for any reason shall specifically contain a
 1352 statement that dues assessments will be considered and the
 1353 nature of such dues assessments.

1354 2. A board or committee member's participation in a meeting
 1355 via telephone, real-time videoconferencing, or similar real-time
 1356 telephonic, electronic, or video communication counts toward a
 1357 quorum, and such member may vote as if physically present. A
 1358 speaker shall be used so that the conversation of those board or
 1359 committee members attending by telephone may be heard by the
 1360 board or committee members attending in person, as well as by
 1361 members present at a meeting.

1362 3. Members of the board of directors may use e-mail as a
 1363 means of communication but may not cast a vote on an association

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1364 matter via e-mail.

1365 4. The right to attend meetings of the board of directors
 1366 and its committees includes the right to speak at such meetings
 1367 with reference to all designated agenda items. The association
 1368 may adopt reasonable written rules governing the frequency,
 1369 duration, and manner of members' statements. Any item not
 1370 included on the notice may be taken up on an emergency basis by
 1371 at least a majority plus one of the members of the board. Such
 1372 emergency action shall be noticed and ratified at the next
 1373 regular meeting of the board. Any member may tape record or
 1374 videotape meetings of the board of directors and its committees,
 1375 except meetings between the board of directors or its appointed
 1376 homeowners' committee and the park owner. The division shall
 1377 adopt reasonable rules governing the tape recording and
 1378 videotaping of the meeting.

1379 5. Except as provided in paragraph (i), a vacancy occurring
 1380 on the board of directors may be filled by the affirmative vote
 1381 of the majority of the remaining directors, even though the
 1382 remaining directors constitute less than a quorum; by the sole
 1383 remaining director; if the vacancy is not so filled or if no
 1384 director remains, by the members; or, on the application of any
 1385 person, by the circuit court of the county in which the
 1386 registered office of the corporation is located.

1387 6. The term of a director elected or appointed to fill a
 1388 vacancy expires at the next annual meeting at which directors
 1389 are elected. A directorship to be filled by reason of an
 1390 increase in the number of directors may be filled by the board
 1391 of directors, but only for the term of office continuing until
 1392 the next election of directors by the members.

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1393 7. A vacancy that will occur at a specific later date, by
1394 reason of a resignation effective at a later date, may be filled
1395 before the vacancy occurs. However, the new director may not
1396 take office until the vacancy occurs.

1397 8.a. The officers and directors of the association have a
1398 fiduciary relationship to the members.

1399 b. A director and committee member shall discharge his or
1400 her duties in good faith, with the care an ordinarily prudent
1401 person in a like position would exercise under similar
1402 circumstances, and in a manner he or she reasonably believes to
1403 be in the best interests of the corporation.

1404 9. In discharging his or her duties, a director may rely on
1405 information, opinions, reports, or statements, including
1406 financial statements and other financial data, if prepared or
1407 presented by:

1408 a. One or more officers or employees of the corporation who
1409 the director reasonably believes to be reliable and competent in
1410 the matters presented;

1411 b. Legal counsel, public accountants, or other persons as
1412 to matters the director reasonably believes are within the
1413 persons' professional or expert competence; or

1414 c. A committee of the board of directors of which he or she
1415 is not a member if the director reasonably believes the
1416 committee merits confidence.

1417 10. A director is not acting in good faith if he or she has
1418 knowledge concerning the matter in question that makes reliance
1419 otherwise permitted by subparagraph 9. unwarranted.

1420 11. A director is not liable for any action taken as a
1421 director, or any failure to take any action, if he or she

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1422 performed the duties of his or her office in compliance with
1423 this section.

1424 (d) *Member meetings.*—Members shall meet at least once each
1425 calendar year, and the meeting shall be the annual meeting. All
1426 members of the board of directors shall be elected at the annual
1427 meeting unless the bylaws provide for staggered election terms
1428 or for their election at another meeting. The bylaws shall not
1429 restrict any member desiring to be a candidate for board
1430 membership from being nominated from the floor. All nominations
1431 from the floor must be made at a duly noticed meeting of the
1432 members held at least 27 ~~30~~ days before the annual meeting. The
1433 bylaws shall provide the method for calling the meetings of the
1434 members, including annual meetings. The method shall provide at
1435 least 14 days' written notice to each member in advance of the
1436 meeting and require the posting in a conspicuous place on the
1437 park property of a notice of the meeting at least 14 days prior
1438 to the meeting. The right to receive written notice of
1439 membership meetings may be waived in writing by a member. Unless
1440 waived, the notice of the annual meeting shall be mailed, hand
1441 delivered, or electronically transmitted to each member, and
1442 shall constitute notice. Unless otherwise stated in the bylaws,
1443 an officer of the association shall provide an affidavit
1444 affirming that the notices were mailed, ~~or~~ hand delivered, or
1445 provided by electronic transmission in accordance with ~~the~~
1446 ~~provisions of~~ this section to each member at the address last
1447 furnished to the corporation. These meeting requirements do not
1448 prevent members from waiving notice of meetings or from acting
1449 by written agreement without meetings, if allowed by the bylaws.

1450 (e) *Minutes of meetings.*—

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1451 1. Notwithstanding any other provision of law, the minutes
 1452 of board or committee meetings that are closed to members are
 1453 privileged and confidential and are not available for inspection
 1454 or photocopying.

1455 2. Minutes of all meetings of members of an association and
 1456 meetings open to members of, the board of directors, and a
 1457 committee of the board must be maintained in written form and
 1458 approved by the members, board, or committee, as applicable. A
 1459 vote or abstention from voting on each matter voted upon for
 1460 each director present at a board meeting must be recorded in the
 1461 minutes.

1462 3.2. All approved minutes of open meetings of members,
 1463 committees, and the board of directors shall be kept in a
 1464 businesslike manner and shall be available for inspection by
 1465 members, or their authorized representatives, and board members
 1466 at reasonable times. The association shall retain these minutes
 1467 within this state for a period of at least 5 7 years.

1468 (i) *Recall of board members.*—Any member of the board of
 1469 directors may be recalled and removed from office with or
 1470 without cause by the vote of or agreement in writing by a
 1471 majority of all members. A special meeting of the members to
 1472 recall a member or members of the board of directors may be
 1473 called by 10 percent of the members giving notice of the meeting
 1474 as required for a meeting of members, and the notice shall state
 1475 the purpose of the meeting. Electronic transmission may not be
 1476 used as a method of giving notice of a meeting called in whole
 1477 or in part for this purpose.

1478 1. If the recall is approved by a majority of all members
 1479 by a vote at a meeting, the recall is effective as provided in

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1480 this paragraph. The board shall duly notice and hold a board
 1481 meeting within 5 full business days after the adjournment of the
 1482 member meeting to recall one or more board members. At the
 1483 meeting, the board shall either certify the recall, in which
 1484 case such member or members shall be recalled effective
 1485 immediately and shall turn over to the board within 5 full
 1486 business days any and all records and property of the
 1487 association in their possession, or shall proceed under
 1488 subparagraph 3.

1489 2. If the proposed recall is by an agreement in writing by
 1490 a majority of all members, the agreement in writing or a copy
 1491 thereof shall be served on the association by certified mail or
 1492 by personal service in the manner authorized by chapter 48 and
 1493 the Florida Rules of Civil Procedure. The board of directors
 1494 shall duly notice and hold a meeting of the board within 5 full
 1495 business days after receipt of the agreement in writing. At the
 1496 meeting, the board shall either certify the written agreement to
 1497 recall members of the board, in which case such members shall be
 1498 recalled effective immediately and shall turn over to the board,
 1499 within 5 full business days, any and all records and property of
 1500 the association in their possession, or shall proceed as
 1501 described in subparagraph 3.

1502 3. If the board determines not to certify the written
 1503 agreement to recall members of the board, or does not certify
 1504 the recall by a vote at a meeting, the board shall, within 5
 1505 full business days after the board meeting, file with the
 1506 division a petition for binding arbitration pursuant to the
 1507 procedures of s. 723.1255. For purposes of this paragraph, the
 1508 members who voted at the meeting or who executed the agreement

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1509 in writing shall constitute one party under the petition for
 1510 arbitration. If the arbitrator certifies the recall of a member
 1511 of the board, the recall shall be effective upon mailing of the
 1512 final order of arbitration to the association. If the
 1513 association fails to comply with the order of the arbitrator,
 1514 the division may take action under s. 723.006. A member so
 1515 recalled shall deliver to the board any and all records and
 1516 property of the association in the member's possession within 5
 1517 full business days after the effective date of the recall.

1518 4. If the board fails to duly notice and hold a board
 1519 meeting within 5 full business days after service of an
 1520 agreement in writing or within 5 full business days after the
 1521 adjournment of the members' recall meeting, the recall shall be
 1522 deemed effective and the board members so recalled shall
 1523 immediately turn over to the board all records and property of
 1524 the association.

1525 5. If the board fails to duly notice and hold the required
 1526 meeting or fails to file the required petition, the member's
 1527 representative may file a petition pursuant to s. 723.1255
 1528 challenging the board's failure to act. The petition must be
 1529 filed within 60 days after expiration of the applicable 5-full-
 1530 business-day period. The review of a petition under this
 1531 subparagraph is limited to the sufficiency of service on the
 1532 board and the facial validity of the written agreement or
 1533 ballots filed.

1534 6. If a vacancy occurs on the board as a result of a recall
 1535 and less than a majority of the board members are removed, the
 1536 vacancy may be filled by the affirmative vote of a majority of
 1537 the remaining directors, notwithstanding any other provision of

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1538 this chapter. If vacancies occur on the board as a result of a
 1539 recall and a majority or more of the board members are removed,
 1540 the vacancies shall be filled in accordance with procedural
 1541 rules to be adopted by the division, which rules need not be
 1542 consistent with this chapter. The rules must provide procedures
 1543 governing the conduct of the recall election as well as the
 1544 operation of the association during the period after a recall
 1545 but before the recall election.

1546 7. A board member who has been recalled may file a petition
 1547 pursuant to s. 723.1255 challenging the validity of the recall.
 1548 The petition must be filed within 60 days after the recall is
 1549 deemed certified. The association and the member's
 1550 representative shall be named as the respondents.

1551 8. The division may not accept for filing a recall
 1552 petition, whether or not filed pursuant to this subsection, and
 1553 regardless of whether the recall was certified, when there are
 1554 60 or fewer days until the scheduled reelection of the board
 1555 member sought to be recalled or when 60 or fewer days have not
 1556 elapsed since the election of the board member sought to be
 1557 recalled.

1558 Section 30. Paragraphs (d) and (f) through (i) of
 1559 subsection (4) and subsection (5) of section 723.079, Florida
 1560 Statutes, are amended to read:

1561 723.079 Powers and duties of homeowners' association.—

1562 (4) The association shall maintain the following items,
 1563 when applicable, which constitute the official records of the
 1564 association:

1565 (d) The approved minutes of all meetings of the members of
 1566 an association and meetings open for members of, the board of

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1567 directors, and committees of the board, which minutes must be
1568 retained within this ~~the~~ state for at least 5 7 years.

1569 (f) All of the association's insurance policies or copies
1570 thereof, which must be retained within this state for at least 5
1571 7 years after the expiration date of the policy.

1572 (g) A copy of all contracts or agreements to which the
1573 association is a party, including, without limitation, any
1574 written agreements with the park owner, lease, or other
1575 agreements or contracts under which the association or its
1576 members has any obligation or responsibility, which must be
1577 retained within this state for at least 5 7 years after the
1578 expiration date of the contract or agreement.

1579 (h) The financial and accounting records of the
1580 association, kept according to good accounting practices. All
1581 financial and accounting records must be maintained within this
1582 state for a ~~period of~~ at least 5 7 years. The financial and
1583 accounting records must include:

1584 1. Accurate, itemized, and detailed records of all receipts
1585 and expenditures.

1586 2. A current account and a periodic statement of the
1587 account for each member, designating the name and current
1588 address of each member who is obligated to pay dues or
1589 assessments, the due date and amount of each assessment or other
1590 charge against the member, the date and amount of each payment
1591 on the account, and the balance due.

1592 3. All tax returns, financial statements, and financial
1593 reports of the association.

1594 4. Any other records that identify, measure, record, or
1595 communicate financial information.

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1596 (i) All other written records of the association not
1597 specifically included in the foregoing which are related to the
1598 operation of the association must be retained within this state
1599 for at least 5 years or at least 5 years after the expiration
1600 date, as applicable.

1601 (5) The official records shall be ~~maintained within the~~
1602 ~~state for at least 7 years and shall be~~ made available to a
1603 member for inspection or photocopying within 20 ~~10~~ business days
1604 after receipt by the board or its designee of a written request
1605 submitted by certified mail, return receipt requested. The
1606 requirements of this subsection are satisfied by having a copy
1607 of the official records available for inspection or copying in
1608 the park or, at the option of the association, by making the
1609 records available to a member electronically via the Internet or
1610 by allowing the records to be viewed in electronic format on a
1611 computer screen and printed upon request. If the association has
1612 a photocopy machine available where the records are maintained,
1613 it must provide a member with copies on request during the
1614 inspection if the entire request is no more than 25 pages. An
1615 association shall allow a member or his or her authorized
1616 representative to use a portable device, including a smartphone,
1617 tablet, portable scanner, or any other technology capable of
1618 scanning or taking photographs, to make an electronic copy of
1619 the official records in lieu of the association's providing the
1620 member or his or her authorized representative with a copy of
1621 such records. The association may not charge a fee to a member
1622 or his or her authorized representative for the use of a
1623 portable device.

1624 (a) The failure of an association to provide access to the

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1625 records within 20 ~~10~~ business days after receipt of a written
 1626 request submitted by certified mail, return receipt requested,
 1627 creates a rebuttable presumption that the association willfully
 1628 failed to comply with this subsection.

1629 (b) A member who is denied access to official records is
 1630 entitled to ~~the actual damages or minimum~~ damages for the
 1631 association's willful failure to comply with this subsection in
 1632 the amount of. ~~The minimum damages are to be~~ \$10 per calendar
 1633 day up to 10 days, not to exceed \$100. The calculation for
 1634 damages begins ~~to begin~~ on the 21st ~~11th~~ business day after
 1635 receipt of the written request, submitted by certified mail,
 1636 return receipt requested.

1637 (c) A dispute between a member and an association regarding
 1638 inspecting or photocopying official records must be submitted to
 1639 mandatory binding arbitration with the division, and the
 1640 arbitration must be conducted pursuant to s. 723.1255 and
 1641 procedural rules adopted by the division.

1642 (d) The association may adopt reasonable written rules
 1643 governing the frequency, time, location, notice, records to be
 1644 inspected, and manner of inspections, but may not require a
 1645 member to demonstrate a proper purpose for the inspection, state
 1646 a reason for the inspection, or limit a member's right to
 1647 inspect records to less than 1 business day per month. The
 1648 association may impose fees to cover the costs of providing
 1649 copies of the official records, including the costs of copying
 1650 and for personnel to retrieve and copy the records if the time
 1651 spent retrieving and copying the records exceeds 30 minutes and
 1652 if the personnel costs do not exceed \$20 per hour. Personnel
 1653 costs may not be charged for records requests that result in the

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1654 copying of 25 or fewer pages. The association may charge up to
 1655 25 cents per page for copies made on the association's
 1656 photocopier. If the association does not have a photocopy
 1657 machine available where the records are kept, or if the records
 1658 requested to be copied exceed 25 pages in length, the
 1659 association may have copies made by an outside duplicating
 1660 service and may charge the actual cost of copying, as supported
 1661 by the vendor invoice. The association shall maintain an
 1662 adequate number of copies of the recorded governing documents,
 1663 to ensure their availability to members and prospective members.
 1664 Notwithstanding this paragraph, the following records are not
 1665 accessible to members or home owners:

1666 1. A record protected by the lawyer-client privilege as
 1667 described in s. 90.502 and a record protected by the work-
 1668 product privilege, including, but not limited to, a record
 1669 prepared by an association attorney or prepared at the
 1670 attorney's express direction which reflects a mental impression,
 1671 conclusion, litigation strategy, or legal theory of the attorney
 1672 or the association and which was prepared exclusively for civil
 1673 or criminal litigation, for adversarial administrative
 1674 proceedings, or in anticipation of such litigation or
 1675 proceedings until the conclusion of the litigation or
 1676 proceedings.

1677 2. E-mail addresses, telephone numbers, facsimile numbers,
 1678 emergency contact information, any addresses for a home owner
 1679 other than as provided for association notice requirements, and
 1680 other personal identifying information of any person, excluding
 1681 the person's name, lot designation, mailing address, and
 1682 property address. Notwithstanding the restrictions in this

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1683 subparagraph, an association may print and distribute to home
 1684 owners a directory containing the name, park address, and
 1685 telephone number of each home owner. However, a home owner may
 1686 exclude his or her telephone number from the directory by so
 1687 requesting in writing to the association. The association is not
 1688 liable for the disclosure of information that is protected under
 1689 this subparagraph if the information is included in an official
 1690 record of the association and is voluntarily provided by a home
 1691 owner and not requested by the association.

1692 3. An electronic security measure that is used by the
 1693 association to safeguard data, including passwords.

1694 4. The software and operating system used by the
 1695 association which allows the manipulation of data, even if the
 1696 home owner owns a copy of the same software used by the
 1697 association. The data is part of the official records of the
 1698 association.

1699 Section 31. Section 723.1255, Florida Statutes, is amended
 1700 to read:

1701 723.1255 Alternative resolution of recall, election, and
 1702 inspection and photocopying of official records disputes.-

1703 (1) A dispute between a mobile home owner and a homeowners'
 1704 association regarding the election and recall of officers or
 1705 directors under s. 723.078(2)(b) or regarding the inspection and
 1706 photocopying of official records under s. 723.079(5) must be
 1707 submitted to mandatory binding arbitration with the division.
 1708 The arbitration shall be conducted in accordance with this
 1709 section and the procedural rules adopted by the division.

1710 (2) Each party shall be responsible for paying its own
 1711 attorney fees, expert and investigator fees, and associated

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1712 costs. The cost of the arbitrators shall be divided equally
 1713 between the parties regardless of the outcome.

1714 (3) The division shall adopt procedural rules to govern
 1715 mandatory binding arbitration proceedings ~~The Division of~~
 1716 ~~Florida Condominiums, Timeshares, and Mobile Homes of the~~
 1717 ~~Department of Business and Professional Regulation shall adopt~~
 1718 ~~rules of procedure to govern binding recall arbitration~~
 1719 ~~proceedings.~~

1720 Section 32. For the purpose of incorporating the amendment
 1721 made by this act to section 420.5087, Florida Statutes, in a
 1722 reference thereto, paragraph (i) of subsection (22) of section
 1723 420.507, Florida Statutes, is reenacted to read:

1724 420.507 Powers of the corporation.-The corporation shall
 1725 have all the powers necessary or convenient to carry out and
 1726 effectuate the purposes and provisions of this part, including
 1727 the following powers which are in addition to all other powers
 1728 granted by other provisions of this part:

1729 (22) To develop and administer the State Apartment
 1730 Incentive Loan Program. In developing and administering that
 1731 program, the corporation may:

1732 (i) Establish, by rule, the procedure for competitively
 1733 evaluating and selecting all applications for funding based on
 1734 the criteria set forth in s. 420.5087(6)(c), determining actual
 1735 loan amounts, making and servicing loans, and exercising the
 1736 powers authorized in this subsection.

1737 Section 33. For the purpose of incorporating the amendment
 1738 made by this act to section 420.5095, Florida Statutes, in a
 1739 reference thereto, subsection (2) of section 193.018, Florida
 1740 Statutes, is reenacted to read:

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1741 193.018 Land owned by a community land trust used to
1742 provide affordable housing; assessment; structural improvements,
1743 condominium parcels, and cooperative parcels.-

1744 (2) A community land trust may convey structural
1745 improvements, condominium parcels, or cooperative parcels, that
1746 are located on specific parcels of land that are identified by a
1747 legal description contained in and subject to a ground lease
1748 having a term of at least 99 years, for the purpose of providing
1749 affordable housing to natural persons or families who meet the
1750 extremely-low-income, very-low-income, low-income, or moderate-
1751 income limits specified in s. 420.0004, or the income limits for
1752 workforce housing, as defined in s. 420.5095(3). A community
1753 land trust shall retain a preemptive option to purchase any
1754 structural improvements, condominium parcels, or cooperative
1755 parcels on the land at a price determined by a formula specified
1756 in the ground lease which is designed to ensure that the
1757 structural improvements, condominium parcels, or cooperative
1758 parcels remain affordable.

1759 Section 34. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 20, 2020

I respectfully request that **Senate Bill #998**, relating to Housing, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2020
Meeting Date

958
Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name Jeff Branch

Job Title Legislative Advocate

Address _____

Phone 74-3701

Street

Tallahassee

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Cities

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)

3/3/20

Meeting Date

998

Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name Trey Price

Job Title Executive Director

Address 227 N. Bronough St

Phone 850-488-4197

Street

Tallahassee

FL

32301

City

State

Zip

Email Trey.Price@floridahousing.org

Speaking: [X] For [] Against [] Information

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

Representing Florida Housing Finance Corporation

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20

Meeting Date

998

Bill Number (if applicable)

Topic Manufactured Housing

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title _____

Address 1400 Village Square Blvd Ste 3-156 Phone 850.385.7805

Street

Tallahassee FL

City

State

32312

Zip

Email nancy.stewart@nancyblackstewart.com

Speaking: For Against Information

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

Representing Federation of Manufactured Home Owners of FL

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)

3-3-2020

Meeting Date

5B 998

Bill Number (if applicable)

Topic HOUSING

Amendment Barcode (if applicable)

Name DANE BENNETT

Job Title DIR. OF GOV. AFFAIRS

Address 2600 CENTENNIAL PLACE

Phone 941-468-8479

Street

TALLAHASSEE

FL

32308

Email DBENNETT@FHBA.COM

City

State

Zip

Speaking: For Against Information

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

Representing FL HOME BUILDERS 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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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)

3/3/20
Meeting Date

998

Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name Andy Gonzalez

Job Title Public Policy Representative

Address 200 S. Monroe Street

Phone 850-224-1400

Tallahassee FL 32301
City State Zip

Email andy.g@floridarealtors.org

Speaking: For Against Information

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

Representing Florida Realtors

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)

3/3/20
Meeting Date

CS/CS/SB 998
Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name Karen Koch (Cook)

Job Title Executive Director

Address P.O. Box 11242

Phone 850.545.0818

Street

Tallahassee, FL 32302

City

State

Zip

Email Karen@fshc.org

Speaking: For Against Information

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

AS AMENDED

Representing Florida Supportive Housing Coalition

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)

3.3.2020

Meeting Date

SB998

Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name Tonnelle [tone-Net] Graham

Job Title Assoc. Director of Public Policy

Address 100 S. Monroe Street

Phone 850.922.4300

Tallahassee, FL 32301

Email tgraham@fl-counties.com

Speaking: [] For [] Against [] Information

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

Representing FL Association of Counties

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

998
Bill Number (if applicable)

Topic manufactured housing

Amendment Barcode (if applicable)

Name Lori Killinger

Job Title Legislative Counsel

Address _____
Street

Phone 850 222 5702

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Florida Manufactured Housing Assn.

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)

3/3/20

Meeting Date

998

Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name Heather Davidson

Job Title Director, Public Policy

Address 1300 S. Andrews Ave.

Phone 954 808-9277

Street

Ft. Lauderdale, FL

33316

City

State

Zip

Email hdavidson@united

waydward.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
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 Appropriations

BILL: CS/CS/CS/SB 1066

INTRODUCER: Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senator Gruters

SUBJECT: Impact Fees

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------------|-----------|---------------|
| 1. | <u>Toman</u> | <u>Ryon</u> | <u>CA</u> | <u>Fav/CS</u> |
| 2. | <u>Babin</u> | <u>Diez-Arguelles</u> | <u>FT</u> | <u>Fav/CS</u> |
| 3. | <u>Babin</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1066 imposes new requirements related to impact fees. The bill:

- Prohibits the application of a new or increased impact fee to pending permit applications unless the result is to reduce the total impact fees or mitigation costs imposed on the applicant.
- Authorizes local governments with charters that contain provisions providing for school capacity to require contributions related to public education that are used to mitigate impacts not otherwise funded by impact fees or other exactions related to public education facilities, under certain circumstances.
- Provides that impact fee credits are assignable and transferable at any time after establishment within the same impact fee zone or impact fee district, or an adjoining zone or district within the same local jurisdiction.

The Revenue Estimating Conference determined that a prior version of the bill (CS/SB 1066) had an indeterminate, positive or negative, impact on local government impact fee revenues beginning in Fiscal Year 2020-2021. Staff estimates that the changes made by the current version of the bill (CS/CS/CS/SB 1066) do not change the fiscal impact.

The bill takes effect July 1, 2020.

II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Local Government Impact Fees

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,⁴ regulatory fees, and special assessments⁵ to pay the cost of providing a facility or service or regulating an activity. As one type of regulatory fee, impact fees are charges imposed by local governments against new development to pay for the cost of capital facilities made necessary by such growth.⁶ Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee. With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board.

Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures. If a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

³ FLA. CONST. art. VIII, s. 2(b); s. 166.021(1), F.S.

⁴ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfh19.pdf> (last visited Feb. 12, 2020). Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees.

⁵ *Id.* Special assessments are typically used to construct and maintain capital facilities or to fund certain services.

⁶ *See supra* note 4 at p. 13.

Some local governments impose impact fees specifically for local school facilities.⁷ School districts have authority to impose ad valorem taxes within the district for school purposes⁸ but are not general purpose governments with home rule power⁹ and are not expressly authorized to impose impact fees.¹⁰ Local governments imposing specific impact fees for education capital improvements typically collect the fees for deposit directly into an account segregated for funding those improvements.¹¹ Local government ordinances creating the impact fee also typically stipulate that the funds be used only for education capital improvement projects.¹² The credit imposed for impact fees imposed for public educational facilities must be based on the total impact fee assessed and not limited to the impact fee imposed for a particular type of school.¹³

Section 163.31801(4), F.S., provides that any contribution for public education facilities must be credited against education-based impact fees on a dollar-for-dollar basis.

Section 163.31801(5), F.S., provides that if a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under concurrency, developments of regional impact, or otherwise,¹⁴ which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.¹⁵

Section 163.31801(7), F.S., provides that in any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees, as provided in s. 163.3180(6) (h) 2.b., F.S.,¹⁶ the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and s. 163.31801, F.S. The court may not use a deferential standard for the benefit of the government.

Chapter 2019-165, Laws of Fla., amended s. 163.31801, F.S., to codify the 'dual rational nexus test' for impact fees, as articulated in case law. This test requires an impact fee to be proportional

⁷ See, e.g., Miami-Dade County Code of Ordinances ch. 33K, *Educational Facilities Impact Fee Ordinance* and Orange County Code of Ordinances ch. 23, art. V, *School Impact Fees*.

⁸ FLA. CONST. art. VII, s. 9(a), and art. IX, s. 4(b); See s. 1011.71, F.S.

⁹ See FLA. CONST. art. VIII, ss. 1(f)-(g) and 2

¹⁰ Section 163.31801(2), F.S.

¹¹ In Miami-Dade County, the education facility impact fee is paid to the County Planning & Zoning Director, who must then deposit that amount into a specific trust fund maintained by the county. See Miami-Dade County Code of Ordinances, ss. 33K-7(a), 33K-10(c). In Orange County, the school impact fee is paid to the county or municipality (if the land being developed is within a municipality), which then transfers the funds collected at least quarterly to the Orange County School District. The District is responsible for maintaining the trust into which the impact fee revenues must be deposited. See Orange County Code of Ordinances, s. 23-142.

¹² See Miami-Dade County Code of Ordinances, s. 33K-11(a); Orange County Code of Ordinances, s. 23-143(b).

¹³ Section 163.3180(6)(h)2.b., F.S.

¹⁴ Local governments often specify types of credits and how they operate.

¹⁵ This subsection shall operate prospectively and not retrospectively.

¹⁶ With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.

and have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the benefits accruing to the proposed new development.¹⁷ Local governments are prohibited from requiring the payment of impact fees prior to issuing a property's building permit.¹⁸

Additionally, ch. 2019-165, Laws of Fla., established that impact fee funds must be earmarked for capital facilities that benefit new residents and may not be used to pay existing debt unless specific conditions are met.¹⁹ Provisions also authorized a local government to provide an exception or waiver for an impact fee for affordable housing. If a local government provides such an exception or waiver, it is not required to use any revenues to offset the impact.²⁰ Impact fee provisions in s. 163.31801, F.S., do not apply to water and sewer connection fees.

Concurrency and Proportionate Share

Concurrency requires public facilities and services to be available concurrent with the impacts of new development. Concurrency was formerly required for transportation, schools, and parks and recreation, but in 2011, the Legislature made concurrency for these facilities optional with the passage of the Community Planning Act (CPA).²¹ Concurrency on a statewide basis is required only for sanitary sewer, solid waste, drainage, and potable water. However, any local government is authorized to extend the concurrency requirement to additional public facilities within its jurisdiction.²² "Area" or "area of jurisdiction" within the CPA means the total area qualifying under the act, whether this be all of the lands lying within the limits of an incorporated municipality, lands in and adjacent to incorporated municipalities, all unincorporated lands within a county, or areas comprising combinations of the lands in incorporated municipalities and unincorporated areas of counties.²³

Many local governments continue to exercise the option to impose concurrency on transportation and school facilities. If a local government elects to apply concurrency to either transportation or school facilities, or both, its comprehensive plan must provide principles, guidelines, standards, and strategies, including adopted levels of service,²⁴ to guide its application of concurrency requirements.²⁵ Concurrency is tied to provisions requiring local governments to adopt level-of-service (LOS) standards, address existing deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan.²⁶ Local governments are charged with setting LOS standards within their jurisdictions. The local comprehensive plan must demonstrate, for required or optional concurrency requirements, that the adopted LOS standards

¹⁷ Section 163.31801(3)(f) and (g), F.S.

¹⁸ Section 163.31801(3)(e), F.S.

¹⁹ Section 163.31801(3)(h) and (i), F.S.

²⁰ Section 163.31801(8), F.S.

²¹ Chapter 2011-139, s. 15, Laws of Fla.

²² Section 163.3180(1), F.S.

²³ Section 163.3164(6), F.S.

²⁴ "Level of service" is defined in s. 163.3164(28), F.S., to mean "an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility."

²⁵ See ss. 163.3180(5) and (6), F.S., with respect to concurrency applied to transportation facilities and to public education facilities, respectively.

²⁶ See generally s. 163.3180, F.S.

can be reasonably met, and infrastructure needed to ensure that the LOS standards are achieved and maintained for a five-year period must be identified.²⁷ Generally, if the LOS standards are not met, development permits may not be issued without an applicable exception.

Proportionate share is a tool local governments may use to require developers to help mitigate the impacts of their development notwithstanding a failure to achieve and maintain the adopted LOS standards.²⁸ Proportionate share generally requires developers to contribute to costs, or build facilities, necessary to offset a new development's impacts.²⁹ Local governments may require proportionate share contributions from developers for both transportation and school impacts.³⁰

A local government applying the concurrency requirement to transportation facilities must comply with the statutory requirements in order to achieve and maintain the LOS standard adopted in the comprehensive plan.³¹ A local government that later repeals transportation concurrency is encouraged to apply statutory criteria to an alternative mobility funding system. A mobility fee-based funding system adopted by a local government must comply with the dual rational nexus test applicable to impact fees.³²

With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.³³

School Per-Student Station Costs

Each district school board must meet all educational plant space needs of its elementary, middle, and high schools.³⁴ Section 1013.64(6)(b)1, F.S., specifies maximum total costs per student station for each school level as of January 2006, adjusted annually to reflect increases or decreases in the Consumer Price Index. Chapter 2019-23, Laws of Fla., directed the Department of Education in conjunction with the Office of Economic and Demographic Research to review and adjust the cost per student station limits to reflect actual construction costs by January 1, 2020, and annually thereafter.

²⁷ Section 163.3180(1)(b), F.S.

²⁸ Florida Department of Community Affairs (now Department of Economic Opportunity), *Transportation Concurrency: Best Practices Guide*, pg. 64 (2007), available at http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf (last visited Feb. 12, 2020).

²⁹ *Id.*

³⁰ Sections 163.3180(5) and 163.3180(6), F.S.

³¹ Section 163.3180(5), F.S.

³² Section 163.3180(5)(i), F.S.

³³ Section 163.3180(6)(h)2.b., F.S.

³⁴ Section 1013.64(6), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 163.31801, F.S., to provide that unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.

The bill also allows certain local governments to impose both a contribution requirement related to public education facilities and an education-related impact fee without any offsetting credit. In order to qualify, the local government must be governed by a charter that was adopted and implemented before December 31, 2006, and the charter language must contain provisions for providing school capacity. Qualifying local governments must use the contributions related to public education facilities to fund impacts not otherwise funded by education-related impact fees, and the contributions must be based on the difference between the cost per student station as determined by the education facilities impact fee study on which the then-current education-based impact fee is based, subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per student station funded by the education-based impact fee.

Lastly, the bill provides that impact fee credits are assignable³⁵ and transferable at any time after establishment from one development or parcel to another with the same impact fee zone or impact fee district. The credits may be transferred to an adjoining impact fee zone or impact fee district within the same local jurisdiction, but only if the adjoining impact fee zone or impact fee district benefits from the improvement or contribution that generated the credit.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides that municipalities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, the mandate requirement does not apply to laws having an insignificant impact,³⁶ which for Fiscal Year 2020-2021 is forecast at approximately \$2.2 million.^{37,38}

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature

³⁵ Assignability is the quality or attribute which permits a thing to be transferred or negotiated. *See* BLACK'S LAW DICTIONARY (6th ed. 1990).

³⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 5, 2020).

³⁷ FLA. CONST. art. VII, s. 18(d).

³⁸ Based on the Florida Demographic Estimating Conference's December 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 5, 2020).

may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that cities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. As in Subsection 18(a), the mandate requirement does not apply to laws having an insignificant impact.

Under this bill, municipalities and counties that assess impact fees may realize a reduction in impact fee collections (revenues) as a result of the prohibition of applying new or increased fees on pending applications and the requirement to allow the transfers of impact fee credits. If the reduction to collections is determined to exceed \$2.2 million in the aggregate, and no other exemption or exception applies, in order to be binding on the municipalities and counties, the bill must contain a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature. If a reduction in authority to raise revenues is found and the reduction exceeds the aggregate threshold, final passage of the bill would require approval by two-thirds of the membership of each house of the Legislature.

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:

The Revenue Estimating Conference determined that a prior version of the bill (CS/SB 1066) had an indeterminate, positive or negative, impact on local government impact fee revenues beginning in Fiscal Year 2020-2021. Staff estimates that the changes made by the current version of the bill (CS/CS/CS/SB 1066) do not change the fiscal impact.

B. Private Sector Impact:

The bill's provisions related to assignable and transferable impact fee credits may have an indeterminate impact on holders of such credits or contributions.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.31801 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/CS/CS by Appropriations on March 03, 2020:

The committee substitute

- Removes all issues from the bill, except for the following:
 - Retains, without amendment, the language in the CS/CS that provides that new impact fees can only apply to existing applications if the result is to reduce the total mitigation costs or impact fees imposed on an applicant.
 - Inserts new language that allows certain local governments to collect both public education facility contributions and school impact fees under certain circumstances.
 - Amends the impact fee credit transfer provisions to limit credit transfers within the same local jurisdiction.

CS/CS by Finance and Tax on February 18, 2020:

The committee substitute:

- Clarifies that the bill applies to a special district that adopts, collects and administers an impact fee.
- Expands the definition of “infrastructure” to include, for independent special fire control and rescue districts, new facilities as defined in s. 191.009(4), F.S.
- Provides that new impact fees apply to existing applications if the result is to reduce the total mitigation costs or impact fees imposed on an applicant.
- Limits the use of impact fee credits to the same type of public facility for which the impact fee applies located within the geographic boundary of the local government jurisdiction where the impact fee is imposed, as well as a zone or district that receives benefit from the improvement. The committee substitute applies these same restrictions to alternative mobility funding systems as provided for in s. 163.3180(5)(i), F.S.
- Requires, for purposes of impact fee credits, that a benefit be recognized within any zone or district located within five miles of the zone or district where the credit was generated.
- Clarifies that impact fee credits are intended to ensure that impact fees or equivalent contributions are not collected more than once for the same impacts.

- Clarifies that contributions related to the transportation system are creditable against impact fees, mobility fees, or other forms of exactions that are charged to mitigate transportation impacts.
- Further details the composition and duties of the impact fee review committee.

CS by Community Affairs on February 10, 2020:

The committee substitute:

- Provides impact fee related definitions for infrastructure and public facility.
- Establishes a 36-month age-of-data requirement for analysis sources used to calculate impact fees.
- Provides that new or increased impact fees may not apply to current or pending permit applications submitted prior to the effective date of an ordinance imposing new or increased fees.
- Includes contributions within exiting impact fee challenge provisions and makes the challenges applicable to all of ch. 163, F.S.
- Clarifies that impact fee credits are assignable and transferrable within the same impact fee jurisdiction.
- Provides directives on how and when contributions in lieu of impact fees are credited.
- Removes a requirement that an impact fee review committee select an impact fee consultant.

B. Amendments:

None.



593778

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment

Delete line 57
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: FAV | . | |
| 03/04/2020 | . | |
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| | . | |
| | . | |

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 247
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law enforcement
facility. For independent special fire control and rescue
districts, the term "infrastructure" also includes new
facilities as defined in s. 191.009(4).

(4) At a minimum, each county and municipality that adopts,



277762

11 collects, or administers an impact fee by ordinance and each
12 special district that adopts, collects, and administers an
13 impact fee by resolution ~~an impact fee adopted by ordinance of a~~
14 ~~county or municipality or by resolution of a special district~~
15 ~~must satisfy all of the following conditions:~~

16 (a) Require that the calculation of any new or updated ~~the~~
17 ~~impact fee must~~ be based on the most recent and localized data
18 collected within the last 36 months and excludes any cost that
19 does not meet the definition of infrastructure.

20 (b) Account for the revenues and expenditures of such
21 impact fee in a separate impact fee account, if the local
22 governmental entity imposes an impact fee to address its
23 infrastructure needs ~~The local government must provide for~~
24 ~~accounting and reporting of impact fee collections and~~
25 ~~expenditures. If a local governmental entity imposes an impact~~
26 ~~fee to address its infrastructure needs, the entity must account~~
27 ~~for the revenues and expenditures of such impact fee in a~~
28 ~~separate accounting fund.~~

29 (c) Limit administrative charges for the collection of
30 ~~impact fees must be limited~~ to actual costs. The cost per
31 student station established in school impact fee calculations
32 may not exceed that statutory total maximum cost per student
33 station calculated under s. 1013.64(6).

34 (d) ~~The local government must~~ Provide notice not less than
35 90 days before the effective date of an ordinance or resolution
36 imposing a new or increased impact fee. Unless the result is to
37 reduce the total mitigation costs or impact fees imposed on an
38 applicant, new or increased impact fees may not apply to current
39 or pending permit applications submitted before the effective



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40 date of an ordinance or resolution imposing a new or increased
41 impact fee. A county or municipality is not required to wait 90
42 days to decrease, suspend, or eliminate an impact fee.

43 ~~(e) Collection of the impact fee may not be required to~~
44 ~~occur earlier than the date of issuance of the building permit~~
45 ~~for the property that is subject to the fee.~~

46 ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and
47 reasonably connected to, or has ~~have~~ a rational nexus with, the
48 need for additional infrastructure ~~capital facilities~~ and the
49 increased impact generated by the new residential or commercial
50 construction.

51 ~~(f)(g)~~ Ensure that the impact fee is ~~must be~~ proportional
52 and reasonably connected to, or has ~~have~~ a rational nexus with,
53 the expenditures of the funds collected and the benefits
54 accruing to the new residential or nonresidential construction.

55 ~~(g)(h)~~ The local government must Specifically earmark funds
56 collected under the impact fee for use in acquiring,
57 constructing, or improving infrastructure ~~capital facilities~~ to
58 benefit new users.

59 (5) Collection of the impact fee may not be required to
60 occur earlier than the date of issuance of the building permit
61 for the property that is subject to the fee.

62 ~~(6)(i)~~ Revenues generated by the impact fee may not be
63 used, in whole or in part, to pay existing debt or for
64 previously approved projects unless the expenditure is
65 reasonably connected to, or has a rational nexus with, the
66 increased impact generated by the new residential or
67 nonresidential construction.

68 ~~(7)(4)~~ Notwithstanding any charter provision, comprehensive



69 plan policy, ordinance, or resolution, the local government must
70 credit against the collection of the impact fee any form of
71 contribution, whether identified in a proportionate share
72 agreement or other form of exaction, related to public education
73 facilities, including land dedication, site planning and design,
74 or construction. Any contribution must be applied to reduce any
75 education-based impact fees on a dollar-for-dollar basis at fair
76 market value. This subsection does not apply to a local
77 government governed by a charter that was adopted and
78 implemented before December 31, 2006, which charter language
79 contains provisions for providing school capacity so long as the
80 funds collected pursuant to the charter provision are used to
81 mitigate impacts not otherwise funded by impact fees or other
82 local exactions relating to public education facilities and the
83 funds are applied in a manner that is proportional and
84 reasonably connected to, or has a rational nexus with, the need
85 for additional capital facilities, the need for which is
86 generated by the new residential development. Contributions to
87 mitigate impacts not otherwise funded by impact fees must be
88 based on the difference between the cost per student station as
89 determined by the educational facilities impact fee study on
90 which the then-current education-based impact fee is based,
91 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
92 student station funded by the education-based impact fee. Such
93 contributions may not be collected before the issuance of a
94 building permit.

95 (8) ~~(5)~~ If a local government increases its impact fee
96 rates, the holder of any impact fee credits, whether such
97 credits are granted under s. 163.3180, s. 380.06, or otherwise,



277762

98 which were in existence before the increase, is entitled to the
99 full benefit of the intensity or density prepaid by the credit
100 balance as of the date it was first established. This subsection
101 shall operate prospectively and not retrospectively.

102 (9)-(6) Audits of financial statements of local governmental
103 entities and district school boards which are performed by a
104 certified public accountant pursuant to s. 218.39 and submitted
105 to the Auditor General must include an affidavit signed by the
106 chief financial officer of the local governmental entity or
107 district school board stating that the local governmental entity
108 or district school board has complied with this section and the
109 spending period provision in the local ordinance or resolution.

110 (10)-(7) In any action challenging an impact fee or the
111 government's failure to provide required dollar-for-dollar
112 credits for the payment of impact fees or for contributions made
113 as provided in this chapter s. 163.3180(6)(h)2.b., the
114 government has the burden of proving by a preponderance of the
115 evidence that the imposition or amount of the fee or credit
116 meets the requirements of state legal precedent and this
117 section. The court may not use a deferential standard for the
118 benefit of the government.

119 (11) Impact fee credits are assignable and transferable at
120 any time after establishment from one development or parcel to
121 any other within the same impact fee zone or district or in an
122 adjoining zone or district which receives benefits from the
123 improvement or contribution that generated the credits.

124 (12)-(8) A county, municipality, or special district may
125 provide an exception or waiver for an impact fee for the
126 development or construction of housing that is affordable, as



277762

127 defined in s. 420.9071. If a county, municipality, or special
128 district provides such an exception or waiver, it is not
129 required to use any revenues to offset the impact.

130 (13) To ensure impact fees or equivalent contributions are
131 not imposed more than once for the same impacts, a local
132 government shall provide impact fee credits or other forms of
133 compensation if a contribution is greater in value than the
134 applicable impact fee. Contributions related to the
135 transportation system are creditable against the combined total
136 of all impact fees, mobility fees, or other forms of exactions
137 charged to mitigate transportation impacts. This subsection
138 applies at the time any contribution is accepted, regardless of
139 when the contributions were agreed upon or committed to.

140 (14)~~(9)~~ This section does not apply to water and sewer
141

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

143 And the title is amended as follows:

144 Delete lines 13 - 24

145 and insert:

146 governments; providing applicability; providing a
147 calculation on which contributions to mitigate impacts
148 not otherwise funded by impact fees must be based;
149 prohibiting such contributions from being collected
150 before the issuance of building permits; providing
151 that impact fee credits are assignable and
152 transferable under certain conditions;



891604

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 163.31801, Florida Statutes, is amended
to read:

163.31801 Impact fees; short title; intent; minimum
requirements; audits; challenges.—

(1) This section may be cited as the "Florida Impact Fee
Act."



891604

11 (2) The Legislature finds that impact fees are an important
12 source of revenue for a local government to use in funding the
13 infrastructure necessitated by new growth. The Legislature
14 further finds that impact fees are an outgrowth of the home rule
15 power of a local government to provide certain services within
16 its jurisdiction. Due to the growth of impact fee collections
17 and local governments' reliance on impact fees, it is the intent
18 of the Legislature to ensure that, when a county or municipality
19 adopts an impact fee by ordinance or a special district adopts
20 an impact fee by resolution, the governing authority complies
21 with this section.

22 (3) At a minimum, an impact fee adopted by ordinance of a
23 county or municipality or by resolution of a special district
24 must satisfy all of the following conditions:

25 (a) The calculation of the impact fee must be based on the
26 most recent and localized data.

27 (b) The local government must provide for accounting and
28 reporting of impact fee collections and expenditures. If a local
29 governmental entity imposes an impact fee to address its
30 infrastructure needs, the entity must account for the revenues
31 and expenditures of such impact fee in a separate accounting
32 fund.

33 (c) Administrative charges for the collection of impact
34 fees must be limited to actual costs.

35 (d) The local government must provide notice not less than
36 90 days before the effective date of an ordinance or resolution
37 imposing a new or increased impact fee. A county or municipality
38 is not required to wait 90 days to decrease, suspend, or
39 eliminate an impact fee. Unless the result is to reduce the



891604

40 total mitigation costs or impact fees imposed on an applicant,
41 new or increased impact fees may not apply to current or pending
42 permit applications submitted before the effective date of an
43 ordinance or resolution imposing a new or increased impact fee.

44 (e) Collection of the impact fee may not be required to
45 occur earlier than the date of issuance of the building permit
46 for the property that is subject to the fee.

47 (f) The impact fee must be proportional and reasonably
48 connected to, or have a rational nexus with, the need for
49 additional capital facilities and the increased impact generated
50 by the new residential or commercial construction.

51 (g) The impact fee must be proportional and reasonably
52 connected to, or have a rational nexus with, the expenditures of
53 the funds collected and the benefits accruing to the new
54 residential or nonresidential construction.

55 (h) The local government must specifically earmark funds
56 collected under the impact fee for use in acquiring,
57 constructing, or improving capital facilities to benefit new
58 users.

59 (i) Revenues generated by the impact fee may not be used,
60 in whole or in part, to pay existing debt or for previously
61 approved projects unless the expenditure is reasonably connected
62 to, or has a rational nexus with, the increased impact generated
63 by the new residential or nonresidential construction.

64 (4) Notwithstanding any charter provision, comprehensive
65 plan policy, ordinance, or resolution, the local government must
66 credit against the collection of the impact fee any
67 contribution, whether identified in a proportionate share
68 agreement or other form of exaction, related to public education



69 facilities, including land dedication, site planning and design,
70 or construction. Any contribution must be applied to reduce any
71 education-based impact fees on a dollar-for-dollar basis at fair
72 market value. This subsection does not apply to a local
73 government governed by a charter that was adopted and
74 implemented before December 31, 2006, which charter language
75 contains provisions for providing school capacity, so long as
76 the funds collected pursuant to the charter provision are used
77 to mitigate impacts not otherwise funded by impact fees or other
78 local exactions relating to public education facilities, and the
79 funds are applied in a manner that is proportional and
80 reasonably connected to, or has a rational nexus with, the need
81 for additional capital facilities, the need for which is
82 generated by the new residential development. Contributions to
83 mitigate impacts not otherwise funded by impact fees must be
84 based on the difference between the cost per student station as
85 determined by the educational facilities impact fee study on
86 which the then-current education-based impact fee is based,
87 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
88 student station funded by the education-based impact fee. Such
89 contributions may not be collected before the issuance of a
90 building permit.

91 (5) If a local government increases its impact fee rates,
92 the holder of any impact fee credits, whether such credits are
93 granted under s. 163.3180, s. 380.06, or otherwise, which were
94 in existence before the increase, is entitled to the full
95 benefit of the intensity or density prepaid by the credit
96 balance as of the date it was first established. This subsection
97 shall operate prospectively and not retrospectively.



891604

98 (6) Audits of financial statements of local governmental
99 entities and district school boards which are performed by a
100 certified public accountant pursuant to s. 218.39 and submitted
101 to the Auditor General must include an affidavit signed by the
102 chief financial officer of the local governmental entity or
103 district school board stating that the local governmental entity
104 or district school board has complied with this section.

105 (7) In any action challenging an impact fee or the
106 government's failure to provide required dollar-for-dollar
107 credits for the payment of impact fees as provided in s.
108 163.3180(6)(h)2.b., the government has the burden of proving by
109 a preponderance of the evidence that the imposition or amount of
110 the fee or credit meets the requirements of state legal
111 precedent and this section. The court may not use a deferential
112 standard for the benefit of the government.

113 (8) Impact fee credits are assignable and transferable at
114 any time after establishment from one development or parcel to
115 any other that is within the same impact fee zone or impact fee
116 district or that is within an adjoining impact fee zone or
117 impact fee district within the same local government
118 jurisdiction and receives benefits from the improvement or
119 contribution that generated the credits.

120 (9)~~(8)~~ A county, municipality, or special district may
121 provide an exception or waiver for an impact fee for the
122 development or construction of housing that is affordable, as
123 defined in s. 420.9071. If a county, municipality, or special
124 district provides such an exception or waiver, it is not
125 required to use any revenues to offset the impact.

126 (10)~~(9)~~ This section does not apply to water and sewer



891604

127 connection fees.

128 Section 2. This act shall take effect July 1, 2020.

129

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

131 And the title is amended as follows:

132 Delete everything before the enacting clause

133 and insert:

134 A bill to be entitled

135 An act relating to impact fees; amending s. 163.31801,

136 F.S.; prohibiting new or increased impact fees from

137 applying to certain applications; providing an

138 exception; providing applicability; providing a

139 calculation on which contributions to mitigate impacts

140 not otherwise funded by impact fees must be based;

141 prohibiting such contributions from being collected

142 before the issuance of building permits; providing

143 that impact fee credits are assignable and

144 transferable under certain conditions; providing an

145 effective date.



569730

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment to Amendment (277762)

Delete line 9
and insert:
facilities as defined in s. 191.009(4). The term further
includes housing that is affordable as defined in s. 420.0004.



199538

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 02/26/2020 | . | |
| | . | |
| | . | |
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment

Delete line 60
and insert:
facilities as defined in s. 191.009(4). The term further
includes housing that is affordable as defined in s. 420.0004.



590750

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 02/26/2020 | . | |
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| | . | |
| | . | |

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment

Delete lines 67 - 232
and insert:

(a) Require that the calculation of any new or updated the impact fee must be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local



590750

11 governmental entity imposes an impact fee to address its
12 infrastructure needs ~~The local government must provide for~~
13 ~~accounting and reporting of impact fee collections and~~
14 ~~expenditures. If a local governmental entity imposes an impact~~
15 ~~fee to address its infrastructure needs, the entity must account~~
16 ~~for the revenues and expenditures of such impact fee in a~~
17 ~~separate accounting fund.~~

18 (c) Limit administrative charges for the collection of
19 impact fees ~~must be limited~~ to actual costs. The cost per
20 student station established in school impact fee calculations
21 may not exceed that statutory total maximum cost per student
22 station calculated under s. 1013.64(6).

23 (d) ~~The local government must~~ Provide notice not less than
24 90 days before the effective date of an ordinance or resolution
25 imposing a new or increased impact fee. Unless the result is to
26 reduce the total mitigation costs or impact fees imposed on an
27 applicant, new or increased impact fees may not apply to current
28 or pending permit applications submitted before the effective
29 date of an ordinance or resolution imposing a new or increased
30 impact fee. A county or municipality is not required to wait 90
31 days to decrease, suspend, or eliminate an impact fee.

32 (e) ~~Collection of the impact fee may not be required to~~
33 ~~occur earlier than the date of issuance of the building permit~~
34 ~~for the property that is subject to the fee.~~

35 ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and
36 reasonably connected to, or has ~~have~~ a rational nexus with, the
37 need for additional infrastructure ~~capital facilities~~ and the
38 increased impact generated by the new residential or commercial
39 construction.



590750

40 (f)~~(g)~~ Ensure that the impact fee is ~~must be~~ proportional
41 and reasonably connected to, or has ~~have~~ a rational nexus with,
42 the expenditures of the funds collected and the benefits
43 accruing to the new residential or nonresidential construction.

44 (g)~~(h)~~ ~~The local government must~~ Specifically earmark funds
45 collected under the impact fee for use in acquiring,
46 constructing, or improving infrastructure ~~capital facilities~~ to
47 benefit new users.

48 (5) Collection of the impact fee may not be required to
49 occur earlier than the date of issuance of the building permit
50 for the property that is subject to the fee.

51 (6)~~(i)~~ Revenues generated by the impact fee may not be
52 used, in whole or in part, to pay existing debt or for
53 previously approved projects unless the expenditure is
54 reasonably connected to, or has a rational nexus with, the
55 increased impact generated by the new residential or
56 nonresidential construction.

57 (7)~~(4)~~ The local government must credit against the
58 collection of the impact fee any contribution, whether
59 identified in a proportionate share agreement or other form of
60 exaction, related to public education facilities, including land
61 dedication, site planning and design, or construction. Any
62 contribution must be applied to reduce any education-based
63 impact fees on a dollar-for-dollar basis at fair market value.

64 (8)~~(5)~~ If a local government increases its impact fee
65 rates, the holder of any impact fee credits, whether such
66 credits are granted under s. 163.3180, s. 380.06, or otherwise,
67 which were in existence before the increase, is entitled to the
68 full benefit of the intensity or density prepaid by the credit



590750

69 balance as of the date it was first established. This subsection
70 shall operate prospectively and not retrospectively.

71 (9)~~(6)~~ Audits of financial statements of local governmental
72 entities and district school boards which are performed by a
73 certified public accountant pursuant to s. 218.39 and submitted
74 to the Auditor General must include an affidavit signed by the
75 chief financial officer of the local governmental entity or
76 district school board stating that the local governmental entity
77 or district school board has complied with this section and the
78 spending period provision in the local ordinance or resolution.

79 (10)~~(7)~~ In any action challenging an impact fee or the
80 government's failure to provide required dollar-for-dollar
81 credits for the payment of impact fees or for contributions made
82 as provided in this chapter s. 163.3180(6)(h)2.b., the
83 government has the burden of proving by a preponderance of the
84 evidence that the imposition or amount of the fee or credit
85 meets the requirements of state legal precedent and this
86 section. The court may not use a deferential standard for the
87 benefit of the government.

88 (11) Impact fee credits are assignable and transferable at
89 any time after establishment for the same type of public
90 facility for which the impact fee applies to any development or
91 parcel located within the geographic boundary of the local
92 government jurisdiction where the impact fee is imposed and
93 situated geographically within an impact fee zone or district
94 that receives a benefit from the improvement, dedication, or
95 payment which generated the credit to be transferred. If a local
96 government elects to use an alternative mobility funding system
97 as provided for in s. 163.3180(5)(i) in lieu of impact fees,



590750

98 transportation credits are assignable and transferable at any
99 time after establishment to any development or parcel within the
100 geographic boundary of the local government jurisdiction where
101 the credit was established so long as the credit is applied to a
102 zone or district which is receiving a benefit from the
103 contribution to the alternative mobility funding system which
104 generated the credit. Under either system described in this
105 subsection, a benefit shall be recognized within any zone or
106 district located within 5 miles of the zone or district where
107 the credits were generated.

108 (12)-(8) A county, municipality, or special district may
109 provide an exception or waiver for an impact fee for the
110 development or construction of housing that is affordable, as
111 defined in s. 420.9071. If a county, municipality, or special
112 district provides such an exception or waiver, it is not
113 required to use any revenues to offset the impact.

114 (13) To ensure impact fees or equivalent contributions are
115 not imposed more than once for the same impacts, a local
116 government shall provide impact fee credits or other forms of
117 compensation if a contribution is greater in value than the
118 applicable impact fee. Contributions related to the
119 transportation system are creditable against the combined total
120 of all impact fees, mobility fees, or other forms of exactions
121 charged to mitigate transportation impacts. This subsection
122 applies at the time any contribution is accepted, regardless of
123 when the contributions were agreed upon or committed to.

124 (14) (a) Before enacting an impact fee, each county and
125 municipality must establish an impact fee review and advisory
126 committee.



590750

127 (b)1. The committee shall be composed of the following
128 members appointed by the county commission or the governing body
129 of the municipality, as applicable:

130 a. Two members who represent the business community who are
131 not elected officials or employees of the local government
132 jurisdiction.

133 b. Two members who are local licensed general or
134 residential contractors, who are not elected officials or
135 employees of the local government jurisdiction.

136 c. One at-large member who is not an elected official or
137 employee of the local government jurisdiction.

138 2. The county commission or the governing body of the
139 municipality, as applicable, may appoint three alternate
140 members, consisting of one representative from each of the
141 categories described in sub-subparagraphs 1.a., b., and c., who
142 shall serve in the absence of their respective member.

143 3. Members and alternate members must be qualified electors
144 of the county or municipality, as applicable.

145 4. Members and alternate members shall serve at the
146 pleasure of the local government and shall serve until they are
147 replaced.

148 (c)1. Each committee meeting must be duly noticed and open
149 to the public as required by s. 286.011.

150 2. A meeting may not be held unless a quorum is present. A
151 quorum consists of a majority of members of the committee, but
152 an alternate member shall count toward the quorum when a regular
153 member is absent.

154 3. Members of the committee shall serve without
155 compensation.



590750

156 4. In lieu of establishing an impact fee review committee
157 as required in paragraph (a), a local governmental entity that
158 assesses an impact fee may use an existing committee that
159 contains representation from the building or development
160 community and reviews building or development projects.



101774

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 150 - 169

and insert:

(11) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other within the same impact fee zone or district or in an adjoining zone or district which receives benefits from the improvement or contribution that generated the credits.



101774

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

12 And the title is amended as follows:

13 Delete lines 15 - 17

14 and insert:

15 requiring local governments to

By the Committees on Finance and Tax; and Community Affairs; and
Senator Gruters

593-03916-20

20201066c2

1 A bill to be entitled
2 An act relating to impact fees; amending s. 163.31801,
3 F.S.; revising legislative findings; defining terms;
4 revising requirements for counties and municipalities
5 that adopt, collect, or administer an impact fee by
6 ordinance and for special districts that adopt,
7 collect, and administer an impact fee by resolution;
8 providing minimum requirements for such counties,
9 municipalities, and special districts; prohibiting new
10 or increased impact fees from applying to certain
11 applications; providing an exception; providing
12 timeframes for the collection of impact fees by local
13 governments; providing that impact fee credits are
14 assignable and transferable under certain conditions;
15 providing that transportation credits, used in lieu of
16 impact fees, are assignable and transferable under
17 certain conditions; requiring local governments to
18 provide impact fee credits or other forms of
19 compensation under certain conditions; providing
20 applicability; requiring certain counties and
21 municipalities to establish impact fee review and
22 advisory committees; providing for membership;
23 providing procedures for holding meetings and
24 establishing quorums; providing committee duties;
25 providing an effective date.
26
27 Be It Enacted by the Legislature of the State of Florida:
28
29 Section 1. Section 163.31801, Florida Statutes, is amended

Page 1 of 9

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

593-03916-20

20201066c2

30 to read:
31 163.31801 Impact fees; short title; intent; minimum
32 requirements; audits; challenges.—
33 (1) This section may be cited as the "Florida Impact Fee
34 Act."
35 (2) The Legislature finds that impact fees are an important
36 source of revenue for a local government to use in funding the
37 infrastructure necessitated by new growth. The Legislature
38 further finds that impact fees are an outgrowth of the home rule
39 power of a local government to provide certain services within
40 its jurisdiction. Due to the growth of impact fee collections
41 and local governments' reliance on impact fees, it is the intent
42 of the Legislature to ensure that, when a county or municipality
43 adopts, collects, or administers an impact fee by ordinance or a
44 special district adopts, collects, and administers an impact fee
45 by resolution, the governing authority complies with this
46 section to ensure a consistent statewide process.
47 (3) For purposes of this section:
48 (a) The term "infrastructure" means any fixed capital
49 expenditure or fixed capital outlay associated with the
50 construction, reconstruction, or improvement of a public
51 facility, excluding the cost of repairs or maintenance, that
52 have a life expectancy of 5 or more years; any related land
53 acquisition, land improvement, design, engineering, and
54 permitting costs; and all other related construction costs
55 required to bring the public facility into service.
56 (b) The term "public facility" means any facility as
57 defined in s. 163.3164(39) and includes any fire and law
58 enforcement facility. For independent special fire control and

Page 2 of 9

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

593-03916-20

20201066c2

59 rescue districts, the term "infrastructure" also includes new
60 facilities as defined in s. 191.009(4).

61 (4) At a minimum, each county and municipality that adopts,
62 collects, or administers an impact fee by ordinance and each
63 special district that adopts, collects, and administers an
64 impact fee by resolution an impact fee adopted by ordinance of a
65 county or municipality or by resolution of a special district
66 must satisfy all of the following conditions:

67 (a) Require that the calculation of the impact fee must be
68 based on the most recent and localized data collected within the
69 last 36 months and excludes any cost that does not meet the
70 definition of infrastructure.

71 (b) Account for the revenues and expenditures of such
72 impact fee in a separate impact fee account, if the local
73 governmental entity imposes an impact fee to address its
74 infrastructure needs The local government must provide for
75 accounting and reporting of impact fee collections and
76 expenditures. If a local governmental entity imposes an impact
77 fee to address its infrastructure needs, the entity must account
78 for the revenues and expenditures of such impact fee in a
79 separate accounting fund.

80 (c) Limit administrative charges for the collection of
81 impact fees must be limited to actual costs. The cost per
82 student station established in school impact fee calculations
83 may not exceed that statutory total maximum cost per student
84 station calculated under s. 1013.64(6).

85 (d) The local government must Provide notice not less than
86 90 days before the effective date of an ordinance or resolution
87 imposing a new or increased impact fee. Unless the result is to

593-03916-20

20201066c2

88 reduce the total mitigation costs or impact fees imposed on an
89 applicant, new or increased impact fees may not apply to current
90 or pending permit applications submitted before the effective
91 date of an ordinance or resolution imposing a new or increased
92 impact fee. A county or municipality is not required to wait 90
93 days to decrease, suspend, or eliminate an impact fee.

94 ~~(e) Collection of the impact fee may not be required to~~
95 ~~occur earlier than the date of issuance of the building permit~~
96 ~~for the property that is subject to the fee.~~

97 ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and
98 reasonably connected to, or has ~~have~~ a rational nexus with, the
99 need for additional infrastructure capital facilities and the
100 increased impact generated by the new residential or commercial
101 construction.

102 ~~(f)(g)~~ Ensure that the impact fee is ~~must be~~ proportional
103 and reasonably connected to, or has ~~have~~ a rational nexus with,
104 the expenditures of the funds collected and the benefits
105 accruing to the new residential or nonresidential construction.

106 ~~(g)(h)~~ The local government must Specifically earmark funds
107 collected under the impact fee for use in acquiring,
108 constructing, or improving infrastructure capital facilities to
109 benefit new users.

110 (5) Collection of the impact fee may not be required to
111 occur earlier than the date of issuance of the building permit
112 for the property that is subject to the fee.

113 ~~(6)(i)~~ Revenues generated by the impact fee may not be
114 used, in whole or in part, to pay existing debt or for
115 previously approved projects unless the expenditure is
116 reasonably connected to, or has a rational nexus with, the

593-03916-20

20201066c2

117 increased impact generated by the new residential or
118 nonresidential construction.

119 ~~(7)(4)~~ The local government must credit against the
120 collection of the impact fee any contribution, whether
121 identified in a proportionate share agreement or other form of
122 exaction, related to public education facilities, including land
123 dedication, site planning and design, or construction. Any
124 contribution must be applied to reduce any education-based
125 impact fees on a dollar-for-dollar basis at fair market value.

126 ~~(8)(5)~~ If a local government increases its impact fee
127 rates, the holder of any impact fee credits, whether such
128 credits are granted under s. 163.3180, s. 380.06, or otherwise,
129 which were in existence before the increase, is entitled to the
130 full benefit of the intensity or density prepaid by the credit
131 balance as of the date it was first established. This subsection
132 shall operate prospectively and not retrospectively.

133 ~~(9)(6)~~ Audits of financial statements of local governmental
134 entities and district school boards which are performed by a
135 certified public accountant pursuant to s. 218.39 and submitted
136 to the Auditor General must include an affidavit signed by the
137 chief financial officer of the local governmental entity or
138 district school board stating that the local governmental entity
139 or district school board has complied with this section and the
140 spending period provision in the local ordinance or resolution.

141 ~~(10)(7)~~ In any action challenging an impact fee or the
142 government's failure to provide required dollar-for-dollar
143 credits for the payment of impact fees or for contributions made
144 as provided in this chapter s. 163.3180(6)(h)2.b., the
145 government has the burden of proving by a preponderance of the

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

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146 evidence that the imposition or amount of the fee or credit
147 meets the requirements of state legal precedent and this
148 section. The court may not use a deferential standard for the
149 benefit of the government.

150 (11) Impact fee credits are assignable and transferable at
151 any time after establishment for the same type of public
152 facility for which the impact fee applies to any development or
153 parcel located within the geographic boundary of the local
154 government jurisdiction where the impact fee is imposed and
155 situated geographically within an impact fee zone or district
156 that receives a benefit from the improvement, dedication, or
157 payment which generated the credit to be transferred. If a local
158 government elects to use an alternative mobility funding system
159 as provided for in s. 163.3180(5)(i) in lieu of impact fees,
160 transportation credits are assignable and transferable at any
161 time after establishment to any development or parcel within the
162 geographic boundary of the local government jurisdiction where
163 the credit was established so long as the credit is applied to a
164 zone or district which is receiving a benefit from the
165 contribution to the alternative mobility funding system which
166 generated the credit. Under either system described in this
167 subsection, a benefit shall be recognized within any zone or
168 district located within 5 miles of the zone or district where
169 the credits were generated.

170 ~~(12)(8)~~ A county, municipality, or special district may
171 provide an exception or waiver for an impact fee for the
172 development or construction of housing that is affordable, as
173 defined in s. 420.9071. If a county, municipality, or special
174 district provides such an exception or waiver, it is not

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

593-03916-20

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175 required to use any revenues to offset the impact.

176 (13) To ensure impact fees or equivalent contributions are
 177 not imposed more than once for the same impacts, a local
 178 government shall provide impact fee credits or other forms of
 179 compensation if a contribution is greater in value than the
 180 applicable impact fee. Contributions related to the
 181 transportation system are creditable against the combined total
 182 of all impact fees, mobility fees, or other forms of exactions
 183 charged to mitigate transportation impacts. This subsection
 184 applies at the time any contribution is accepted, regardless of
 185 when the contributions were agreed upon or committed to.

186 (14) (a) Before enacting an impact fee, each county and
 187 municipality must establish an impact fee review and advisory
 188 committee.

189 (b) 1. The committee shall be composed of the following
 190 members appointed by the county commission or the governing body
 191 of the municipality, as applicable:

192 a. Two members who are employed by the county or
 193 municipality. If a school impact fee is assessed or under
 194 consideration, one of the two members shall be employed by the
 195 school district.

196 b. Two members who represent the business community who are
 197 not elected officials or employees of the local government
 198 jurisdiction.

199 c. Two members who are local licensed general or
 200 residential contractors, who are not elected officials or
 201 employees of the local government jurisdiction.

202 d. One at-large member who is not an elected official or
 203 employee of the local government jurisdiction.

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204 2. The county commission or the governing body of the
 205 municipality, as applicable, may appoint three alternate
 206 members, consisting of one representative from each of the
 207 categories described in sub-subparagraphs 1.a., b., and c., who
 208 shall serve in the absence of their respective member.

209 3. Members and alternate members must be qualified electors
 210 of the county or municipality, as applicable.

211 4. Members and alternate members shall serve at the
 212 pleasure of the local government and shall serve until they are
 213 replaced.

214 (c) 1. Each committee meeting must be duly noticed and open
 215 to the public as required by s. 286.011.

216 2. A meeting may not be held unless a quorum is present. A
 217 quorum consists of a majority of members of the committee, but
 218 an alternate member shall count toward the quorum when a regular
 219 member is absent.

220 3. A member who fails to attend three consecutive meetings
 221 or fails to attend two-thirds of the meetings within a calendar
 222 year automatically forfeits the appointment, and the county
 223 commissioners or members of the governing body of the
 224 municipality, as applicable, shall promptly fill the vacancy.

225 4. Members of the committee shall serve without
 226 compensation.

227 5. A small county as defined in s. 110.1228(1)(c) or a
 228 small municipality as defined in s. 110.1228(1)(b) which
 229 assesses an impact fee may utilize an existing committee that
 230 contains representation from the building or development
 231 community and reviews building or development in lieu of the
 232 impact fee review committee provided herein.

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233 (d) The committee shall meet as needed to examine impact
234 fee policies and provide recommendations on impact fee
235 decisions, including, but not limited to, reviewing all of the
236 following:

- 237 1. The selection of an impact fee consultant.
- 238 2. Impact fee studies and study recommendations.
- 239 3. Policies and methodologies for determining impact fees
240 on new developments and new construction.
- 241 4. Changes to impact fee calculations.
- 242 5. After each impact fee is adopted by the local government
243 and at least before a county or municipality adopts its budget,
244 the proposed budget for expending impact fees to ensure the fee
245 is used in accordance with this section and other pertinent
246 sections of state law.

247 (15)(9) This section does not apply to water and sewer
248 connection fees.

249 Section 2. This act shall take effect July 1, 2020.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: FAV | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 247
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law enforcement
facility. For independent special fire control and rescue
districts, the term "infrastructure" also includes new
facilities as defined in s. 191.009(4).

(4) At a minimum, each county and municipality that adopts,



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11 collects, or administers an impact fee by ordinance and each
12 special district that adopts, collects, and administers an
13 impact fee by resolution ~~an impact fee adopted by ordinance of a~~
14 ~~county or municipality or by resolution of a special district~~
15 ~~must satisfy all of the following conditions:~~

16 (a) Require that the calculation of any new or updated the
17 impact fee must be based on the most recent and localized data
18 collected within the last 36 months and excludes any cost that
19 does not meet the definition of infrastructure.

20 (b) Account for the revenues and expenditures of such
21 impact fee in a separate impact fee account, if the local
22 governmental entity imposes an impact fee to address its
23 infrastructure needs ~~The local government must provide for~~
24 ~~accounting and reporting of impact fee collections and~~
25 ~~expenditures. If a local governmental entity imposes an impact~~
26 ~~fee to address its infrastructure needs, the entity must account~~
27 ~~for the revenues and expenditures of such impact fee in a~~
28 ~~separate accounting fund.~~

29 (c) Limit administrative charges for the collection of
30 impact fees must be limited to actual costs. The cost per
31 student station established in school impact fee calculations
32 may not exceed that statutory total maximum cost per student
33 station calculated under s. 1013.64(6).

34 (d) ~~The local government must~~ Provide notice not less than
35 90 days before the effective date of an ordinance or resolution
36 imposing a new or increased impact fee. Unless the result is to
37 reduce the total mitigation costs or impact fees imposed on an
38 applicant, new or increased impact fees may not apply to current
39 or pending permit applications submitted before the effective



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40 date of an ordinance or resolution imposing a new or increased
41 impact fee. A county or municipality is not required to wait 90
42 days to decrease, suspend, or eliminate an impact fee.

43 ~~(e) Collection of the impact fee may not be required to~~
44 ~~occur earlier than the date of issuance of the building permit~~
45 ~~for the property that is subject to the fee.~~

46 ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and
47 reasonably connected to, or has ~~have~~ a rational nexus with, the
48 need for additional infrastructure ~~capital facilities~~ and the
49 increased impact generated by the new residential or commercial
50 construction.

51 ~~(f)(g)~~ Ensure that the impact fee is ~~must be~~ proportional
52 and reasonably connected to, or has ~~have~~ a rational nexus with,
53 the expenditures of the funds collected and the benefits
54 accruing to the new residential or nonresidential construction.

55 ~~(g)(h)~~ The local government must Specifically earmark funds
56 collected under the impact fee for use in acquiring,
57 constructing, or improving infrastructure ~~capital facilities~~ to
58 benefit new users.

59 (5) Collection of the impact fee may not be required to
60 occur earlier than the date of issuance of the building permit
61 for the property that is subject to the fee.

62 ~~(6)(i)~~ Revenues generated by the impact fee may not be
63 used, in whole or in part, to pay existing debt or for
64 previously approved projects unless the expenditure is
65 reasonably connected to, or has a rational nexus with, the
66 increased impact generated by the new residential or
67 nonresidential construction.

68 ~~(7)(4)~~ Notwithstanding any charter provision, comprehensive



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69 plan policy, ordinance, or resolution, the local government must
70 credit against the collection of the impact fee any form of
71 contribution, whether identified in a proportionate share
72 agreement or other form of exaction, related to public education
73 facilities, including land dedication, site planning and design,
74 or construction. Any contribution must be applied to reduce any
75 education-based impact fees on a dollar-for-dollar basis at fair
76 market value. This subsection does not apply to a local
77 government governed by a charter that was adopted and
78 implemented before December 31, 2006, which charter language
79 contains provisions for providing school capacity so long as the
80 funds collected pursuant to the charter provision are used to
81 mitigate impacts not otherwise funded by impact fees or other
82 local exactions relating to public education facilities and the
83 funds are applied in a manner that is proportional and
84 reasonably connected to, or has a rational nexus with, the need
85 for additional capital facilities, the need for which is
86 generated by the new residential development. Contributions to
87 mitigate impacts not otherwise funded by impact fees must be
88 based on the difference between the cost per student station as
89 determined by the educational facilities impact fee study on
90 which the then-current education-based impact fee is based,
91 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
92 student station funded by the education-based impact fee. Such
93 contributions may not be collected before the issuance of a
94 building permit.

95 (8) ~~(5)~~ If a local government increases its impact fee
96 rates, the holder of any impact fee credits, whether such
97 credits are granted under s. 163.3180, s. 380.06, or otherwise,



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98 which were in existence before the increase, is entitled to the
99 full benefit of the intensity or density prepaid by the credit
100 balance as of the date it was first established. This subsection
101 shall operate prospectively and not retrospectively.

102 (9)-(6) Audits of financial statements of local governmental
103 entities and district school boards which are performed by a
104 certified public accountant pursuant to s. 218.39 and submitted
105 to the Auditor General must include an affidavit signed by the
106 chief financial officer of the local governmental entity or
107 district school board stating that the local governmental entity
108 or district school board has complied with this section and the
109 spending period provision in the local ordinance or resolution.

110 (10)-(7) In any action challenging an impact fee or the
111 government's failure to provide required dollar-for-dollar
112 credits for the payment of impact fees or for contributions made
113 as provided in this chapter s. 163.3180(6)(h)2.b., the
114 government has the burden of proving by a preponderance of the
115 evidence that the imposition or amount of the fee or credit
116 meets the requirements of state legal precedent and this
117 section. The court may not use a deferential standard for the
118 benefit of the government.

119 (11) Impact fee credits are assignable and transferable at
120 any time after establishment from one development or parcel to
121 any other within the same impact fee zone or district or in an
122 adjoining zone or district which receives benefits from the
123 improvement or contribution that generated the credits.

124 (12)-(8) A county, municipality, or special district may
125 provide an exception or waiver for an impact fee for the
126 development or construction of housing that is affordable, as



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127 defined in s. 420.9071. If a county, municipality, or special
128 district provides such an exception or waiver, it is not
129 required to use any revenues to offset the impact.

130 (13) To ensure impact fees or equivalent contributions are
131 not imposed more than once for the same impacts, a local
132 government shall provide impact fee credits or other forms of
133 compensation if a contribution is greater in value than the
134 applicable impact fee. Contributions related to the
135 transportation system are creditable against the combined total
136 of all impact fees, mobility fees, or other forms of exactions
137 charged to mitigate transportation impacts. This subsection
138 applies at the time any contribution is accepted, regardless of
139 when the contributions were agreed upon or committed to.

140 (14)~~(9)~~ This section does not apply to water and sewer
141

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

143 And the title is amended as follows:

144 Delete lines 13 - 24

145 and insert:

146 governments; providing applicability; providing a
147 calculation on which contributions to mitigate impacts
148 not otherwise funded by impact fees must be based;
149 prohibiting such contributions from being collected
150 before the issuance of building permits; providing
151 that impact fee credits are assignable and
152 transferable under certain conditions;



February 19, 2020

The Honorable Rob Bradley, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I am writing to request that Senate Bill 1066, Impact fees to be placed on the agenda of the next Appropriations Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

SENT TO: CHAIRMAN
STAFF DIR. STAFF
2020 FEB 24 PM 1:14
SENATE APPROPRIATIONS
RECEIVED

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20

Meeting Date

JB 1066

Bill Number (if applicable)

091604

Amendment Barcode (if applicable)

Topic IMPACT FEES

Name KARI HERBANK

Job Title _____

Address 215 S. Monroe St., Suite 500

Phone 850-566-1824

Tallahassee FL 32301

City State Zip

Email kherbank@carltonfields.com

Speaking: For Against Information

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

Representing National Utility Contractors Assoc. of FL

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)

3-3-2020

Meeting Date

SB1066

Bill Number (if applicable)

891604

Amendment Barcode (if applicable)

Topic IMPACT FEES

Name DANE BENNETT

Job Title DIR. OF GOV. AFFAIRS

Address 2600 CENTENNIAL PLACE

Street

Phone 941-468-8479

TALLAHASSEE

City

FL

State

32308

Zip

Email DBENNETT@FHBA.COM

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing FL HOME BUILDERS 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

APPEARANCE RECORD

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

3/3/20

Meeting Date

(1066)

Bill Number (if applicable)

→ 891604

Amendment Barcode (if applicable)

Topic Impact Fees

Name Mark Jeffries

Job Title _____

Address 201 S. Rosglind Ave

Street

407-836-5909

Phone

Orlando FL 32801

City

State

Zip

mark.jeffries@ocfl.net

Email

Speaking: For Against Information

Waive Speaking: In Support Against

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

- Amendment 891604

Representing Orange County Government

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)

3/3/20

Meeting Date

1066

Bill Number (if applicable)

891604

Amendment Barcode (if applicable)

Topic IMPACT fees

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Street

Phone 701-3676

Tallahassee FL 32302

City

State

Zip

Email DCRUZ@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

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)

3/3/20

Meeting Date

SB 1066

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Consultant

Address 2024 Shangri La Lane

Phone 850 322 3317

Tally 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 League Women Voters

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 Appropriations

BILL: PCS/CS/SB 1070 (803742)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Military and Veterans Affairs and Space Committee; and Senators Wright and Albritton

SUBJECT: Space Florida

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|-----------------|------------|--------------------------|
| 1. | <u>Caldwell</u> | <u>Caldwell</u> | <u>MS</u> | <u>Fav/CS</u> |
| 2. | <u>Hrdlicka</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Hrdlicka</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1070 clarifies the authority of Space Florida to issue bonds. Under the bill, Space Florida is authorized to issue revenue bonds or any other type of debt, including bank loans. The bill repeals both the requirement that Space Florida notify the presiding officers and appropriations chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet and the requirement for the Governor and Cabinet to approve the bond's issuance.

The bill clarifies that Space Florida is subject to the minimum credit-worthiness requirements in section 189.051, Florida Statutes, and authorizes the entity to validate its bonds pursuant to chapter 75, Florida Statutes, which provides generally for government-issued bond validation. The term for which Space Florida may issue a bond is shortened to 30 years from 40 years.

Conforming changes to bond references are made to relevant sections of chapter 331, Florida Statutes, and statutes that address pledging the full faith and credit of Space Florida, the issuance of bond anticipation notes, and short-term borrowing are repealed.

The bill takes effect July 1, 2020.

II. Present Situation:

Space Florida was created as an independent special district,¹ a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in this state.² Space Florida is governed by a 13-member independent board of directors that consists of the same members of the board of directors of Enterprise Florida, Inc., that are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Governor serves ex officio, or may appoint a designee to serve as the chair and a voting member of the board.³

The purpose of Space Florida is to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. To accomplish its purpose, Space Florida advises, coordinates, cooperates, and, when necessary, enters into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.⁴ Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; undertake joint financing with municipalities or private sector entities for any project; and issue revenue, assessment, or other bonds.⁵

Bonding Authority of Space Florida

Space Florida is authorized by law to issue bonds, which means revenue bonds, assessment bonds, or other bonds or obligations issued by Space Florida for the purpose of raising financing for projects. The board of directors, by resolution at a noticed and public meeting, authorizes the issuance of bonds, fixes the aggregate amount of bonds to be issued, and sets the terms, covenants, and conditions of the bonds, including the purpose, the interest rate, issuance and maturity dates, terms of execution, and redemption terms. However, the law specifies that a bond's term cannot exceed 40 years from the date of issuance.⁶

According to Space Florida, it and its predecessor organizations have entered into debt financing transactions with banks totaling nearly \$1 billion.⁷ "Proceeds from these financings have been used to make infrastructure improvements, construct facilities, and acquire machinery, equipment and tooling necessary by Florida's aerospace and defense industrial base and government partners like NASA and the USAF."⁸ Space Florida's bonds can be used to pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects to provide for any

¹ Chapter 189, F.S.

² Section 331.302, F.S. Space Florida is not an agency as defined in ss. 216.011 and 287.012, F.S. Space Florida is subject to applicable provisions of the Uniform Special District Accountability Act.

³ Section 331.3081, F.S. For a list of the current board of directors, see the Space Florida website, *Board of Directors*, available at <https://www.spaceflorida.gov/about/board-of-directors/> (last visited Feb. 7, 2020).

⁴ Section 331.302, F.S.

⁵ Section 331.305, F.S.

⁶ Section 331.340, F.S.

⁷ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

⁸ *Id.*

facility, service, or other activity of Space Florida. This includes payloads and space flight hardware and equipment for research, development, and educational activities.⁹

Pledging Revenues for Bonds

The issuance of revenue bonds by Space Florida may be secured by or payable from:

- The gross or net pledge of the revenues that are derived from any project or combination of projects.
- The rates, fees, rentals, tolls, fares, or other charges to be collected from the users of any project or projects.
- Any revenue-producing undertaking or activity of Space Florida.
- Any source of pledged security.¹⁰

Section 331.334, F.S., also contains similar language allowing the board of directors to pledge the revenues of any Space Florida project for a bond.¹¹ It also allows the board to pledge or mortgage any of the properties, rights, interest, or other assets of Space Florida.

Further, s. 331.334, F.S., allows Space Florida, pursuant to its powers as a special district, to hold an election to pledge its full faith and credit for any of its bonds. Pursuant to s. 331.331, F.S., unless bonds are secured by the full faith and credit of Space Florida, they do not constitute an indebtedness of Space Florida. Bonds issued by Space Florida are not secured by the full faith and credit of the State of Florida and do not constitute an obligation, either general or special, thereof.¹²

Pursuant to s. 331.335, F.S., all pledges of revenues and assessments made by Space Florida are valid and binding from the time the pledges are made and are immediately subject to the lien of the pledges upon collection. The lien attaches without further action and is considered valid and binding against all parties with any claims against Space Florida, irrespective of whether such parties have any notice of the pledge/lien.

Approval of Bonds

Space Florida is currently required to provide 14 days' notice to the presiding officers and appropriations committee chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet. If either presiding officer or appropriations chair objects to the bonding proposal within the 14-day-notice period, the bond issuance may be approved only by a vote of three-fourths of the members of the Governor and Cabinet.¹³

Space Florida's predecessor agency was created in 1989 and this requirement for notice and approval was part of the enacting legislation.¹⁴ The legislation limited the amount of bonds that Space Florida could issue and specifically required approval by the Governor and Cabinet.

⁹ Section 331.305(20), F.S.

¹⁰ Section 331.331, F.S.

¹¹ This includes revenues from any project of Space Florida, utility service, assessments, and any other sources of revenue or funds, or any combination of the foregoing.

¹² Sections 331.331 and 331.334, F.S.

¹³ Section 331.305(20), F.S.

¹⁴ Chapter 89-300, L.O.F.

In 1991, the legislature allowed conduit bonds to be exempt from the notice and approval requirements.¹⁵ In 1999, the specific provision related to the amount of bonds that Space Florida could issue and approval of bonds by the Governor and Cabinet was repealed as obsolete.¹⁶

The 1999 repeal created an ambiguity in the statute. Space Florida states that the exact role of the Governor and Cabinet is unclear. Because the bonds that Space Florida issues do not pledge the full faith and credit of Space Florida (and do not pledge the full faith and credit of the state) and are typically revenue bonds for conduit financing, the “result of past requests for formal action by the Governor and Cabinet has been a resolution recognizing a valid exercise of statutorily-granted powers by the Board of Directors.”¹⁷

Validation of Bonds

Section 331.346, F.S., provides for the validity of bonds and the procedures by which bonds issued by Space Florida are validated. Chapter 75, F.S., also specifies the procedures for bond validation issued by entities of the state. While the provisions are similar, ch. 75, F.S., provides greater specificity as to jurisdiction over claims, notice, appeal, review, as well as commencement of actions after validation.

Borrowing Authority of Space Florida

Borrowing Against Anticipated Bond Proceeds

Section 331.336, F.S., authorizes Space Florida to issue bond anticipation notes. At any time after the issuance of bonds has been authorized by the Space Florida board of directors, Space Florida can borrow money to be used for the same purposes for which the bonds are to be issued and issue notes in anticipation of the receipt of the proceeds of the sale of the bonds.¹⁸ The principal amount of the bond anticipation notes which are issued cannot exceed the authorized maximum amount of the bonds to be issued. The notes must be repaid from the proceeds of the bonds when issued. However, the board can elect to repay the notes using current revenues or other assessments levied for the payment of the bonds, but, in such event, a like amount of the bonds authorized may not be issued.¹⁹

Short-Term Borrowing

Section 331.337, F.S., specifically allows Space Florida to obtain loans to pay its expenses or costs incurred in connection with a project. Loans may be issued as negotiable notes, warrants, or other evidences of debt signed on behalf of Space Florida by any board member. The board of

¹⁵ Chapter 91-265, L.O.F. The term “conduit bond” was defined to mean “any bond of the authority which is a nonrecourse obligation of the authority payable from the proceeds of such bonds and related financing agreements.”

Section 331.303(6), F.S. (1992).

¹⁶ See s. 73, ch. 99-385, L.O.F.

¹⁷ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

¹⁸ The notes must be in such denomination or denominations, bear interest at such rate or rates, mature at such time or times, be renewable for such additional term or terms, and be in such form and executed in such manner as the board prescribes. The notes may be sold at public sale, or if such notes are renewable notes, may be exchanged for notes then outstanding on such terms as the board determines. Notes are to be paid from the proceeds of such bonds when issued.

¹⁹ Section 331.336, F.S.

directors may pledge any funds, revenues, or assessments of Space Florida to pay the loans and interest.

III. Effect of Proposed Changes:

Section 1 amends s. 331.302, F.S., to clarify that as a special district, Space Florida is subject to s. 189.051, F.S., which provides minimum credit-worthiness requirements for bond issuance if a referendum is not required. Under s. 189.051, F.S., a special district must ensure that, at time of closing, the bonds meet at least one of the following requirements:

- The bonds were rated in one of the highest four ratings by a nationally recognized rating service;
- The bonds were privately placed with or otherwise sold to accredited investors;
- The bonds were backed by a letter of credit from a bank, savings and loan association, or other creditworthy guarantor, or by bond insurance, guaranteeing payment of principal and interest on the bonds; or
- The bonds were accompanied by an independent financial advisory opinion stating that estimates of debt service coverage and probability of debt repayment are reasonable. The opinion must be provided by an independent financial advisory, consulting, or accounting firm registered where professional registration is required by law and which is in good standing with the state and in conformance with all applicable professional standards for such opinions.

Space Florida states that it has been subject to this requirement and has fully complied with it in every instance of borrowing.²⁰

Section 2 amends s. 331.303(3), F.S., to revise the meaning of the term “bonds” to mean revenues bonds or any other type of debt, including bank loans, issued for financing Space Florida projects. The inclusion of “or any other type of debt, including bank loans,” allows Space Florida to continue to do short-term borrowing and conduit financing. **Section 10** repeals s. 331.337, F.S., which specifically allows Space Florida to obtain loans.

The bill deletes reference to assessment bonds or other types of bonds in the definition of the term “bonds.” To conform to this change, **Sections 3, 4, and 5** amend ss. 331.305, 331.331, and 331.335, F.S.

Section 3 amends s. 331.305(2), F.S., to specify that environmental mitigation is a cost that can be paid for as part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects for which bonds are issued to provide for any facility, service, or other activity of Space Florida

Section 3 also amends s. 331.305(20), F.S., to repeal the provisions related to notice and objection requirements by the presiding officers and appropriations chairs of both houses of the Legislature and the approval of bonds by the Governor and Cabinet. These steps will no longer be required for Space Florida to issue bonds, similar to other independent special districts.

²⁰ Space Florida, *Space Florida Bonding Authority*, information sheet for SB 1070 (On file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

Section 4 also amends s. 331.331(2), F.S., to specify that state appropriations may not be used as a pledged revenue source and that revenue bonds may not be secured by the full faith and credit of Space Florida. **Section 8** repeals s. 331.334, F.S., which allows Space Florida to pledge its full faith and credit for any of its bonds.

Section 6 amends s. 331.340, F.S., to reduce the maximum term for which a bond may be issued to 30 years from 40 years.

Section 7 amends s. 331.346, F.S., to authorize Space Florida, as an alternative, to validate its bonds pursuant to ch. 75, F.S., which is a process used by other Florida governmental entities and is more familiar to the bonding community.

Section 9 repeals s. 331.336, F.S., which allows Space Florida to issue bond anticipation notes.

The changes made to Space Florida's bonding authority allow Space Florida to issue bonds on its own behalf, as well as on a conduit basis, but Space Florida will not have the authority to issue general obligation bonds.

The bill takes effect July 1, 2020.

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 Art. VII, s. 18 of the State 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:

Businesses and individuals from the private sector working with Space Florida could benefit to the extent that these changes improve Space Florida's ability to issue bonds for projects. Space Florida states that as the aerospace industry expands across the state and transitions more to the private sector than government programs, bonding will be a more useful tool in developing the critical common-use infrastructure (commodities, road and bridge improvements, etc.) given the expected lower cost of capital bonds attributable to long-term fixed interest rates and longer amortization periods when compared to bank loans.²¹

C. Government Sector Impact:

The bill is not expected to create increased costs or generate additional revenues for Space Florida. The bill may reduce the time it takes Space Florida to issue bonds, which could result in some cost savings associated with the bond issuance. According to Space Florida:

[Space Florida] expects that issuing bonds would become a more viable and effective business development tool, allowing SF to solicit competitive financing proposals from bank and non-bank lenders (currently, the issuance of bonds has not been a widely utilized tool because the lack of clarity of roles and responsibilities could subject SF-issued bonds to invalidation). A competitive financing marketplace leads to lower cost of capital and better financing terms for SF and the industry it is supporting.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill repeals provisions under which either legislative presiding officer or appropriations chair could object to a bond issuance, triggering a higher vote requirement for the Governor and Cabinet approval. While this may seem to be a loss of oversight authority for both the legislative and executive branches, this may not be so. With the other changes in the bill, Space Florida is authorized only issue conduit bonds and bonds on its own behalf, which have no effect on legislative budgetary authority and do not undermine any governmental oversight. Additionally,

²¹ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

²² *Id.*

the current practice is for the Governor and Cabinet simply to issue a resolution acknowledging Space Florida's authority to issue conduit bonds in accordance with and in furtherance of Space Florida's statutory purpose.²³ The bill may reduce the time it takes Space Florida to issue bonds by removing the notice and approval steps from the process. Space Florida expects that the resolution of the ambiguity will allow it to participate in more competitive financing, which will lead to a lower cost of capital and better financing terms for Space Florida and the industry it supports.²⁴

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 331.302, 331.303, 331.305, 331.331, 331.335, 331.340, and 331.346.

The bill repeals the following sections of the Florida Statutes: 331.334, 331.336, and 331.337.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 13, 2020:

The committee substitute adds environmental mitigation as an included cost that can be paid for as part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects for which bonds are issued.

CS by Military and Veterans Affairs and Space on January 21, 2020:

The committee substitute provides for a litany of terms and conditions that the board may require for the bonds and includes: “the purpose or purposes for which the moneys derived therefrom shall be expanded.” As the term “expanded” does not make sense, the more appropriate term “expended” is substituted and the board may designate how the proceeds of the bonds must be spent.

- B. **Amendments:**

None.

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

²³ See *Resolution* by the Governor and Cabinet dated September 20, 2016, and *Resolution of the Space Florida Board of Directors, Space Florida Taxable Lease Revenue Bonds, Series 2016 A & B, (Project Sabal)*. (On file with the Senate Committee on Military and Veterans Affairs and Space.)

²⁴ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

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A bill to be entitled

An act relating to Space Florida; amending s. 331.302,
F.S.; clarifying that Space Florida is subject to a
specified provision of law; amending s. 331.303, F.S.;
revising the definition of the term "bonds"; amending
s. 331.305, F.S.; revising Space Florida's
authorization to issue bonds; deleting a requirement
for Space Florida to notify the presiding officers of
the Legislature before presenting a bond proposal to
the Governor and Cabinet; amending s. 331.331, F.S.;
revising the revenue sources by which revenue bonds
may be secured or repaid; clarifying that such bonds
may not be secured by the full faith and credit of
Space Florida; amending s. 331.335, F.S.; deleting
assessments as an asset that may be pledged by Space
Florida; amending s. 331.340, F.S.; revising the term
"expanded" to "expended" to clarify the authority of
the governing body of Space Florida; reducing the term
of years for which Space Florida may issue bonds;
amending s. 331.346, F.S.; authorizing Space Florida
to validate certain bonds; repealing s. 331.334, F.S.,
relating to pledging assessments and other revenues
and properties as additional security on bonds;
repealing s. 331.336, F.S., relating to the issuance
of bond anticipation notes; repealing s. 331.337,
F.S., relating to short-term borrowing; providing an



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effective date.

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

Section 1. Subsection (5) of section 331.302, Florida
Statutes, is amended to read:

331.302 Space Florida; creation; purpose.—

(5) Space Florida is subject to applicable provisions of
chapter 189, including, but not limited to, s. 189.051. To the
extent that any provisions of chapter 189 conflict with this
act, this act shall prevail.

Section 2. Subsection (3) of section 331.303, Florida
Statutes, is amended to read:

331.303 Definitions.—

(3) "Bonds" means revenue bonds, ~~assessment bonds, or other~~
~~bonds~~ or any other type of debt, including bank loans,
~~obligations~~ issued by Space Florida for the purpose of raising
financing for its projects.

Section 3. Subsection (20) of section 331.305, Florida
Statutes, is amended to read:

331.305 Powers of Space Florida.—Space Florida may:

(20) Issue revenue bonds or any other type of debt,
including bank loans, assessment bonds, or any other bonds or
~~obligations~~ authorized by ~~the provisions of~~ this act or any
other law, ~~or any combination of the foregoing,~~ and pay all or
part of the cost of the acquisition, construction,
reconstruction, extension, repair, improvement, or maintenance
of any project or combination of projects, including
environmental mitigation, payloads and space flight hardware,



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56 and equipment for research, development, and educational
57 activities, to provide for any facility, service, or other
58 activity of Space Florida, and provide for the retirement or
59 refunding of any bonds or obligations of Space Florida, or for
60 any combination of the foregoing purposes. ~~Space Florida must~~
61 ~~provide 14 days' notice to the presiding officers and~~
62 ~~appropriations chairs of both houses of the Legislature prior to~~
63 ~~presenting a bond proposal to the Governor and Cabinet. If~~
64 ~~either presiding officer or appropriations chair objects to the~~
65 ~~bonding proposal within the 14-day notice period, the bond~~
66 ~~issuance may be approved only by a vote of three fourths of the~~
67 ~~members of the Governor and Cabinet.~~

68 Section 4. Subsection (2) of section 331.331, Florida
69 Statutes, is amended to read:

70 331.331 Revenue bonds.—

71 (2) The issuance of revenue bonds may be secured by or
72 payable from the gross or net pledge of the revenues to be
73 derived from any project or combination of projects, from the
74 rates, fees, rentals, tolls, fares, assessments, or other
75 charges to be collected from the users of any project or
76 projects; from any revenue-producing undertaking or activity of
77 Space Florida; or from any source of pledged security other than
78 state appropriations. Such bonds ~~may not be~~ ~~shall not constitute~~
79 ~~an indebtedness of Space Florida unless such bonds are~~
80 ~~additionally~~ secured by the full faith and credit of Space
81 Florida. Bonds issued by Space Florida are not secured by the
82 full faith and credit of the State of Florida and do not
83 constitute an obligation, either general or special, thereof.

84 Section 5. Section 331.335, Florida Statutes, is amended to



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85 read:
86 331.335 Lien of pledges.—All pledges of revenues ~~and~~
87 ~~assessments~~ made pursuant to ~~the provisions of~~ this act shall be
88 valid and binding from the time when such pledges are made. All
89 such revenues ~~and assessments~~ so pledged and thereafter
90 collected shall immediately be subject to the lien of such
91 pledges without any physical delivery thereof or further action,
92 and the lien of such pledges shall be valid and binding as
93 against all parties having claims of any kind in tort, contract,
94 or otherwise against Space Florida, irrespective of whether such
95 parties have notice thereof.

96 Section 6. Section 331.340, Florida Statutes, is amended to
97 read:

98 331.340 Authorization and form of bonds.—Bonds may be
99 authorized by resolution or resolutions of the board which shall
100 be adopted by a majority of all of the members thereof then in
101 office and present at the meeting at which the resolution or
102 resolutions are adopted and shall be approved as provided in s.
103 331.305. The resolution or resolutions of the board may be
104 adopted at the same meeting at which they are introduced, and
105 shall be published and noticed. The board may by resolution
106 authorize the issuance of bonds, fix the aggregate amount of
107 bonds to be issued, the purpose or purposes for which the moneys
108 derived therefrom shall be expended ~~expanded~~, the rate or rates
109 of interest, the denomination of the bonds, whether or not the
110 bonds are to be issued in one or more series, the date or dates
111 thereof, the date or dates of maturity, which shall not exceed
112 30 ~~40~~ years from their respective dates of issuance, the medium
113 of payment, the place or places within or without the state



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114 where payment shall be made, registration privileges, redemption
115 terms and privileges (whether with or without premium), the
116 manner of execution, the form of the bonds including any
117 interest coupons to be attached thereto, the manner of execution
118 of bonds and coupons, and any and all other terms, covenants,
119 and conditions thereof, and the establishment of reserve or
120 other funds. Such authorizing resolution may further provide
121 that such bonds may be executed manually or by engraved,
122 lithographed, or facsimile signature, provided that where
123 signatures are engraved, lithographed, or facsimile no bond
124 shall be valid unless countersigned by a registrar or other
125 officer designated by appropriate resolution of the board. The
126 seal of Space Florida may be affixed, lithographed, engraved, or
127 otherwise reproduced in facsimile on such bonds. In case any
128 officer whose signature or a facsimile of whose signature shall
129 appear on any bonds or coupons shall cease to be such officer
130 before the delivery of such bonds, such signature or facsimile
131 shall nevertheless be valid and sufficient for all purposes the
132 same as if the officer had remained in office until such
133 delivery.

134 Section 7. Section 331.346, Florida Statutes, is amended to
135 read:

136 331.346 Validity of bonds; validation proceedings.—Any
137 bonds issued by Space Florida shall be incontestable in the
138 hands of bona fide purchasers or holders for value and shall not
139 be invalid because of any irregularity or defect in the
140 proceedings for the issue and sale thereof. Before ~~Prior to~~ the
141 issuance of any bonds, Space Florida shall publish a notice at
142 least once in a newspaper or newspapers published or of general



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143 circulation in the appropriate counties in the state, stating
144 the date of adoption of the resolution authorizing such
145 obligations, the amount, maximum rate of interest, and maturity
146 of such obligations, and the purpose in general terms for which
147 such obligations are to be issued, and further stating that no
148 action or proceeding questioning the validity of such
149 obligations or of the proceedings authorizing the issuance
150 thereof, or of any covenants made therein, must be instituted
151 within 20 days after the first publication of such notice, or
152 the validity of such obligations, proceedings, and covenants
153 shall not be thereafter questioned in any court whatsoever. If
154 no such action or proceeding is so instituted within such 20-day
155 period, then the validity of such obligations, proceedings, and
156 covenants shall be conclusive, and all persons or parties
157 whatsoever shall be forever barred from questioning the validity
158 of such obligations, proceedings, or covenants in any court
159 whatsoever. Alternatively, Space Florida may validate its bonds
160 pursuant to chapter 75.

161 Section 8. Section 331.334, Florida Statutes, is repealed.
162 Section 9. Section 331.336, Florida Statutes, is repealed.
163 Section 10. Section 331.337, Florida Statutes, is repealed.
164 Section 11. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 1070

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Military and Veterans Affairs and Space Committee; and Senators Wright and Albritton

SUBJECT: Space Florida

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|-----------------|------------|--------------------------|
| 1. | <u>Caldwell</u> | <u>Caldwell</u> | <u>MS</u> | <u>Fav/CS</u> |
| 2. | <u>Hrdlicka</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Hrdlicka</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1070 clarifies the authority of Space Florida to issue bonds. Under the bill, Space Florida is authorized to issue revenue bonds or any other type of debt, including bank loans. The bill repeals both the requirement that Space Florida notify the presiding officers and appropriations chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet and the requirement for the Governor and Cabinet to approve the bond's issuance.

The bill clarifies that Space Florida is subject to the minimum credit-worthiness requirements in section 189.051, Florida Statutes, and authorizes the entity to validate its bonds pursuant to chapter 75, Florida Statutes, which provides generally for government-issued bond validation. The term for which Space Florida may issue a bond is shortened to 30 years from 40 years.

Conforming changes to bond references are made to relevant sections of chapter 331, Florida Statutes, and statutes that address pledging the full faith and credit of Space Florida, the issuance of bond anticipation notes, and short-term borrowing are repealed.

The bill takes effect July 1, 2020.

II. Present Situation:

Space Florida was created as an independent special district,¹ a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in this state.² Space Florida is governed by a 13-member independent board of directors that consists of the same members of the board of directors of Enterprise Florida, Inc., that are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Governor serves *ex officio*, or may appoint a designee to serve as the chair and a voting member of the board.³

The purpose of Space Florida is to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. To accomplish its purpose, Space Florida advises, coordinates, cooperates, and, when necessary, enters into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.⁴ Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; undertake joint financing with municipalities or private sector entities for any project; and issue revenue, assessment, or other bonds.⁵

Bonding Authority of Space Florida

Space Florida is authorized by law to issue bonds, which means revenue bonds, assessment bonds, or other bonds or obligations issued by Space Florida for the purpose of raising financing for projects. The board of directors, by resolution at a noticed and public meeting, authorizes the issuance of bonds, fixes the aggregate amount of bonds to be issued, and sets the terms, covenants, and conditions of the bonds, including the purpose, the interest rate, issuance and maturity dates, terms of execution, and redemption terms. However, the law specifies that a bond's term cannot exceed 40 years from the date of issuance.⁶

According to Space Florida, it and its predecessor organizations have entered into debt financing transactions with banks totaling nearly \$1 billion.⁷ "Proceeds from these financings have been used to make infrastructure improvements, construct facilities, and acquire machinery, equipment and tooling necessary by Florida's aerospace and defense industrial base and government partners like NASA and the USAF."⁸ Space Florida's bonds can be used to pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects to provide for any

¹ Chapter 189, F.S.

² Section 331.302, F.S. Space Florida is not an agency as defined in ss. 216.011 and 287.012, F.S. Space Florida is subject to applicable provisions of the Uniform Special District Accountability Act.

³ Section 331.3081, F.S. For a list of the current board of directors, see the Space Florida website, *Board of Directors*, available at <https://www.spaceflorida.gov/about/board-of-directors/> (last visited Feb. 7, 2020).

⁴ Section 331.302, F.S.

⁵ Section 331.305, F.S.

⁶ Section 331.340, F.S.

⁷ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

⁸ *Id.*

facility, service, or other activity of Space Florida. This includes payloads and space flight hardware and equipment for research, development, and educational activities.⁹

Pledging Revenues for Bonds

The issuance of revenue bonds by Space Florida may be secured by or payable from:

- The gross or net pledge of the revenues that are derived from any project or combination of projects.
- The rates, fees, rentals, tolls, fares, or other charges to be collected from the users of any project or projects.
- Any revenue-producing undertaking or activity of Space Florida.
- Any source of pledged security.¹⁰

Section 331.334, F.S., also contains similar language allowing the board of directors to pledge the revenues of any Space Florida project for a bond.¹¹ It also allows the board to pledge or mortgage any of the properties, rights, interest, or other assets of Space Florida.

Further, s. 331.334, F.S., allows Space Florida, pursuant to its powers as a special district, to hold an election to pledge its full faith and credit for any of its bonds. Pursuant to s. 331.331, F.S., unless bonds are secured by the full faith and credit of Space Florida, they do not constitute an indebtedness of Space Florida. Bonds issued by Space Florida are not secured by the full faith and credit of the State of Florida and do not constitute an obligation, either general or special, thereof.¹²

Pursuant to s. 331.335, F.S., all pledges of revenues and assessments made by Space Florida are valid and binding from the time the pledges are made and are immediately subject to the lien of the pledges upon collection. The lien attaches without further action and is considered valid and binding against all parties with any claims against Space Florida, irrespective of whether such parties have any notice of the pledge/lien.

Approval of Bonds

Space Florida is currently required to provide 14 days' notice to the presiding officers and appropriations committee chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet. If either presiding officer or appropriations chair objects to the bonding proposal within the 14-day-notice period, the bond issuance may be approved only by a vote of three-fourths of the members of the Governor and Cabinet.¹³

Space Florida's predecessor agency was created in 1989 and this requirement for notice and approval was part of the enacting legislation.¹⁴ The legislation limited the amount of bonds that Space Florida could issue and specifically required approval by the Governor and Cabinet.

⁹ Section 331.305(20), F.S.

¹⁰ Section 331.331, F.S.

¹¹ This includes revenues from any project of Space Florida, utility service, assessments, and any other sources of revenue or funds, or any combination of the foregoing.

¹² Sections 331.331 and 331.334, F.S.

¹³ Section 331.305(20), F.S.

¹⁴ Chapter 89-300, L.O.F.

In 1991, the legislature allowed conduit bonds to be exempt from the notice and approval requirements.¹⁵ In 1999, the specific provision related to the amount of bonds that Space Florida could issue and approval of bonds by the Governor and Cabinet was repealed as obsolete.¹⁶

The 1999 repeal created an ambiguity in the statute. Space Florida states that the exact role of the Governor and Cabinet is unclear. Because the bonds that Space Florida issues do not pledge the full faith and credit of Space Florida (and do not pledge the full faith and credit of the state) and are typically revenue bonds for conduit financing, the “result of past requests for formal action by the Governor and Cabinet has been a resolution recognizing a valid exercise of statutorily-granted powers by the Board of Directors.”¹⁷

Validation of Bonds

Section 331.346, F.S., provides for the validity of bonds and the procedures by which bonds issued by Space Florida are validated. Chapter 75, F.S., also specifies the procedures for bond validation issued by entities of the state. While the provisions are similar, ch. 75, F.S., provides greater specificity as to jurisdiction over claims, notice, appeal, review, as well as commencement of actions after validation.

Borrowing Authority of Space Florida

Borrowing Against Anticipated Bond Proceeds

Section 331.336, F.S., authorizes Space Florida to issue bond anticipation notes. At any time after the issuance of bonds has been authorized by the Space Florida board of directors, Space Florida can borrow money to be used for the same purposes for which the bonds are to be issued and issue notes in anticipation of the receipt of the proceeds of the sale of the bonds.¹⁸ The principal amount of the bond anticipation notes which are issued cannot exceed the authorized maximum amount of the bonds to be issued. The notes must be repaid from the proceeds of the bonds when issued. However, the board can elect to repay the notes using current revenues or other assessments levied for the payment of the bonds, but, in such event, a like amount of the bonds authorized may not be issued.¹⁹

Short-Term Borrowing

Section 331.337, F.S., specifically allows Space Florida to obtain loans to pay its expenses or costs incurred in connection with a project. Loans may be issued as negotiable notes, warrants, or other evidences of debt signed on behalf of Space Florida by any board member. The board of

¹⁵ Chapter 91-265, L.O.F. The term “conduit bond” was defined to mean “any bond of the authority which is a nonrecourse obligation of the authority payable from the proceeds of such bonds and related financing agreements.” Section 331.303(6), F.S. (1992).

¹⁶ See s. 73, ch. 99-385, L.O.F.

¹⁷ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

¹⁸ The notes must be in such denomination or denominations, bear interest at such rate or rates, mature at such time or times, be renewable for such additional term or terms, and be in such form and executed in such manner as the board prescribes. The notes may be sold at public sale, or if such notes are renewable notes, may be exchanged for notes then outstanding on such terms as the board determines. Notes are to be paid from the proceeds of such bonds when issued.

¹⁹ Section 331.336, F.S.

directors may pledge any funds, revenues, or assessments of Space Florida to pay the loans and interest.

III. Effect of Proposed Changes:

Section 1 amends s. 331.302, F.S., to clarify that as a special district, Space Florida is subject to s. 189.051, F.S., which provides minimum credit-worthiness requirements for bond issuance if a referendum is not required. Under s. 189.051, F.S., a special district must ensure that, at time of closing, the bonds meet at least one of the following requirements:

- The bonds were rated in one of the highest four ratings by a nationally recognized rating service;
- The bonds were privately placed with or otherwise sold to accredited investors;
- The bonds were backed by a letter of credit from a bank, savings and loan association, or other creditworthy guarantor, or by bond insurance, guaranteeing payment of principal and interest on the bonds; or
- The bonds were accompanied by an independent financial advisory opinion stating that estimates of debt service coverage and probability of debt repayment are reasonable. The opinion must be provided by an independent financial advisory, consulting, or accounting firm registered where professional registration is required by law and which is in good standing with the state and in conformance with all applicable professional standards for such opinions.

Space Florida states that it has been subject to this requirement and has fully complied with it in every instance of borrowing.²⁰

Section 2 amends s. 331.303(3), F.S., to revise the meaning of the term “bonds” to mean revenues bonds or any other type of debt, including bank loans, issued for financing Space Florida projects. The inclusion of “or any other type of debt, including bank loans,” allows Space Florida to continue to do short-term borrowing and conduit financing. **Section 10** repeals s. 331.337, F.S., which specifically allows Space Florida to obtain loans.

The bill deletes reference to assessment bonds or other types of bonds in the definition of the term “bonds.” To conform to this change, **Sections 3, 4, and 5** amend ss. 331.305, 331.331, and 331.335, F.S.

Section 3 amends s. 331.305(2), F.S., to specify that environmental mitigation is a cost that can be paid for as part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects for which bonds are issued to provide for any facility, service, or other activity of Space Florida

Section 3 also amends s. 331.305(20), F.S., to repeal the provisions related to notice and objection requirements by the presiding officers and appropriations chairs of both houses of the Legislature and the approval of bonds by the Governor and Cabinet. These steps will no longer be required for Space Florida to issue bonds, similar to other independent special districts.

²⁰ Space Florida, *Space Florida Bonding Authority*, information sheet for SB 1070 (On file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

Section 4 also amends s. 331.331(2), F.S., to specify that state appropriations may not be used as a pledged revenue source and that revenue bonds may not be secured by the full faith and credit of Space Florida. **Section 8** repeals s. 331.334, F.S., which allows Space Florida to pledge its full faith and credit for any of its bonds.

Section 6 amends s. 331.340, F.S., to reduce the maximum term for which a bond may be issued to 30 years from 40 years.

Section 7 amends s. 331.346, F.S., to authorize Space Florida, as an alternative, to validate its bonds pursuant to ch. 75, F.S., which is a process used by other Florida governmental entities and is more familiar to the bonding community.

Section 9 repeals s. 331.336, F.S., which allows Space Florida to issue bond anticipation notes.

The changes made to Space Florida's bonding authority allow Space Florida to issue bonds on its own behalf, as well as on a conduit basis, but Space Florida will not have the authority to issue general obligation bonds.

The bill takes effect July 1, 2020.

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 Art. VII, s. 18 of the State 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:

Businesses and individuals from the private sector working with Space Florida could benefit to the extent that these changes improve Space Florida's ability to issue bonds for projects. Space Florida states that as the aerospace industry expands across the state and transitions more to the private sector than government programs, bonding will be a more useful tool in developing the critical common-use infrastructure (commodities, road and bridge improvements, etc.) given the expected lower cost of capital bonds attributable to long-term fixed interest rates and longer amortization periods when compared to bank loans.²¹

C. Government Sector Impact:

The bill is not expected to create increased costs or generate additional revenues for Space Florida. The bill may reduce the time it takes Space Florida to issue bonds, which could result in some cost savings associated with the bond issuance. According to Space Florida:

[Space Florida] expects that issuing bonds would become a more viable and effective business development tool, allowing SF to solicit competitive financing proposals from bank and non-bank lenders (currently, the issuance of bonds has not been a widely utilized tool because the lack of clarity of roles and responsibilities could subject SF-issued bonds to invalidation). A competitive financing marketplace leads to lower cost of capital and better financing terms for SF and the industry it is supporting.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill repeals provisions under which either legislative presiding officer or appropriations chair could object to a bond issuance, triggering a higher vote requirement for the Governor and Cabinet approval. While this may seem to be a loss of oversight authority for both the legislative and executive branches, this may not be so. With the other changes in the bill, Space Florida is authorized only issue conduit bonds and bonds on its own behalf, which have no effect on legislative budgetary authority and do not undermine any governmental oversight. Additionally,

²¹ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

²² *Id.*

the current practice is for the Governor and Cabinet simply to issue a resolution acknowledging Space Florida's authority to issue conduit bonds in accordance with and in furtherance of Space Florida's statutory purpose.²³ The bill may reduce the time it takes Space Florida to issue bonds by removing the notice and approval steps from the process. Space Florida expects that the resolution of the ambiguity will allow it to participate in more competitive financing, which will lead to a lower cost of capital and better financing terms for Space Florida and the industry it supports.²⁴

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 331.302, 331.303, 331.305, 331.331, 331.335, 331.340, and 331.346.

The bill repeals the following sections of the Florida Statutes: 331.334, 331.336, and 331.337.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute adds environmental mitigation as an included cost that can be paid for as part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects for which bonds are issued.

CS by Military and Veterans Affairs and Space on January 21, 2020:

The committee substitute provides for a litany of terms and conditions that the board may require for the bonds and includes: "the purpose or purposes for which the moneys derived therefrom shall be expanded." As the term "expanded" does not make sense, the more appropriate term "expended" is substituted and the board may designate how the proceeds of the bonds must be spent.

- B. **Amendments:**

None.

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

²³ See *Resolution* by the Governor and Cabinet dated September 20, 2016, and *Resolution of the Space Florida Board of Directors, Space Florida Taxable Lease Revenue Bonds, Series 2016 A & B, (Project Sabal)*. (On file with the Senate Committee on Military and Veterans Affairs and Space.)

²⁴ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

By the Committee on Military and Veterans Affairs and Space; and
Senator Wright

583-02450-20

20201070c1

1 A bill to be entitled
2 An act relating to Space Florida; amending s. 331.302,
3 F.S.; clarifying that Space Florida is subject to a
4 specified provision of law; amending s. 331.303, F.S.;
5 revising the definition of the term "bonds"; amending
6 s. 331.305, F.S.; revising Space Florida's
7 authorization to issue bonds; deleting a requirement
8 for Space Florida to notify the presiding officers of
9 the Legislature before presenting a bond proposal to
10 the Governor and Cabinet; amending s. 331.331, F.S.;
11 revising the revenue sources by which revenue bonds
12 may be secured or repaid; clarifying that such bonds
13 may not be secured by the full faith and credit of
14 Space Florida; amending s. 331.335, F.S.; deleting
15 assessments as an asset that may be pledged by Space
16 Florida; amending s. 331.340, F.S.; revising the term
17 "expanded" to "expended" to clarify the authority of
18 the governing body of Space Florida; reducing the term
19 of years for which Space Florida may issue bonds;
20 amending s. 331.346, F.S.; authorizing Space Florida
21 to validate certain bonds; repealing s. 331.334, F.S.,
22 relating to pledging assessments and other revenues
23 and properties as additional security on bonds;
24 repealing s. 331.336, F.S., relating to the issuance
25 of bond anticipation notes; repealing s. 331.337,
26 F.S., relating to short-term borrowing; providing an
27 effective date.
28
29 Be It Enacted by the Legislature of the State of Florida:

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30
31 Section 1. Subsection (5) of section 331.302, Florida
32 Statutes, is amended to read:
33 331.302 Space Florida; creation; purpose.—
34 (5) Space Florida is subject to applicable provisions of
35 chapter 189, including, but not limited to, s. 189.051. To the
36 extent that any provisions of chapter 189 conflict with this
37 act, this act shall prevail.
38 Section 2. Subsection (3) of section 331.303, Florida
39 Statutes, is amended to read:
40 331.303 Definitions.—
41 (3) "Bonds" means revenue bonds, ~~assessment bonds, or other~~
42 ~~bonds~~ or any other type of debt, including bank loans,
43 ~~obligations~~ issued by Space Florida for the purpose of raising
44 financing for its projects.
45 Section 3. Subsection (20) of section 331.305, Florida
46 Statutes, is amended to read:
47 331.305 Powers of Space Florida.—Space Florida may:
48 (20) Issue revenue bonds or any other type of debt,
49 including bank loans, ~~assessment bonds, or any other bonds or~~
50 ~~obligations~~ authorized by ~~the provisions of~~ this act or any
51 other law, ~~or any combination of the foregoing,~~ and pay all or
52 part of the cost of the acquisition, construction,
53 reconstruction, extension, repair, improvement, or maintenance
54 of any project or combination of projects, including payloads
55 and space flight hardware, and equipment for research,
56 development, and educational activities, to provide for any
57 facility, service, or other activity of Space Florida, and
58 provide for the retirement or refunding of any bonds or

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59 obligations of Space Florida, or for any combination of the
 60 foregoing purposes. ~~Space Florida must provide 14 days' notice~~
 61 ~~to the presiding officers and appropriations chairs of both~~
 62 ~~houses of the Legislature prior to presenting a bond proposal to~~
 63 ~~the Governor and Cabinet. If either presiding officer or~~
 64 ~~appropriations chair objects to the bonding proposal within the~~
 65 ~~14-day notice period, the bond issuance may be approved only by~~
 66 ~~a vote of three-fourths of the members of the Governor and~~
 67 ~~Cabinet.~~

68 Section 4. Subsection (2) of section 331.331, Florida
 69 Statutes, is amended to read:

70 331.331 Revenue bonds.—

71 (2) The issuance of revenue bonds may be secured by or
 72 payable from the gross or net pledge of the revenues to be
 73 derived from any project or combination of projects, from the
 74 rates, fees, rentals, tolls, fares, assessments, or other
 75 charges to be collected from the users of any project or
 76 projects; from any revenue-producing undertaking or activity of
 77 Space Florida; or from any source of pledged security other than
 78 state appropriations. Such bonds may not be ~~shall not constitute~~
 79 ~~an indebtedness of Space Florida unless such bonds are~~
 80 ~~additionally~~ secured by the full faith and credit of Space
 81 Florida. Bonds issued by Space Florida are not secured by the
 82 full faith and credit of the State of Florida and do not
 83 constitute an obligation, either general or special, thereof.

84 Section 5. Section 331.335, Florida Statutes, is amended to
 85 read:

86 331.335 Lien of pledges.—All pledges of revenues ~~and~~
 87 ~~assessments~~ made pursuant to ~~the provisions of~~ this act shall be

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88 valid and binding from the time when such pledges are made. All
 89 such revenues ~~and assessments~~ so pledged and thereafter
 90 collected shall immediately be subject to the lien of such
 91 pledges without any physical delivery thereof or further action,
 92 and the lien of such pledges shall be valid and binding as
 93 against all parties having claims of any kind in tort, contract,
 94 or otherwise against Space Florida, irrespective of whether such
 95 parties have notice thereof.

96 Section 6. Section 331.340, Florida Statutes, is amended to
 97 read:

98 331.340 Authorization and form of bonds.—Bonds may be
 99 authorized by resolution or resolutions of the board which shall
 100 be adopted by a majority of all of the members thereof then in
 101 office and present at the meeting at which the resolution or
 102 resolutions are adopted and shall be approved as provided in s.
 103 331.305. The resolution or resolutions of the board may be
 104 adopted at the same meeting at which they are introduced, and
 105 shall be published and noticed. The board may by resolution
 106 authorize the issuance of bonds, fix the aggregate amount of
 107 bonds to be issued, the purpose or purposes for which the moneys
 108 derived therefrom shall be expended ~~expanded~~, the rate or rates
 109 of interest, the denomination of the bonds, whether or not the
 110 bonds are to be issued in one or more series, the date or dates
 111 thereof, the date or dates of maturity, which shall not exceed
 112 30 ~~40~~ years from their respective dates of issuance, the medium
 113 of payment, the place or places within or without the state
 114 where payment shall be made, registration privileges, redemption
 115 terms and privileges (whether with or without premium), the
 116 manner of execution, the form of the bonds including any

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117 interest coupons to be attached thereto, the manner of execution
 118 of bonds and coupons, and any and all other terms, covenants,
 119 and conditions thereof, and the establishment of reserve or
 120 other funds. Such authorizing resolution may further provide
 121 that such bonds may be executed manually or by engraved,
 122 lithographed, or facsimile signature, provided that where
 123 signatures are engraved, lithographed, or facsimile no bond
 124 shall be valid unless countersigned by a registrar or other
 125 officer designated by appropriate resolution of the board. The
 126 seal of Space Florida may be affixed, lithographed, engraved, or
 127 otherwise reproduced in facsimile on such bonds. In case any
 128 officer whose signature or a facsimile of whose signature shall
 129 appear on any bonds or coupons shall cease to be such officer
 130 before the delivery of such bonds, such signature or facsimile
 131 shall nevertheless be valid and sufficient for all purposes the
 132 same as if the officer had remained in office until such
 133 delivery.

134 Section 7. Section 331.346, Florida Statutes, is amended to
 135 read:

136 331.346 Validity of bonds; validation proceedings.—Any
 137 bonds issued by Space Florida shall be incontestable in the
 138 hands of bona fide purchasers or holders for value and shall not
 139 be invalid because of any irregularity or defect in the
 140 proceedings for the issue and sale thereof. ~~Before~~ Prior to the
 141 issuance of any bonds, Space Florida shall publish a notice at
 142 least once in a newspaper or newspapers published or of general
 143 circulation in the appropriate counties in the state, stating
 144 the date of adoption of the resolution authorizing such
 145 obligations, the amount, maximum rate of interest, and maturity

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146 of such obligations, and the purpose in general terms for which
 147 such obligations are to be issued, and further stating that no
 148 action or proceeding questioning the validity of such
 149 obligations or of the proceedings authorizing the issuance
 150 thereof, or of any covenants made therein, must be instituted
 151 within 20 days after the first publication of such notice, or
 152 the validity of such obligations, proceedings, and covenants
 153 shall not be thereafter questioned in any court whatsoever. If
 154 no such action or proceeding is so instituted within such 20-day
 155 period, then the validity of such obligations, proceedings, and
 156 covenants shall be conclusive, and all persons or parties
 157 whatsoever shall be forever barred from questioning the validity
 158 of such obligations, proceedings, or covenants in any court
 159 whatsoever. Alternatively, Space Florida may validate its bonds
 160 pursuant to chapter 75.

161 Section 8. Section 331.334, Florida Statutes, is repealed.
 162 Section 9. Section 331.336, Florida Statutes, is repealed.
 163 Section 10. Section 331.337, Florida Statutes, is repealed.
 164 Section 11. This act shall take effect July 1, 2020.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

February 15, 2020

The Honorable Rob Bradley
414, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1070: Space Florida

Dear Chairman Bradley:

Senate Bill 1070, relating to Space Florida has been referred to the Committee on Appropriations. I am requesting your consideration on placing SB 1070 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Cynthia Kynoch, Staff Director of the Committee on Appropriations
Alicia Weiss, Administrative Assistant of the Committee on Appropriations

REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-2020

Meeting Date

107088

Bill Number (if applicable)

Topic Space Florida

Amendment Barcode (if applicable)

Name Keevin Williams

Job Title VP of Special Projects & Strategic Initiatives

Address 505 Odyssey Way Suite 300

Phone 850-264-1404

Street

Exploration Park FL 32953

City

State

Zip

Email Kwilliams@spaceflorida.gov

Speaking: For Against Information

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

Representing Space Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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 Appropriations

BILL: CS/CS/SB 1094

INTRODUCER: Appropriations Committee; Health Policy Committee; and Senator Diaz

SUBJECT: The Practice of Pharmacy

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------------|----------------|-----------|-----------------------------|
| 1. | Rossitto-Van Winkle | Brown | HP | Fav/CS |
| 2. | Howard | Kidd | AHS | Recommend: Favorable |
| 3. | Howard | Kynoch | AP | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1094 expands the scope of practice of professional pharmacists to include:

- Ordering and evaluating any laboratory or clinical testing;
- Conducting patient assessments;
- Modifying, discontinuing, or administering medicinal drugs pursuant to section 465.0125, Florida Statutes, by a consultant pharmacist; and
- Conducting “other pharmaceutical services,” which includes reviewing and making recommendations regarding the patient’s drug therapy and health care status to a patient’s prescribing physician, podiatrist, or dentist regarding the patient’s drug therapy and health care status, and initiating, modifying, or discontinuing drug therapy for a chronic health condition under a collaborative pharmacy practice agreement.

The bill authorizes a consultant pharmacist to enter into a written collaborative practice agreement (CPA) with a health care facility medical director, or Florida-licensed physician, podiatrist, or dentist, who is authorized to prescribe medication. The bill also expands the locations where, under a CPA, a consultant pharmacist may offer his or her services, to include:

- Ambulatory surgical center;
- Inpatient hospice;
- Hospital;
- Alcohol or chemical dependency treatment center;
- Ambulatory care center; or

- Nursing home or nursing home within a continuing care facility.

A consultant pharmacist may only provide services to the patients of the health care practitioner with whom the consultant pharmacist has a written collaborative practice agreement. The bill requires both the consultant pharmacist and health care practitioner to maintain a copy of the collaborative agreement and make it available upon request or during an inspection. The bill also requires the consultant pharmacist to maintain all drug, patient care, and quality assurance records.

The bill adds provisions for pharmacists who are certified by the Board of Medicine to provide chronic health condition services under a collaborative pharmacy practice agreement:

- Requiring the terms and conditions of the agreement be appropriate to the training of the pharmacist and the scope of practice of the physician;
- Requiring notification to the Board of Pharmacy (Board) upon practicing under the agreement;
- Requiring maintenance of patient records for a certain timeframe;
- Prohibiting certain actions relating to the agreement;
- Requiring specific continuing education for a pharmacist practicing under the agreement; and
- Requiring the Board of Medicine in consultation with the Board of Osteopathic Medicine and the Board to adopt rules.

The bill requires a licensed pharmacist, authorized under a collaborative pharmacy practice agreement, to report any diagnoses or suspicions of the existence of a disease of public health significance immediately to the Department of Health (department).

The bill has an insignificant fiscal impact on the department that can be absorbed within existing resources.

The bill provides an effective date of July 1, 2020.

II. Present Situation:

Pharmacist Licensure

Pharmacy is the third largest health profession behind nursing and medicine.¹ The Board of Pharmacy (Board), in conjunction with the Department of Health (department), regulates the practice of pharmacists pursuant to ch. 465, F.S.² To be licensed as a pharmacist, a person must:³

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;⁴

¹ American Association of Colleges of Pharmacy, *About AACP*, available at <https://www.aacp.org/about-aacp> (last visited Feb. 6, 2020).

² Sections 465.004 and 465.005, F.S.

³ Section 465.007, F.S. The department may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See s. 465.0075, F.S.*

⁴ If the applicant has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, the applicant must demonstrate proficiency in English, pass the board-approved Foreign Pharmacy

- Have completed a Board-approved internship; and
- Successfully complete the Board-approved examination.

A pharmacist must complete at least 30 hours of Board-approved continuing education during each biennial renewal period.⁵ Pharmacists who are certified to administer vaccines or epinephrine auto-injections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine auto-injections as a part of the biennial licensure renewal.⁶ Pharmacists who administer long-acting antipsychotic medications must complete an approved eight-hour continuing education course as a part of the continuing education for biennial licensure renewal.⁷

Pharmacist Scope of Practice

In Florida, the practice of the profession of pharmacy includes:⁸

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of any medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient's drug therapy and communication with the patient's prescribing health care provider or other persons specifically authorized by the patient, regarding the drug therapy;
- Transmitting information from prescribers to their patients;
- Administering vaccines to adults;⁹
- Administering epinephrine autoinjections;¹⁰ and
- Administering antipsychotic medications by injection.¹¹

A pharmacist may not alter a prescriber's directions, diagnose or treat any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless permitted by law.¹²

Pharmacists may order and dispense drugs that are included in a formulary developed by a committee composed of members of the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy.¹³ The formulary may only include:¹⁴

- Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration (FDA);

Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a department-licensed pharmacist.

⁵ Section 465.009, F.S.

⁶ Section 465.009(6), F.S.

⁷ Section 465.1893, F.S.

⁸ Section 465.003(13), F.S.

⁹ *See s. 465.189*, F.S.

¹⁰ *Id.*

¹¹ Section 465.1893, F.S.

¹² Section 465.003(13), F.S.

¹³ Section 465.186, F.S.

¹⁴ *Id.*

- Any medicinal drug recommended by the FDA Advisory Panel for transfer to over-the-counter status pending approval by the FDA;
- Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination;
- Any medicinal drug containing fluoride in any strength;
- Any medicinal drug containing lindane in any strength;
- Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program; and
- Any topical anti-infectives excluding eye and ear topical anti-infectives.

A pharmacist may order, within his or her professional judgment, and subject to the stated following stated conditions:

- Certain oral analgesics for mild to moderate pain. The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription is limited to a six day supply for one treatment of:
 - Magnesium salicylate/phenyltoloxamine citrate;
 - Acetylsalicylic acid (Zero order release, long acting tablets);
 - Choline salicylate and magnesium salicylate;
 - Naproxen sodium;
 - Naproxen;
 - Ibuprofen;
 - Phenazopyridine, for urinary pain; and
 - Antipyrine 5.4%, benzocaine 1.4%, glycerin, for ear pain if clinical signs or symptoms of tympanic membrane perforation are not present;
- Anti-nausea preparations;
- Certain antihistamines and decongestants;
- Certain topical antifungal/antibacterials;
- Topical anti-inflammatory preparations containing hydrocortisone not exceeding 2.5%;
- Otic antifungal/antibacterial;
- Salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under 2 years of age, and those with diabetes or impaired circulation;
- Vitamins with fluoride, excluding vitamins with folic acid in excess of 0.9 mg.;
- Medicinal drug shampoos containing Lindane for the treatment of head lice;
- Ophthalmics. Naphazoline 0.1% ophthalmic solution;
- Certain histamine H2 antagonists;
- Acne products; and
- Topical Antiviral for herpes simplex infections of the lips.¹⁵

¹⁵ Fla. Admin. Code R. 64B16-27.220 (2019).

Consultant Pharmacists

A consultant pharmacist is a pharmacist who provides expert advice on the use of medications to individuals and older adults.¹⁶ To be licensed as a consultant pharmacist, an applicant must:¹⁷

- Hold a license as a pharmacist that is active and in good standing;
- Successfully complete an approved consultant pharmacist course of at least 12 hours;¹⁸ and
- Successfully complete a 40-hour period of assessment and evaluation under the supervision of a preceptor within one year of completion of an approved consultant pharmacist course.

Education and Training Requirements for Consultant Pharmacists

In addition to the training and education received as a part of a degree program in pharmacy, a consultant pharmacist is required to complete a consultant pharmacy course and a period of assessment and evaluation under the supervision of a preceptor. The Board has general rulemaking authority to adopt rules to implement the pharmacy practice act and specific authority to adopt rules related to the licensure of consultant pharmacists.¹⁹ The Board does not have specific authority to adopt rules related to the educational requirements for consultant pharmacists. Regardless, the Board has, by rule, established the minimum educational and training requirements for licensure as a consultant pharmacist.²⁰

The Board has specified the topics on which a consultant pharmacist may be trained in order to qualify for the designation. The consultant pharmacy course must provide at least 12 hours of education in the following areas:²¹

- Laws and rules including state and federal laws and regulations pertaining to health care facilities, institutional pharmacy, safe and controlled storage of alcohol and other related substances, and fire and health-hazard control;
- Policies and procedures outlining the medication system in effect and record-keeping for controlled substance control and record of usage, medication use evaluation, medication errors, statistical reports, etc.;
- Fiscal controls;
- Personnel management, including intra-professional relations pertaining to medication use and inter-professional relations with other members of the institutional health care team to develop formularies, review medication use and prescribing, and the provision of in-service training of other members of the institutional health care team;
- Professional responsibilities, including:
 - Drug information retrieval and methods of dispersal;
 - Development of pharmacy practice;

¹⁶ American Society of Consultant Pharmacists, *What is a Senior Care Pharmacist*, available at <http://www.ascp.com/page/whatisacp> (last visited Feb. 6, 2020). Consultant pharmacists are often referred to as “senior care pharmacist.”

¹⁷ Fla. Admin. Code R. 64B16-26.300, (2019).

¹⁸ Fla. Admin. Code R. 64B16-26.300, (2019) requires the course to be sponsored by an accredited college of pharmacy and approved by the Florida Board of Pharmacy Tripartite Continuing Education Committee which is based on the Statement of the Competencies Required in Institutional Pharmacy Practice and subject matter set forth in Fla. Adm. Code R. 64B16-26.301(2019).

¹⁹ Section 465.005, F.S.

²⁰ Fla. Admin. Code R. 64B16-26.300,(2019).

²¹ Fla. Admin. Code R. 64B16-26.300 and 64B16-26.301(2019).

- Development of an IV Admixture service;
- Procedures to enhance medication safety, including availability of equipment and techniques to prepare special dosage forms for pediatric and geriatric patients, safety of patient self-medication and control of drugs at bedside, reporting and trending adverse drug reactions, screening for potential drug interactions, and proper writing, initiating, transcribing and/or transferring patient medication orders;
- Maintenance of drug quality and safe storage;
- Maintenance of drug identity.
- The institutional environment, including the institution's pharmacy function and purpose, understanding the scope of service and in-patient care mission of the institution, and interdepartmental relationships important to the institutional pharmacy; and
- Nuclear pharmacy, including procurement, compounding, quality control procedures, dispensing, distribution, basic radiation protection and practices, consultation and education to the nuclear medical community, record-keeping, reporting adverse drug reactions and medication errors, and screening for potential drug interactions.

The applicant must score a passing grade on the course examination for certification of successful completion.²²

A consultant pharmacist must successfully complete a period of assessment and evaluation, under the supervision of a qualified preceptor, within one year of completing the consultant pharmacy educational course.²³ The period of assessment and evaluation must be completed within three consecutive months and include at least 40 hours of training in the following practice areas:²⁴

- Twenty-four hours on regimen review, documentation, and communication;
- Eight hours on facility review, including the ability to demonstrate areas that should be evaluated, documentation, and reporting procedures;
- Two hours on committee and reports, including the review of quarterly quality of care committee minutes and preparation and delivery of the pharmacist quarterly report;
- Two hours on policy and procedures, including preparation, review, and updating Policy and Methods;
- Two hours on principles of formulary management; and
- Two hours on professional relationships, including knowledge and interaction of facility administration and professional staff.

At least 60 percent of this training must occur on-site at an institution that holds a pharmacy permit.²⁵

²² *Id.*

²³ Fla. Admin. Code R. 64B16-26.300(3)(c)(2019).

²⁴ *Id.* To act as a preceptor, a person must be a consultant of record at an institutional pharmacy, have a minimum of one year experience as a consultant pharmacist of record, and be licensed, in good standing, with the board. A preceptor may not supervise more than two applicants at the same time.

²⁵ *Id.*

Scope of Practice

The scope of practice for a consultant pharmacist is broader than that of a pharmacist. A consultant pharmacist may order and evaluate laboratory testing in addition to the services provided by a pharmacist. For example, a consultant pharmacist can order and evaluate clinical and laboratory testing for a patient residing in a nursing home upon authorization by the medical director of the nursing home.²⁶ Additionally, a consultant pharmacist may order and evaluate clinical and laboratory testing for individuals under the care of a licensed home health agency, if authorized by a licensed physician, podiatrist, or dentist.²⁷

Pharmacist Collaborative Practice Agreements

A collaborative practice agreement (CPA) is a formal agreement in which a licensed practitioner makes a diagnosis, supervises patient care, and refers patients to a pharmacist under a protocol that allows the pharmacist to perform specific patient care functions.²⁸ A CPA specifies what functions beyond the pharmacist's typical scope of practice can be delegated to the pharmacist by the collaborating health care practitioner.²⁹ Common tasks include initiating, modifying, or discontinuing medication therapy and ordering and evaluating tests.³⁰

As of May 2016, 48 states, including Florida, permit some type of collaborative practice between a pharmacist and a prescriber.³¹ However, the laws and regulations of these states vary in areas such as the functions that may be authorized, the requirements for collaborative agreements, and the qualifications for participants.³²

III. Effect of Proposed Changes:

The bill amends s. 465.003, F.S., to expand the scope of the, "practice of the profession of pharmacy," to include:

- Ordering and evaluating any laboratory or clinical testing;
- Conducting patient assessments;
- Modifying, discontinuing, or administering medicinal drugs pursuant to s. 465.0125, F.S. by a consultant pharmacist; and
- Conducting "other pharmaceutical services," which includes reviewing and making recommendations regarding the patient's drug therapy and health care status with the patient's prescribing physician, podiatrist, or dentist regarding the patient's drug therapy and

²⁶ Section 465.0125(1), F.S.

²⁷ Section 465.0125(2), F.S. To qualify to order and evaluate such testing, the consultant pharmacist or doctor of pharmacy must complete 3 hours of board-approved training, related to laboratory and clinical testing.

²⁸ U.S. Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division for Heart Disease and Stroke Prevention, *Collaborative Practice Agreements and Pharmacists' Patient Care Services: A Resource for Pharmacists*, (2013), available at https://www.cdc.gov/dhdsppubs/docs/translational_tools_pharmacists.pdf (last visited Feb. 7, 2020).

²⁹ U.S. Center for Disease Control and Prevention, *Advancing Team-Based Care Through Collaborative Practice Agreements: A Resource and Implementation Guide for Adding Pharmacists to the Care Team*, (2017) available at <https://www.cdc.gov/dhdsppubs/docs/CPA-Team-Based-Care.pdf> (last visited Feb. 7, 2020).

³⁰ *Supra* note 28.

³¹ *Supra* note 29.

³² *Id.*

health care status, and initiating, modifying, or discontinuing drug therapy for a chronic health condition under a collaborative pharmacy practice agreement.

The bill amends s. 465.0125, F.S., authorizing a consultant pharmacist to enter into a written CPA with a health care facility medical director, or a Florida-licensed allopathic physician, osteopathic physician, podiatric physician, or dentist, who is authorized to prescribe medication, to provide medication management services, which may include:

- Order and evaluate any laboratory or clinical tests to promote and evaluate patient health and wellness, and monitor drug therapy and treatment outcomes;
- Conduct patient assessments as appropriate to evaluate and monitor drug therapy;
- Modify, or discontinue medicinal drugs as outlined in the agreed upon patient-specific order or preapproved treatment protocol under the direction of a physician; and
- Administer medicinal drugs.

The bill defines a health care facility to expand the locations in which a consultant pharmacist services may be offered, to include:

- Ambulatory surgical center;
- Alcohol or chemical dependency treatment center;
- Inpatient hospice;
- Hospital;
- Ambulatory care center; or
- Nursing home or nursing home within a continuing care facility.

The bill prohibits a consultant pharmacist from modifying or discontinuing a medication if the consultant pharmacist does not have a written collaborative practice agreement with the consultant pharmacist; and clarifies that a consultant pharmacist is not authorized to diagnose any disease or condition.

The consultant pharmacist must maintain all drug, patient care and quality assurance records as required by current law; and, with the collaborating practitioner, must maintain written collaborative practice agreements that must be available upon request or during any department inspection.

The Board previously established, by rule, the additional training required for licensure as a consultant pharmacist under its general rulemaking authority.³³ The bill gives the Board express authority to establish additional education requirements for licensure as a consultant pharmacist.

The bill amends s. 381.0031, F.S., to require any licensed pharmacist authorized under a collaborative pharmacy practice agreement to perform or order and evaluate laboratory and clinical tests, to report immediately to the department any diagnoses or suspicions of a significant disease of public health.

The bill creates s. 465.1865, F.S., establishing a collaborative pharmacy practice for chronic health conditions authorizing provisions for pharmacists who are certified by the Board of

³³ *Supra* note 21.

Medicine to provide chronic health condition services under a collaborative pharmacy practice agreement. The chronic health conditions include the following:

- Arthritis;
- Asthma;
- Chronic obstructive pulmonary diseases;
- Type 2 diabetes;
- Human immunodeficiency virus or acquired immune deficiency syndrome; or
- Obesity.

To provide services under a collaborative pharmacy practice agreement, a pharmacist must be certified according to the following rules of the Board of Medicine that he or she:

- Holds an active and unencumbered license to practice pharmacy in the state;
- Has earned a degree of doctor of pharmacy or has completed five years of experience as a licensed pharmacist;
- Has completed an initial 20-hour course approved by the Board of Medicine in consultation with the Board of Osteopathic Medicine and the Board of Pharmacy which includes, at a minimum, instruction on all of the following:
 - Performance of patient assessments;
 - Ordering, performing, and interpreting clinical and laboratory tests related to collaborative pharmacy practice;
 - Evaluating and managing diseases and health conditions in collaboration with other health care practitioners; and
 - Any other area required by Board of Medicine rule, adopted in consultation with the Board of Osteopathic Medicine and the Board of Pharmacy.
- Maintains at least \$250,000 of professional liability insurance coverage; and
- Has established a system to maintain records of all patients receiving services under a collaborative pharmacy practice agreement for a period of five years.

The terms and conditions of the collaborative pharmacy practice agreement must be appropriate to the pharmacist's education and training and the services delegated to the pharmacist must be within the collaborating physician's scope of practice. A copy of the pharmacist certification, as required according to the rules of the Board of Medicine, must be included as an attachment to the collaborative pharmacy practice agreement:

- A collaborative pharmacy practice agreement must include the following:
 - Name of the collaborating physician's patient or patients for whom a pharmacist may provide services;
 - Each chronic health condition to be collaboratively managed;
 - Specific medicinal drug or drugs to be managed by the pharmacist;
 - Circumstances under which the pharmacist may order or perform and evaluate laboratory or clinical tests;
 - Conditions and events upon which the pharmacist must notify the collaborating physician and the manner and timeframe in which such notification must occur;
 - Beginning and ending dates for the collaborative pharmacy practice agreement and termination procedures; and
 - A statement that the collaborative pharmacy practice agreement may be terminated, in writing, by either party at any time.

A collaborative pharmacy practice agreement must be renewed at least every two years. The pharmacist, along with the collaborating physician, must maintain on file the collaborative pharmacy practice agreement at his or her practice location and must make such agreements available upon request or inspection. A pharmacist who enters into a collaborative pharmacy practice agreement must submit a copy of the signed agreement to the Board before the agreement may be implemented.

A pharmacist may not:

- Modify or discontinue medicinal drugs prescribed by a health care practitioner with whom her or she does not have a collaborative pharmacy practice agreement; or
- Enter into a collaborative pharmacy practice agreement while acting as an employee without the written approval of the owner of the pharmacy.

A physician may not delegate to a pharmacist the authority to initiate or prescribe a controlled substance as described in s. 893.03 or 21 U.S.C. s. 812, F.S.

In addition to the continuing education requirements under s. 465.009, a pharmacist who practices under a collaborative pharmacy practice agreement must, for each biennial licensure renewal, complete an eight hour continuing education course approved by the Board of Medicine in consultation with the Board of Osteopathic Medicine and the Board of Pharmacy which addresses issues related to the chronic conditions to be collaboratively managed. The pharmacist must submit confirmation of having completed the continuing education course when applying for licensure renewal. A pharmacist who fails to comply with these requirements is prohibited from practicing under a collaborative pharmacy practice agreement under this section.

The Board of Medicine in consultation with the Board of Osteopathic Medicine and the Board of Pharmacy must adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the collaborative pharmacy practice for chronic health conditions.

The bill provides an effective date of July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/CS/SB 1094 will require the department to incur non-recurring costs for rulemaking, which current resources are adequate to absorb.³⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is unclear as to where the written CPAs will be kept, and who, the consultant pharmacist or the collaborating practitioner, will be responsible for making them “available upon from the department or upon inspection by the department.”

The bill expands the locations where a consultant pharmacist may practice, some of which are not inspected by the department, but by the Agency for Health Care Administrative (ACHA). The bill does not require the consultant pharmacist or the collaborating practitioner to make the CPA available to the AHCA upon request or inspection.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0031, 465.003, and 465.0125.

The bill creates section 465.1865 of the Florida Statutes.

³⁴ Florida Department of Health fiscal analysis of SB 1094 (February 7, 2020)(on file with the Senate Appropriations Subcommittee on Health and Human Services).

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute:

- Adds provisions for consultant pharmacists who are certified by the Board of Medicine to provide chronic health condition services under a collaborative pharmacy practice agreement; and
- Requires a licensed pharmacist, authorized under a collaborative pharmacy practice agreement, to report any diagnoses or suspicions of the existence of a disease of public health significance immediately to the department.

CS by Health Policy on February 11, 2020:

The CS:

- Removes from the underlying bill’s definition of the “practice of professional pharmacy” the ability to “initiate” medicinal drugs;
- Removes the ability of consultant pharmacists in the underlying bill to “initiate” medicinal drugs pursuant to a CPA with a physician, podiatrist, or dentist; and
- Requires the CPA be in writing.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 381.0031, Florida
Statutes, is amended to read:

381.0031 Epidemiological research; report of diseases of
public health significance to department.—

(2) Any practitioner licensed in this state to practice
medicine, osteopathic medicine, chiropractic medicine,



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11 naturopathy, or veterinary medicine; any licensed pharmacist
12 authorized under a collaborative pharmacy practice agreement, as
13 defined in s. 465.1865, to perform or order and evaluate
14 laboratory and clinical tests; any hospital licensed under part
15 I of chapter 395; or any laboratory appropriately certified by
16 the Centers for Medicare and Medicaid Services under the federal
17 Clinical Laboratory Improvement Amendments and the federal rules
18 adopted thereunder which diagnoses or suspects the existence of
19 a disease of public health significance shall immediately report
20 the fact to the Department of Health.

21 Section 2. Subsection (13) of section 465.003, Florida
22 Statutes, is amended to read:

23 465.003 Definitions.—As used in this chapter, the term:

24 (13) "Practice of the profession of pharmacy" includes
25 compounding, dispensing, and consulting concerning contents,
26 therapeutic values, and uses of any medicinal drug; consulting
27 concerning therapeutic values and interactions of patent or
28 proprietary preparations, whether pursuant to prescriptions or
29 in the absence and entirely independent of such prescriptions or
30 orders; and conducting other pharmaceutical services. For
31 purposes of this subsection, the term "other pharmaceutical
32 services" means ~~the~~ monitoring ~~of~~ the patient's drug therapy and
33 assisting the patient in the management of his or her drug
34 therapy; reviewing and making recommendations regarding, ~~and~~
35 ~~includes review of~~ the patient's drug therapy and health care
36 status in communication with the patient's prescribing health
37 care provider as licensed under chapter 458, chapter 459,
38 chapter 461, or chapter 466, or a similar statutory provision in
39 another jurisdiction, or such provider's agent or such other



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40 persons as specifically authorized by the patient; and
41 initiating, modifying, or discontinuing drug therapy for a
42 chronic health condition under a collaborative pharmacy practice
43 agreement, regarding the drug therapy. However, Nothing in this
44 subsection may be interpreted to permit an alteration of a
45 prescriber's directions, the diagnosis or treatment of any
46 disease, the initiation of any drug therapy, the practice of
47 medicine, or the practice of osteopathic medicine, unless
48 otherwise permitted by law or specifically authorized by s.
49 465.1865. The term "Practice of the profession of pharmacy" also
50 includes any other act, service, operation, research, or
51 transaction incidental to, or forming a part of, any of the
52 foregoing acts, requiring, involving, or employing the science
53 or art of any branch of the pharmaceutical profession, study, or
54 training, and shall expressly permit a pharmacist to transmit
55 information from persons authorized to prescribe medicinal drugs
56 to their patients. The practice of the profession of pharmacy
57 also includes the administration of vaccines to adults pursuant
58 to s. 465.189 and the preparation of prepackaged drug products
59 in facilities holding Class III institutional pharmacy permits.
60 The term also includes ordering and evaluating any laboratory or
61 clinical testing; conducting patient assessments; and modifying,
62 discontinuing, or administering medicinal drugs pursuant to s.
63 465.0125 by a consultant pharmacist.

64 Section 3. Section 465.0125, Florida Statutes, is amended
65 to read:

66 465.0125 Consultant pharmacist license; application,
67 renewal, fees; responsibilities; rules.—

68 (1) The department shall issue or renew a consultant



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69 pharmacist license upon receipt of an initial or renewal
70 application that ~~which~~ conforms to the requirements for
71 consultant pharmacist initial licensure or renewal as adopted
72 ~~promulgated~~ by the board by rule and a fee set by the board not
73 to exceed \$250. To be licensed as a consultant pharmacist, a
74 pharmacist must complete additional training as required by the
75 board.

76 (a) A consultant pharmacist may provide medication
77 management services in a health care facility within the
78 framework of a written collaborative practice agreement between
79 the pharmacist and a health care facility medical director or a
80 physician licensed under chapter 458 or chapter 459, a podiatric
81 physician licensed under chapter 461, or a dentist licensed
82 under chapter 466 who is authorized to prescribe medicinal
83 drugs. A consultant pharmacist may provide medication management
84 services, conduct patient assessments, and order and evaluate
85 laboratory or clinical testing only for patients of the health
86 care practitioner with whom the consultant pharmacist has a
87 written collaborative practice agreement.

88 (b) A written collaborative practice agreement must outline
89 the circumstances under which the consultant pharmacist may:

90 1. Order and evaluate any laboratory or clinical tests to
91 promote and evaluate patient health and wellness, and monitor
92 drug therapy and treatment outcomes.

93 2. Conduct patient assessments as appropriate to evaluate
94 and monitor drug therapy.

95 3. Modify or discontinue medicinal drugs as outlined in the
96 agreed-upon patient-specific order or preapproved treatment
97 protocol under the direction of a physician. However, a



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98 consultant pharmacist may not modify or discontinue medicinal
99 drugs prescribed by a health care practitioner who does not have
100 a written collaborative practice agreement with the consultant
101 pharmacist.

102 4. Administer medicinal drugs.

103 (c) A ~~The~~ consultant pharmacist shall maintain ~~be~~
104 ~~responsible for maintaining~~ all drug, patient care, and quality
105 ~~assurance~~ records as required by law and, with the collaborating
106 ~~practitioner, maintain written collaborative practice agreements~~
107 ~~that must be available upon request from or upon inspection by~~
108 ~~the department.~~

109 (d) This subsection does not authorize a consultant
110 pharmacist to diagnose any disease or condition.

111 (e) For purposes of this subsection, the term "health care
112 facility" means an ambulatory surgical center or hospital
113 licensed under chapter 395, an alcohol or chemical dependency
114 treatment center licensed under chapter 397, an inpatient
115 hospice licensed under part IV of chapter 400, a nursing home
116 licensed under part II of chapter 400, an ambulatory care center
117 as defined in s. 408.07, or a nursing home component licensed
118 under chapter 400 within a continuing care facility licensed
119 under chapter 651 ~~for establishing drug handling procedures for~~
120 ~~the safe handling and storage of drugs. The consultant~~
121 ~~pharmacist may also be responsible for ordering and evaluating~~
122 ~~any laboratory or clinical testing when, in the judgment of the~~
123 ~~consultant pharmacist, such activity is necessary for the proper~~
124 ~~performance of the consultant pharmacist's responsibilities.~~
125 ~~Such laboratory or clinical testing may be ordered only with~~
126 ~~regard to patients residing in a nursing home facility, and then~~



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127 ~~only when authorized by the medical director of the nursing home~~
128 ~~facility. The consultant pharmacist must have completed such~~
129 ~~additional training and demonstrate such additional~~
130 ~~qualifications in the practice of institutional pharmacy as~~
131 ~~shall be required by the board in addition to licensure as a~~
132 ~~registered pharmacist.~~

133 (2) Notwithstanding ~~the provisions of~~ subsection (1), a
134 consultant pharmacist or a doctor of pharmacy licensed in this
135 state may also be responsible for ordering and evaluating any
136 laboratory or clinical testing for persons under the care of a
137 licensed home health agency when, in the judgment of the
138 consultant pharmacist or doctor of pharmacy, such activity is
139 necessary for the proper performance of his or her
140 responsibilities and only when authorized by a practitioner
141 licensed under chapter 458, chapter 459, chapter 461, or chapter
142 466. In order for the consultant pharmacist or doctor of
143 pharmacy to qualify and accept this authority, he or she must
144 receive 3 hours of continuing education relating to laboratory
145 and clinical testing as established by the board.

146 (3) The board shall adopt ~~promulgate~~ rules necessary to
147 implement and administer this section.

148 Section 4. Section 465.1865, Florida Statutes, is created
149 to read:

150 465.1865 Collaborative pharmacy practice for chronic health
151 conditions.-

152 (1) For purposes of this section, the term:

153 (a) "Collaborative pharmacy practice agreement" means a
154 written agreement between a pharmacist who meets the
155 qualifications of this section and a physician licensed under



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156 chapter 458 or chapter 459 in which a collaborating physician
157 authorizes a pharmacist to provide specified patient care
158 services to the collaborating physician's patients.

159 (b) "Chronic health condition" means:

160 1. Arthritis;

161 2. Asthma;

162 3. Chronic obstructive pulmonary diseases;

163 4. Type 2 diabetes;

164 5. Human immunodeficiency virus or acquired immune
165 deficiency syndrome; or

166 6. Obesity.

167 (2) To provide services under a collaborative pharmacy
168 practice agreement, a pharmacist must be certified according to
169 rules of the Board of Medicine that he or she:

170 (a) Holds an active and unencumbered license to practice
171 pharmacy in the state.

172 (b) Has earned a degree of doctor of pharmacy or has
173 completed 5 years of experience as a licensed pharmacist.

174 (c) Has completed an initial 20-hour course approved by the
175 Board of Medicine in consultation with the Board of Osteopathic
176 Medicine and the Board of Pharmacy which includes, at a minimum,
177 instruction on all of the following:

178 1. Performance of patient assessments.

179 2. Ordering, performing, and interpreting clinical and
180 laboratory tests related to collaborative pharmacy practice.

181 3. Evaluating and managing diseases and health conditions
182 in collaboration with other health care practitioners.

183 4. Any other area required by Board of Medicine rule,
184 adopted in consultation with the Board of Osteopathic Medicine



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185 and the Board of Pharmacy.

186 (d) Maintains at least \$250,000 of professional liability
187 insurance coverage. However, a pharmacist who maintains
188 professional liability insurance coverage of at least \$250,000
189 under a written protocol with a supervising physician for the
190 testing for and treatment of minor nonchronic health conditions
191 satisfies this requirement.

192 (e) Has established a system to maintain records of all
193 patients receiving services under a collaborative pharmacy
194 practice agreement for a period of 5 years.

195 (3) The terms and conditions of the collaborative pharmacy
196 practice agreement must be appropriate to the pharmacist's
197 education and training and the services delegated to the
198 pharmacist must be within the collaborating physician's scope of
199 practice. A copy of the certification issued under subsection
200 (2) must be included as an attachment to the collaborative
201 pharmacy practice agreement.

202 (a) A collaborative pharmacy practice agreement must
203 include the following:

204 1. Name of the collaborating physician's patient or
205 patients for whom a pharmacist may provide services.

206 2. Each chronic health condition to be collaboratively
207 managed.

208 3. Specific medicinal drug or drugs to be managed by the
209 pharmacist.

210 4. Circumstances under which the pharmacist may order or
211 perform and evaluate laboratory or clinical tests.

212 5. Conditions and events upon which the pharmacist must
213 notify the collaborating physician and the manner and timeframe



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214 in which such notification must occur.

215 6. Beginning and ending dates for the collaborative
216 pharmacy practice agreement and termination procedures,
217 including procedures for patient notification and medical
218 records transfers.

219 7. A statement that the collaborative pharmacy practice
220 agreement may be terminated, in writing, by either party at any
221 time.

222 (b) A collaborative pharmacy practice agreement must be
223 renewed at least every 2 years.

224 (c) The pharmacist, along with the collaborating physician,
225 must maintain on file the collaborative pharmacy practice
226 agreement at his or her practice location and must make such
227 agreements available upon request or inspection.

228 (d) A pharmacist who enters into a collaborative pharmacy
229 practice agreement must submit a copy of the signed agreement to
230 the Board of Pharmacy before the agreement may be implemented.

231 (4) A pharmacist may not:

232 (a) Modify or discontinue medicinal drugs prescribed by a
233 health care practitioner with whom he or she does not have a
234 collaborative pharmacy practice agreement.

235 (b) Enter into a collaborative pharmacy practice agreement
236 while acting as an employee without the written approval of the
237 owner of the pharmacy.

238 (5) A physician may not delegate to a pharmacist the
239 authority to initiate or prescribe a controlled substance as
240 described in s. 893.03 or 21 U.S.C. s. 812.

241 (6) In addition to the continuing education requirements
242 under s. 465.009, a pharmacist who practices under a



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243 collaborative pharmacy practice agreement must, for each
244 biennial licensure renewal, complete an 8-hour continuing
245 education course approved by the Board of Medicine in
246 consultation with the Board of Osteopathic Medicine and the
247 Board of Pharmacy which addresses issues related to the chronic
248 conditions to be collaboratively managed. Such pharmacist must
249 submit confirmation of having completed such course when
250 applying for licensure renewal. A pharmacist who fails to comply
251 with this subsection shall be prohibited from practicing under a
252 collaborative pharmacy practice agreement under this section.

253 (7) The Board of Medicine in consultation with the Board of
254 Osteopathic Medicine and the Board of Pharmacy shall adopt rules
255 pursuant to ss. 120.536(1) and 120.54 to implement this section.

256 Section 5. This act shall take effect July 1, 2020.

257
258 ===== T I T L E A M E N D M E N T =====

259 And the title is amended as follows:

260 Delete everything before the enacting clause
261 and insert:

262 A bill to be entitled
263 An act relating to the practice of pharmacy; amending
264 s. 381.0031, F.S.; requiring specified licensed
265 pharmacists to report certain information relating to
266 public health to the Department of Health; amending s.
267 465.003, F.S.; revising the definition of the term
268 "practice of the profession of pharmacy"; amending s.
269 465.0125, F.S.; requiring a pharmacist to complete
270 additional training to be licensed as a consultant
271 pharmacist; authorizing a consultant pharmacist to



272 perform specified services under certain conditions;
273 prohibiting a consultant pharmacist from modifying or
274 discontinuing medicinal drugs prescribed by a health
275 care practitioner under certain conditions; revising
276 the responsibilities of a consultant pharmacist;
277 requiring a consultant pharmacist and a collaborating
278 practitioner to maintain collaborative practice
279 agreements; requiring collaborative practice
280 agreements to be made available upon request from or
281 upon inspection by the Department of Health;
282 prohibiting a consultant pharmacist from diagnosing
283 any disease or condition; defining the term "health
284 care facility"; creating s. 465.1865, F.S.; defining
285 terms; providing requirements for pharmacists to
286 provide services under a collaborative pharmacy
287 practice agreement; requiring the terms and conditions
288 of such agreement to be appropriate to the training of
289 the pharmacist and the scope of practice of the
290 physician; requiring notification to the Board of
291 Pharmacy upon practicing under a collaborative
292 pharmacy practice agreement; requiring pharmacists to
293 submit a copy of the signed collaborative pharmacy
294 practice agreement to the Board of Pharmacy; providing
295 for the maintenance of patient records for a certain
296 timeframe; providing for renewal of such agreement;
297 requiring a pharmacist and the collaborating physician
298 to maintain on file and make available the
299 collaborative pharmacy practice agreement; prohibiting
300 certain actions relating to such agreement; requiring



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301 specified continuing education for a pharmacist who
302 practices under a collaborative pharmacy practice
303 agreement; requiring the Board of Medicine in
304 consultation with the Board of Osteopathic Medicine
305 and the Board of Pharmacy to adopt rules; providing an
306 effective date.

By the Committee on Health Policy; and Senator Diaz

588-03469-20

20201094c1

A bill to be entitled

An act relating to consultant pharmacists; amending s. 465.003, F.S.; revising the definition of the term "practice of the profession of pharmacy"; amending s. 465.0125, F.S.; requiring a pharmacist to complete additional training to be licensed as a consultant pharmacist; authorizing a consultant pharmacist to perform specified services under certain conditions; prohibiting a consultant pharmacist from modifying or discontinuing medicinal drugs prescribed by a health care practitioner under certain conditions; revising the responsibilities of a consultant pharmacist; requiring a consultant pharmacist and a collaborating practitioner to maintain collaborative practice agreements; requiring collaborative practice agreements to be made available upon request from or upon inspection by the Department of Health; prohibiting a consultant pharmacist from diagnosing any disease or condition; defining the term "health care facility"; providing an effective date.

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

Section 1. Subsection (13) of section 465.003, Florida Statutes, is amended to read:

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

(13) "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting

Page 1 of 6

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

588-03469-20

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concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders; and conducting other pharmaceutical services. For purposes of this subsection, the term "other pharmaceutical services" means ~~the monitoring of~~ the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes reviewing, and making recommendations regarding, review of the patient's drug therapy and health care status in communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or a similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, ~~regarding the drug therapy~~. However, ~~nothing in~~ this subsection may not be interpreted to permit an alteration of a prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. The term "practice of the profession of pharmacy" also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults pursuant to s. 465.189 and the preparation of prepackaged drug products

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

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59 in facilities holding Class III institutional pharmacy permits.
 60 The term also includes ordering and evaluating any laboratory or
 61 clinical testing; conducting patient assessments; and modifying,
 62 discontinuing, or administering medicinal drugs pursuant to s.
 63 465.0125 by a consultant pharmacist.

64 Section 2. Section 465.0125, Florida Statutes, is amended
 65 to read:

66 465.0125 Consultant pharmacist license; application,
 67 renewal, fees; responsibilities; rules.—

68 (1) The department shall issue or renew a consultant
 69 pharmacist license upon receipt of an initial or renewal
 70 application that ~~which~~ conforms to the requirements for
 71 consultant pharmacist initial licensure or renewal as adopted
 72 ~~promulgated~~ by the board by rule and a fee set by the board not
 73 to exceed \$250. To be licensed as a consultant pharmacist, a
 74 pharmacist must complete additional training as required by the
 75 board.

76 (a) A consultant pharmacist may provide medication
 77 management services in a health care facility within the
 78 framework of a written collaborative practice agreement between
 79 the pharmacist and a health care facility medical director or a
 80 physician licensed under chapter 458 or chapter 459, a podiatric
 81 physician licensed under chapter 461, or a dentist licensed
 82 under chapter 466 who is authorized to prescribe medicinal
 83 drugs. A consultant pharmacist may provide medication management
 84 services, conduct patient assessments, and order and evaluate
 85 laboratory or clinical testing only for patients of the health
 86 care practitioner with whom the consultant pharmacist has a
 87 written collaborative practice agreement.

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88 (b) A written collaborative practice agreement must outline
 89 the circumstances under which the consultant pharmacist may:

90 1. Order and evaluate any laboratory or clinical tests to
 91 promote and evaluate patient health and wellness, and monitor
 92 drug therapy and treatment outcomes.

93 2. Conduct patient assessments as appropriate to evaluate
 94 and monitor drug therapy.

95 3. Modify or discontinue medicinal drugs as outlined in the
 96 agreed-upon patient-specific order or preapproved treatment
 97 protocol under the direction of a physician. However, a
 98 consultant pharmacist may not modify or discontinue medicinal
 99 drugs prescribed by a health care practitioner who does not have
 100 a written collaborative practice agreement with the consultant
 101 pharmacist.

102 4. Administer medicinal drugs.

103 (c) A ~~The~~ consultant pharmacist shall maintain ~~be~~
 104 responsible for maintaining all drug, patient care, and quality
 105 assurance records as required by law and, with the collaborating
 106 practitioner, shall maintain written collaborative practice
 107 agreements that must be available upon request from or upon
 108 inspection by the department.

109 (d) This subsection does not authorize a consultant
 110 pharmacist to diagnose any disease or condition.

111 (e) For purposes of this subsection, the term "health care
 112 facility" means an ambulatory surgical center or hospital
 113 licensed under chapter 395, an alcohol or chemical dependency
 114 treatment center licensed under chapter 397, an inpatient
 115 hospice licensed under part IV of chapter 400, a nursing home
 116 licensed under part II of chapter 400, an ambulatory care center

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117 as defined in s. 408.07, or a nursing home component under
 118 chapter 400 within a continuing care facility licensed under
 119 chapter 651 for establishing drug handling procedures for the
 120 safe handling and storage of drugs. The consultant pharmacist
 121 may also be responsible for ordering and evaluating any
 122 laboratory or clinical testing when, in the judgment of the
 123 consultant pharmacist, such activity is necessary for the proper
 124 performance of the consultant pharmacist's responsibilities.
 125 Such laboratory or clinical testing may be ordered only with
 126 regard to patients residing in a nursing home facility, and then
 127 only when authorized by the medical director of the nursing home
 128 facility. The consultant pharmacist must have completed such
 129 additional training and demonstrate such additional
 130 qualifications in the practice of institutional pharmacy as
 131 shall be required by the board in addition to licensure as a
 132 registered pharmacist.

133 (2) Notwithstanding ~~the provisions of~~ subsection (1), a
 134 consultant pharmacist or a doctor of pharmacy licensed in this
 135 state may also be responsible for ordering and evaluating any
 136 laboratory or clinical testing for persons under the care of a
 137 licensed home health agency when, in the judgment of the
 138 consultant pharmacist or doctor of pharmacy, such activity is
 139 necessary for the proper performance of his or her
 140 responsibilities and only when authorized by a practitioner
 141 licensed under chapter 458, chapter 459, chapter 461, or chapter
 142 466. In order for the consultant pharmacist or doctor of
 143 pharmacy to qualify and accept this authority, he or she must
 144 receive 3 hours of continuing education relating to laboratory
 145 and clinical testing as established by the board.

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146 (3) The board shall adopt ~~promulgate~~ rules necessary to
 147 implement and administer this section.
 148 Section 3. This act shall take effect July 1, 2020.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20

Meeting Date

SB 1094

Bill Number (if applicable)

268640

Amendment Barcode (if applicable)

Topic Consultant Pharmacist

Name Joe Mazziotto, M.D.

Job Title

Address 13241 Bartran Park Blvd

Phone 904-400-6189

Street

Jacksonville, FL 32258

City

State

Zip

Email

Speaking: For Against Information

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

Representing FAAP - Florida Academy of Family Physicians

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)

March 3, 2020

Meeting Date

CSSB1094

Bill Number (if applicable)

268640

Amendment Barcode (if applicable)

Topic Consultant Pharmacists

Name Michael Jackson

Job Title Executive Vice President and CEO

Address 610 North Adams Street

Street

Tallahassee

City

Florida

State

32301

Zip

Phone (850) 222-2400

Email mjackson@pharmview.com

Speaking: For Against Information

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

Representing Florida Pharmacy 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

APPEARANCE RECORD

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

3-3

Meeting Date

1094

Bill Number (if applicable)

268640

Amendment Barcode (if applicable)

Topic Consultant Pharmacist

Name Matt Jordan

Job Title Lobbyist

Address 9628 Deer Valley Drive

Phone 850-519-2801

Street

Tallahassee

FL

State

32303

Zip

Email mattjordanfsr23@gmail.com

Speaking: For Against Information

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

Representing Florida Society of Rheumatology

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

3/8/2020

Meeting Date

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

SB 1094

Bill Number (if applicable)

268640

Amendment Barcode (if applicable)

Topic consultant Pharmacist

Name D. Paul Robinson, M.D., F.A.A.P.

Job Title _____

Address 4656 Inisheer Dr.

Phone 850-566-4551

Street

Tallahassee

FL

32309

City

State

Zip

Email Robinson23@gmail.com

Speaking: For Against Information

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

Representing Florida Chapters of the AAP & FMA

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)

3/3/20

Meeting Date

1094

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nland

Job Title _____

Address 4427 Herschel St

Phone 904-233-3051

Street

Jacksonville FL 32210

Email nlandlaw@aol.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Chapter, American College of Physicians

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)

March 3, 2020

Meeting Date

CS/SB 1094

Bill Number (if applicable)

Topic Consultant Pharmacists

Amendment Barcode (if applicable)

Name Michael Jackson

Job Title Executive Vice President and CEO

Address 610 North Adams Street

Phone (850) 222-2400

Street

Tallahassee

Florida

32301

Email mjackson@pharmview.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Pharmacy 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
APPEARANCE RECORD

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

03/03/2020

Meeting Date

SB 1094

Bill Number (if applicable)

Topic Consultant Pharmacists

Amendment Barcode (if applicable)

Name Joseph Salzverg ("Saul's-Verg")

Job Title Attorney/Lobbyist

Address 301 S. Bronough Street, #600

Phone (850) 577-9090

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Society of Health-System Pharmacists

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 Appropriations

BILL: PCS/CS/SB 1220 (888996)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Diaz

SUBJECT: Education

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|----------------|------------|--------------------------|
| 1. | <u>Bouck</u> | <u>Sikes</u> | <u>ED</u> | <u>Fav/CS</u> |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1220 provides additional educational and professional growth opportunities for students and teachers. The bill modifies provisions relating to educator preparation programs, subject area mastery for and renewal of educator certificates, the Education Practices Commission (EPC), and teacher professional development. Specifically, the bill:

- Modifies admissions, core curricula, and instructional requirements for initial teacher preparation (ITP) and educator preparation institute (EPI) programs by:
 - Changing that the grade point average and General Knowledge Test requirements currently required for admission to the ITP program are to be completed during the student's time in the program.
 - Modifying ITP program core curricula relating to reading instructional strategies and adding a new requirement for mental health strategies and support.
 - Requiring ITP and EPI programs to include the opportunity for students to complete an endorsement and to include specified instruction required for instructional personnel.
 - Modifying ITP and EPI continuing approval requirements to require that employer surveys include assessments of student proficiency.
- Modifies educator certification requirements to:
 - Authorize an additional option to demonstrate mastery of subject area competence to include a bachelor's degree in the subject area, with conditions.
 - Require that a teacher may earn inservice points only once during a certificate renewal period for training that is not related to student learning or professional growth.

- Modifies requirements relating to the EPC, including that:
 - The Commissioner of Education may select and remove the EPC executive director, and may establish the duties of the executive director.
- Modifies school district professional development (PD) systems and creates new PD opportunities by:
 - Requiring a district to calculate a proportional share of PD funds for each teacher, and specifies that each teacher may use up to 25 percent of that share for specified PD.
 - Requiring the DOE and school districts to create an annual and five-year model calendar of state-mandated PD.
 - Requiring the DOE to maintain a statewide registry of approved professional development providers.
 - Creating the Professional Development Choice Pilot Program, subject to appropriation, to allow a teacher to receive a grant of up to \$500 for PD aligned to standards.
 - Creating the Professional Education Excellence Resources (PEER) Pilot Program in Clay, Palm Beach, Pinellas, and Walton counties to allow a teacher extended time for PD, teacher collaboration, and teacher leadership opportunities. This program shall be implemented to the extent specifically funded and authorized by law.
- Modifies the eligibility requirements of the Family Empowerment Scholarship (FES) and the Florida Tax Credit (FTC) scholarship, and maximum annual growth in student participation for the FES, by:
 - Expanding FES eligibility to a student who received an FTC scholarship in the prior year and was in a public school the year prior to initial receipt of the FTC scholarship.
 - Aligning FES and FTC scholarship eligibility by allowing an FES student to participate in up to two courses from a virtual school, correspondence school, or distance learning program that receives state funding; and by providing that the FES is not subject to the maximum of one FTE for funding.
 - Providing that a student eligible for an FTC scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.
 - Modifying the maximum annual growth in student participation in the FES to 1.0 percent of the state public school enrollment (rather than 0.25 percent) starting in the 2020-2021 school year.
- Modifies the charter school application process and enrollment limitations by:
 - Requiring a sponsor to receive and consider a charter school application submitted at any time during the calendar year.
 - Modifying enrollment limitations to prioritize a developer and charitable foundation that perform specified actions.
- Requires school districts to provide for the administration of the SAT or ACT to all students in grade 11, beginning in the 2020-2021 school year; with funding as provided in the General Appropriations Act (GAA).
- Establishes a series of school district Full-Time Equivalent (FTE) student bonuses for completion of general education core courses with a grade of "B" or higher through dual enrollment, and completion of an associate degree through dual enrollment.
- Requires the Commissioner to submit a report by December 1, 2020, meeting specified requirements, to determine the feasibility of implementing a Pathways in Technology Early College High School (P-TECH), or similar program, in Florida.

The Department of Education may experience decreased revenue from the loss of subject area examination fees and may incur costs related to developing model professional development calendars and a statewide registry of approved professional development providers and activities.

Revising the increase for maximum student participation in the FES from 0.25 percent (roughly 7,000 students) to 1.0 percent (roughly 28,000 students) annually may increase the FTE and state funding for the FEFP. In addition, expanding the Florida Empowerment Scholarship (FES) eligibility by including FTC students who were public school students before they took an FTC scholarship may increase FTE and state funding needed for the FEFP. In addition, exempting the FES scholarship amount from the 1.0 FTE requirement also has the potential to increase the FTE and funding needed for the FEFP.

Beginning in the 2021-2022 fiscal year, the bill may reallocate funds within the Florida Education Finance Program (FEFP) to those school districts with relatively more students successfully completing dual enrollment coursework; however, no appropriation is required.

See Section V.

The bill takes effect on July 1, 2020, unless otherwise specified.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Educator Preparation Programs

Present Situation

Public and private universities and colleges throughout the state offer Initial Teacher Preparation (ITP) Programs. Many of the Florida colleges and universities have state-approved Educator Preparation Institutes (EPIs) through which they deliver alternative certification programs for baccalaureate degree holders. In addition, the majority of Florida public school districts offer Professional Development Certification Programs.

Initial Teacher Preparation Programs

ITP programs prepare candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas, mastery of general knowledge, and mastery of professional preparation and education competence. There are currently 53 state-approved¹ ITP programs at Florida College System institutions, state universities, and independent colleges and universities,

¹ Section 1004.04, F.S., and Rule 6A-5.066(2), F.A.C., detail criteria for state approval of ITP programs.

which typically culminate in a bachelor's or master's degree.² ITP program completers are eligible for a Florida Professional Educator's Certification upon program completion.³

In order to be admitted into an ITP program, a student must, at a minimum:⁴

- Have a grade point average of at least 2.5 on a 4.0 scale for the general education component of undergraduate studies or have completed the requirements for a baccalaureate degree with a minimum grade point average of 2.5 on a 4.0 scale from an approved college or university.⁵
- Demonstrate mastery of general knowledge sufficient for entry into the program, including the ability to read, write, and perform in mathematics, by passing the General Knowledge Test of the Florida Teacher Certification Examination or, for a graduate level program, obtain a baccalaureate degree from an approved institution.⁶

Each ITP program may waive these admissions requirements for up to 10 percent of the students admitted, subject to requirements related to student success and state-level reporting.⁷

The State Board of Education (SBE) must adopt rules to establish uniform core curricula for each state-approved teacher preparation program.⁸ These rules must include, at a minimum, the following:⁹

- The Florida Educator Accomplished Practices.¹⁰
- The use of state-adopted content standards to guide curricula and instruction.
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.
- Content literacy and mathematics practices.
- Strategies appropriate for the instruction of English language learners.
- Strategies appropriate for the instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.

² Florida Department of Education, *State-Approved Educator Preparation Programs*, <http://www.fldoe.org/teaching/preparation/initial-teacher-preparation-programs/approved-teacher-edu-programs.html> (last visited Jan. 15, 2020). Thirty-three ITP programs are at public colleges and universities, and 20 ITP programs are at independent colleges and universities. *Id.*

³ Florida Department of Education, *Educator Preparation*, <http://www.fldoe.org/teaching/preparation/> (last visited Jan. 15, 2020), and Rule 6A-5.066(1)(p), F.A.C.

⁴ Section 1004.04(3)(b), F.S.

⁵ An approved institution is one that is accredited by a specified regional accrediting association or an accrediting agency approved by the United States Department of Education. A qualifying non-accredited institution is one that is identified as having a quality program resulting in a bachelor's degree or higher by criteria specified in SBE rule. Rule 6A-4.003, F.A.C.

⁶ Rule 6A-4.003, *supra* note 5.

⁷ *Id.*

⁸ Section 1004.04(2)(a), F.S.

⁹ Section 1004.04(2)(b)1.-7., F.S.

¹⁰ The Florida Educator Accomplished Practices are Florida's core standards for effective educators. The Accomplished Practices form the foundation for the state's teacher preparation programs, educator certification requirements and school district instructional personnel appraisal systems. The Accomplished Practices are based on three essential principles: (1) the effective educator creates a culture of high expectations for all students by promoting the importance of education and each student's capacity for academic achievement; (2) the effective educator demonstrates deep and comprehensive knowledge of the subject taught; and (3) the effective educator exemplifies the standards of the profession. Rule 6A-5.065, F.A.C.

Continued approval of a teacher preparation program is based upon evidence that the program continues to implement the requirements for initial approval and upon significant, objective, and quantifiable measures of the program and the performance of the program completers.¹¹

The criteria for continued approval must include evidence that the program candidate has met admission and core curricula requirements, evidence of performance in specified outcome measures, and:¹²

- Results of the program completers' survey measuring their satisfaction with preparation for the realities of the classroom.
- Results of the employers' survey measuring satisfaction with the program and the program's responsiveness to local school districts.

Educator Preparation Institutes

EPIs are offered by approved postsecondary institutions¹³ or qualified private providers to provide instruction for baccalaureate or higher degree holders who did not earn an education-related degree, resulting in qualification for a temporary teaching certificate.¹⁴ DOE approval of a certification program requires the institute to provide evidence of the institute's capacity to implement a competency-based program that includes:¹⁵

- The core curricula areas that are required for ITP programs.
- An educational plan for each participant to meet certification requirements and demonstrate his or her ability to teach the subject area for which the participant is seeking certification.
- Field experiences in specified settings appropriate to the certification subject area specified in the educational plan.

Each EPI must submit to the DOE annual performance evaluations that measure the effectiveness of the programs, including the pass rates of participants on all examinations required for teacher certification, employment rates, longitudinal retention rates, and satisfaction surveys of employers and candidates. The satisfaction surveys must be designed to measure the sufficient preparation of the educator for the realities of the classroom and the institute's responsiveness to local school districts.¹⁶

Effect of Proposed Changes

The bill modifies s. 1004.04, F.S., relating to prerequisites for admission to, and uniform core curricula of, each state-approved teacher preparation program. The bill:

- Changes the admission requirements to an ITP program to specify that the grade point average and General Knowledge Test requirements are not required for admission, but instead are required to be completed during the student's time in the program. Accordingly,

¹¹ Section 1004.04(4), F.S.

¹² Section 1004.04(4), F.S.

¹³ Rule 6A-4.003, *supra* note 5.

¹⁴ Section 1004.85, F.S. There are 23 public and private postsecondary institutions with state-approved EPI programs, and 1 private provider. Florida Department of Education, *State-Approved EPI Programs*, available at <http://www.fldoe.org/core/fileparse.php/7502/urlt/State-ApprovedEPIProgram.pdf>.

¹⁵ Section 1004.85(3), F.S.

¹⁶ Section 1004.085(5), F.S.

the bill removes provisions relating to waivers of admission requirements that are not necessary under the bill modifications.

- Modifies the requirement for SBE rules establishing uniform core curricula to require:
 - Reading instructional strategies be evidence based, and removes the requirement that such strategies be scientifically researched.
 - A new provision for mental health strategies and support.

Such changes may enable students who have not met the GPA or general knowledge requirement to be admitted into a program and meet the requirement while in the program. Completion of the General Knowledge Test has been a barrier to student admittance to ITP programs, and such changes may enable more students to be admitted into ITP programs and increase the supply of available teachers.

In addition, changes to the uniform core curricula are consistent with the current designation of reading strategies¹⁷ and with the recent emphasis on school-based mental health supports for students and families.¹⁸

The bill modifies sections 1004.04, F.S., relating to ITP program initial state program approval, and 1004.85, F.S., relating to postsecondary EPIs, to require each program to include:

- The opportunity for the candidate to complete coursework toward obtaining an endorsement¹⁹ in the candidate's chosen teaching field.
- In addition to the core standards for effective education, instruction in the training required of certified instructional personnel, including, but not limited to:
 - Identification, intervention, and prevention of child abuse, abandonment, and neglect.
 - Integration of technology into classroom teaching.
 - Management, assessment, and monitoring of student learning and performance.
 - Skills in classroom management, violence prevention, conflict resolution, and related areas.
 - Developmental disabilities.
 - Youth suicide awareness and prevention.
 - Youth mental health awareness and assistance.

¹⁷ See s. 1001.215, F.S., and Rule 6A-6.053, F.A.C.

¹⁸ Examples of recent activity related to school-based mental health services include: (1) the requirement in s. 1012.584, F.A.C., for the DOE to, beginning in the 2018-2019 school years, establish an evidence-based youth mental health awareness and assistance training program for school personnel; (2) the establishment of a Mental Health Allocation, with specified application requirements, that has allocated over \$144 million to school districts in Specific Appropriation, s. 36, ch. 2018-3, L.O.F., and Specific Appropriation 93, s. 2, ch. 2019-115, L.O.F.; (3) the 2019 requirement in SBE Rule 6A-1.094121, F.A.C., that all school districts annually provide a minimum of five hours of specified instruction regarding youth mental health awareness and assistance; and (4) specifying the purpose for and adding duties to the multiagency network for students with emotional and behavioral disabilities in s. 23, ch. 2018-3, L.O.F.

¹⁹ Educators who hold a currently valid Florida Temporary or Professional Certificate may be eligible to add another subject coverage or endorsement. An endorsement is a rider on a Florida certificate with a full subject coverage and denotes a particular expertise in an instructional level or methodology. To earn an endorsement, an educator must complete the course requirements listed in State Board Rule for the endorsement, or complete a Florida school district's approved inservice add-on program for the endorsement. Florida Department of Education, *Certificate Additions*, <http://www.fldoe.org/teaching/certification/additions/> (last visited Jan. 21, 2020). Endorsements include, but are not limited to, American Sign Language, English for Speakers of Other Languages (ESOL), Gifted, Reading, and Severe or Profound Disabilities. Florida Department of Education, *Adding an Endorsement to a Professional Certificate*, <http://www.fldoe.org/teaching/certification/additions/adding-an-endorsement.stml> (last visited Jan. 21, 2020).

The bill also specifies that the survey required as a part of continued ITP program approval must include the employer's assessment of the student's proficiency in the use of state-adopted content standards and general preparation for the classroom. The survey required of the EPI performance evaluation satisfaction must measure student's proficiency in the use of state-adopted content standards.

The changes to ITP programs may help graduates be better prepared as instructional personnel and for the classroom.

Educator Certification Requirements

Present Situation

The Legislature has established certification requirements to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics; adequate pedagogical knowledge; and relevant subject matter competence so as to demonstrate an acceptable level of professional performance.²⁰

Types of Educator Certificates

In order to seek educator certification, a person must meet general eligibility requirements, which include receipt of a bachelor's or higher degree from an approved postsecondary institution.²¹ Individuals must also demonstrate mastery of general knowledge, if the person serves as a classroom teacher; mastery of subject area knowledge; and mastery of professional preparation and education competence.²²

The DOE issues two primary educator certificates:²³

- A professional certificate is the highest type of full-time certificate issued. The professional certificate is a 5-year renewable certificate.²⁴
- A temporary certificate is a 3-year nonrenewable certificate issued to an applicant who has met general eligibility criteria, but has not yet demonstrated mastery of general knowledge or professional preparation and education competence.²⁵

Mastery of General Knowledge

In order to seek professional certification as a classroom teacher,²⁶ a person must, among other requirements, demonstrate mastery of general knowledge.²⁷ Florida law provides options for a teacher to demonstrate mastery of general knowledge.²⁸ Such options include achieving passing

²⁰ Section 1012.54, F.S.

²¹ Section 1012.56(2)(c), F.S., and Rule 6A-4.003, *supra* note 5.

²² Section 1012.56(2)(g)-(i), F.S.

²³ Section 1012.56(7), F.S.

²⁴ Section 1012.56(1)-(3) and (5), (6)-(7), F.S.

²⁵ Section 1012.56(7)(b), F.S.; Rule 6A-4.004(1), F.A.C.

²⁶ Section 1012.01(2)(a), F.S.

²⁷ Section 1012.56(2), F.S.

²⁸ Section 1012.56(3), F.S.

scores on all sections of the general knowledge examination required by SBE rule,²⁹ holding a specified teaching certificate from another state, completing specified postsecondary teaching experience, or achieving passing scores on the Graduate Record Examination.

The General Knowledge Test is a component of the Florida Teacher Certification Examination³⁰ and includes subtests in English language skills, reading, writing, mathematics.³¹ In 2018, there were 87,457 first-time and retake attempts, with a pass rate of 52 percent.³² Among examinees in a state-approved teacher preparation program, there were 11,924 first-time and retake attempts, with a pass rate of 60 percent.³³

Mastery of Subject Area Knowledge

Acceptable means of demonstrating mastery of subject area knowledge are:³⁴

- For bachelor's degree level subjects:³⁵ achievement of a passing score on the appropriate subject area examination³⁶ earned no more than 10 years prior to the date of application.³⁷
- For master's degree level subjects:³⁸ completion of the required degree and content courses for the subject and achievement of a passing score on the appropriate Florida subject area examination earned no more than 10 years prior to the date of application.
- For all subject areas: hold a valid standard certificate in the subject area applied for from a state or territory, or hold a specified valid national certificate in the subject area.
- For select world languages: passage of a specified foreign language proficiency examination.

²⁹ In 2014, the general knowledge test was redeveloped to match the increased rigor of competencies and skills required for teacher certification. The SBE also approved new higher passing scores for the examination. These new passing scores for all subtests of the General Knowledge Test became effective January 1, 2015. State Board of Education, *Approval of Amendment to Rule 6A-4.0021, Florida Teacher Certification Examinations* (Nov. 18, 2014), available at <http://www.fldoe.org/core/fileparse.php/9931/urlt/0109031-40021.pdf>. The cut scores were set for a beginning effective teacher, one that is likely to have successful students in his or her classroom as opposed to the prior standard, which was minimum competency. State Board of Education, *Nov. 18, 2014 Meeting Minutes* (Jan. 14, 2015), available at <http://www.fldoe.org/core/fileparse.php/9971/urlt/minutes11415.pdf>, at 7.

³⁰ The purpose of the Florida Teacher Certification examinations (FTCE) is to ensure that all teacher candidates demonstrate the necessary content and pedagogical knowledge necessary to effectively instruct students in Florida. Florida Department of Education, *Florida Teacher Certification Examinations (FTCE)*, <http://fldoe.org/accountability/assessments/postsecondary-assessment/ftce/> (last visited Jan. 14, 2020). The written examinations includes subtests of English language skills, reading, writing, mathematics, professional skills, and subject area specialty. Rule 6A-4.0021(2), F.A.C.

³¹ Rule 6A-4.0021, F.A.C.

³² Florida Department of Education, *2018 Annual Administration and Technical Report* (June 2019), available at <http://www.fldoe.org/core/fileparse.php/5627/urlt/18FTCEFELEAATR.PDF>, at 33.

³³ *Id.* at 73.

³⁴ Florida Department of Education, *Subject Area Knowledge*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/subject-area-knowledge.stml> (last visited Jan. 14, 2020). See also s. 1012.56(5), F.S.

³⁵ All elementary, middle, and secondary coverage areas, including world languages and exceptional student education require a bachelor's degree. Florida Department of Education, *Certificate Subjects*, <http://www.fldoe.org/teaching/certification/certificate-subjects> (last visited Jan. 14, 2020).

³⁶ The fee for a first time registration or retake of the full battery of subject area subtests is \$150. Retake fees are prorated based on the number of subtests required. Rule 6A-4.0021(4), F.A.C. For a subject without a subject area examination, the SBE may identify a passing score on a standardized examination or competency may be verified by a school district. Section 1012.56(5), F.S.

³⁷ Rule 6A-4.002(4)(a), F.A.C.

³⁸ Subject areas that require a master's degree include school counseling, psychologist, and social work; and administrative coverages. Florida Department of Education, *Certificate Subjects*, <http://www.fldoe.org/teaching/certification/certificate-subjects> (last visited Jan. 14, 2020).

Certificate Renewal

All professional certificates, except a nonrenewable professional certificate, must be renewed every five years.³⁹ In order to qualify for renewal, the applicant must earn at least six college credits⁴⁰ or 120 inservice (professional development) points⁴¹ during the 5-year cycle.⁴² For each area of specialization to be retained on a certificate, the applicant must earn at least three of the required credit hours or equivalent inservice points in the specialization area.⁴³

Instructional personnel are required to undergo training related to teaching students with developmental disabilities⁴⁴ and training in youth mental health awareness and assistance.⁴⁵ In order to renew a professional certificate, other appropriate training topics include:⁴⁶

- Youth suicide awareness and prevention.⁴⁷
- Content or methods specific to the subject area.
- Methods of teaching reading and literacy skills acquisition.
- Computer literacy, computer applications, or computer education.
- ESOL (English for Speakers of Other Languages).
- Drug abuse, child abuse and neglect, or student dropout prevention.
- Classroom strategies.

Effect of Proposed Changes

The bill modifies s. 1012.56, F.S., to add another acceptable method of demonstrating mastery of subject area knowledge. The bill authorizes that a person seeking an educator certificate in a subject requiring only a baccalaureate degree may demonstrate subject area knowledge with a baccalaureate degree with a major in the subject area, conferred within the last 10 years from an accredited or approved institution as defined in SBE rule.⁴⁸ The provision of an additional option to demonstrate mastery of subject area competence may allow more candidates for educator certification to meet the requirements. In 2018, there were 63,774 first time and retake subject area exams attempted,⁴⁹ but it is not clear how many such attempts were by individuals who

³⁹ Section 1012.585(2)(a), F.S.

⁴⁰ College credit earned at an accredited or approved institution or community or junior college as specified in rule 6A-4.003, F.A.C., may be used to renew the professional certificate. Rule 6A-4.0051, F.A.C.

⁴¹ Inservice points earned through inservice education activities developed by the school district in accordance with rule 6A-5.071, F.A.C., may be used to renew the professional certificate. One clock hour of participation equals one inservice point. Twenty inservice points equal one semester hour of college credit. Rule 6A-4.0051, F.A.C.

⁴² Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. Rule 6A-4.0051(1)(a)2., F.A.C. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.

⁴³ Section 1012.585(3)(a), F.S. A passing score on a subject area test in the certification area shown on the certificate may be used to renew the coverage on the professional certificate. Rule 6A-4.0051, F.A.C.

⁴⁴ Section 1012.582, F.S.

⁴⁵ Section 1012.584, F.S.

⁴⁶ Florida Department of Education, *Appropriate Topics for Renewal Credit*, <http://www.fldoe.org/teaching/certification/renewal-requirements/> (last visited Jan. 20, 2020).

⁴⁷ Section 1012.583, F.S.

⁴⁸ Rule 6A-4.003, F.A.C., *supra* note 5.

⁴⁹ Florida Department of Education, *2018 Annual Administration and Technical Report* (June 2019), available at <http://www.fldoe.org/core/fileparse.php/5627/urlt/18FTCEFELEAATR.PDF>, at 40.

could otherwise qualify with a specified bachelor's degree under the additional option authorized in the bill.

The bill modifies s. 1012.585, F.S., relating to the renewal of a professional certificate, to specify that a teacher may earn inservice points only once during each 5-year validity period for any mandatory training topic that is not linked to student learning or professional growth. Teachers and school districts may have to modify professional development programs in order for teachers to meet certificate renewal requirements.

The bill also modifies s. 1012.586, F.S., to provide a conforming cross-reference relating to completion of a subject area examination for addition of subject coverage or an endorsement to an educator certificate.

Education Practices Commission

Present Situation

Educator misconduct occurs in various forms and ranges in severity from allegations of direct harm to students (such as physical or sexual abuse) to an act detrimental to the education profession (such as falsifying documentation of continuing education courses or cheating on a professional exam).⁵⁰

The SBE has adopted standards for educator conduct, referred to as the Principles of Professional Conduct for the Education Profession.⁵¹ The Education Practices Commission (EPC or commission) interprets and applies the principles.⁵² If the Commissioner of Education (commissioner) determines the educator's conduct warrants disciplinary action, the EPC determines what penalty to issue against an educator's certificate. Penalties that can be issued against an educator's certificate include a letter of reprimand, fines, probation, suspension or revocation.⁵³

The EPC is composed of 25 members specified in law, who are appointed by the SBE based on nominations by the commissioner.⁵⁴ From among the commission members, the EPC elects a chair who presides over meetings and performs other duties as directed by the EPC or rules.⁵⁵ The EPC, by a vote of three-fourths of the membership, employs an executive director, who may be dismissed by a majority vote of the membership.⁵⁶

⁵⁰ Florida Department of Education, *What is Educator Misconduct?*, <http://www.fldoe.org/teaching/professional-practices/what-is-educator-misconducta.shtml> (last visited Jan 14, 2020). Section 1012.795, F.S., specifies the offenses for which the EPC may suspend or revoke an educator certificate.

⁵¹ Section 1012.795(1)(j), F.S.; Rule 6A-10.081, F.A.C.

⁵² Section 1012.79(7)(a), F.S.

⁵³ Florida Department of Education, *What is Educator Misconduct?*, <http://www.fldoe.org/teaching/professional-practices/what-is-educator-misconducta.shtml> (last visited Jan. 14, 2020), and s. 1012.79(7)(b), F.S.

⁵⁴ Section 1012.79(1), F.S.

⁵⁵ Section 1012.79(4), F.S.

⁵⁶ Section 1012.79(5), F.S.

The EPC is assigned to the DOE only for administrative purposes, and is not subject to control, supervision, or direction by the DOE.⁵⁷

The EPC is financed from educator certification fees; fines, penalties, and costs collected pursuant to law;⁵⁸ and general revenue.⁵⁹ The EPC may make expenditures as necessary in exercising its authority and powers and carrying out its duties and responsibilities, including expenditures for personal services, general counsel or access to counsel, and rent at the seat of government and elsewhere; for books of reference, periodicals, furniture, equipment, and supplies; and for printing and binding.⁶⁰

Effect of Proposed Changes

The bill amends s. 1012.79, F.S., to revise the selection and duties of the executive director of the EPC and to modify EPC accountability and allowable expenditures, which may increase collaboration between the DOE and the EPC, and may strengthen financial accountability of the EPC. Specifically, the bill:

- Removes from the EPC the authority to select and remove an executive director, and authorizes the commissioner, with the advice and consent of the EPC chair, to appoint and remove an executive director.
- Specifies that the executive director has administrative duties, as specified by the commissioner, and may not impact or influence decisions of the EPC.
- Specifies that the EPC is assigned to the DOE for not only administrative purposes, but also for fiscal accountability purposes.
- Removes the authorization for the EPC to make expenditures for a general counsel or access to counsel, and authorizes expenditures for legal services.

Professional Development

Present Situation

The purpose of professional development (PD) is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.⁶¹

Professional Development System

Florida law requires the DOE, public postsecondary education institutions public school districts, state education foundations, consortia, and professional organizations to work collaboratively to establish a coordinated system of PD.⁶² The PD system must align to the standards adopted by

⁵⁷ Section 1012.79(6)(a), F.S.

⁵⁸ Section 1012.796(9), F.S.

⁵⁹ Section 1012.79(10), F.S.

⁶⁰ Section 1012.79(9), F.S.

⁶¹ Section 1012.98(1), F.S.

⁶² Section 1012.98(1), F.S. A developmental research school, an eligible state educational agency, an organization of private schools or a consortium of charter schools may also develop a PD system. Rule 6A-5.071(6), F.A.C. Florida law authorizes a network of PD academies that are operated in partnership with area business partners to develop and deliver high-quality training programs for school districts. Section 1012.985(1), F.S.

the state and support the framework for standards adopted by the National Staff Development Council.⁶³ The PD system must:⁶⁴

- Support and increase the success of educators through collaboratively developed school improvement plans.
- Assist the school community in providing stimulating, scientific research-based educational activities that encourage and motivate students to achieve at the highest levels, and that prepare students for success at subsequent educational levels and the workforce.
- Provide continuous support for all education professionals as well as temporary intervention for education professionals who need improvement in knowledge, skills, and performance.
- Provide training to teacher mentors as part of professional development certification and education competency programs.

Master Inservice Plans

District PD systems must include a master inservice plan (MIP) that identifies the educational training programs, called components of professional learning, that may generate inservice points toward recertification or add-on certification.⁶⁵ The MIP is also called the professional learning catalog.⁶⁶ Each district catalog must be updated annually by September 1, must be based on input from teachers and district and school instructional leaders, and must use the latest available student achievement data and research to enhance rigor and relevance in the classroom.⁶⁷

As a part of the MIPs, district school boards may develop add-on alternative teacher preparation programs to enable certified teachers to add an additional coverage to their certificates without having to take college courses. The program must be approved by the DOE.⁶⁸

In addition, MIPs may include Professional Education Competency (PEC) programs to assist teachers with a temporary certificate in demonstrating professional preparation and education competence required for a professional certificate. Such PEC programs may be offered through school districts or private organizations. Each PEC program must be based on classroom

⁶³ Section 1012.98(1), F.S. The system of professional development must align to the standards adopted by the SBE in Rule 6A-5.071, F.A.C., and support the framework for standards adopted by the National Staff Development Council, now known as "Learning Forward." Florida Department of Education, *District Professional Development Elements*, <http://www.fldoe.org/teaching/professional-dev/dis-professional-dev-elements.stml> (last visited Jan. 11, 2020). The Standards for Professional Learning outline the characteristics of professional learning that leads to effective teaching practices, supportive leadership, and improved student results. Learning Forward, *Standards for Professional Learning*, <https://learningforward.org/standards-for-professional-learning/> (last visited Jan. 22, 2020).

⁶⁴ Section 1012.98(3), F.S.

⁶⁵ Florida Department of Education, *Master Inservice Plans (MIP)*, <http://www.fldoe.org/teaching/professional-dev/master-inservice-plans-mip.stml> (last visited Jan. 22, 2020).

⁶⁶ Rule 6A-5.071(1), F.A.C. The professional learning catalog must be submitted to the department for initial approval by the Commissioner. Rule 6A-5.071 (6)(a), F.A.C.

⁶⁷ Section 1012.98(4)(b)5., F.S.

⁶⁸ Section 1012.575, F.S. The DOE has published a manual for development of district add-on certification programs. Florida Department of Education, *Manual for Development of District Add-on Certification Programs*, available at <http://www.fldoe.org/core/fileparse.php/5636/urlt/0072398-add-on-manual.pdf>. Approved district add-on program are located at <http://www.fldoe.org/teaching/preparation/initial-teacher-preparation-programs/approved-teacher-edu-programs.stml> (last visited Jan. 20, 2020).

application of the Florida Educator Accomplished Practices⁶⁹ and instructional performance and, for public schools, must be aligned with the district or state teacher evaluation system.⁷⁰

Individual Professional Development Plans

Each school principal may establish an individual professional development plan (IPDP) for each instructional employee as a seamless component to the school improvement plan. An IPDP must be related to specific student performance data, define the inservice objectives and specific measurable improvements expected in student performance as a result of the inservice activity, and include an evaluation component that determines the effectiveness of the PD plan.⁷¹

DOE Responsibilities for Professional Development

In addition to approving school district PD systems,⁷² the DOE is required to disseminate:

- Research-based professional development methods and programs that have demonstrated success in meeting identified student needs, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.⁷³
- Research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system. The best practices must include data that indicate the progress of all students.⁷⁴
- PD in the use of integrated digital instruction at schools that include middle grades. The professional development must provide training and materials that districts can use to provide instructional personnel with the necessary knowledge, skills, and strategies to effectively blend digital instruction into subject-matter curricula.⁷⁵

Mentor Teacher Programs

Alongside ensuring the most effective teachers are eligible for teacher leadership roles, one important component of PD at the state level is to build both monetary and non-monetary incentives and supports into teacher leadership policies. Incentives (such as additional compensation) and supports (such as reduced course loads) can help ensure that teacher leadership roles are both attractive and sustainable.⁷⁶

In Florida, the DOE is required to create guidelines and identify best practices for the mentors of first-time teachers and for new teacher-support programs.⁷⁷ The DOE is required to disseminate to the school community proven model PD programs that have demonstrated success in

⁶⁹ Florida Educator Accomplished Practices, *supra* note 10.

⁷⁰ Section 1012.56(8)(b)1., F.S. Organizations approved to offer PEC programs are available at <http://www.fldoe.org/core/fileparse.php/5636/urlt/pecoci.pdf>.

⁷¹ For instructional personnel and administrative personnel who have been evaluated as less than effective, a district school board shall require participation in specific professional development programs as provided in subparagraph (4)(b)5. as part of the improvement prescription. Section 1012.98(10), F.S.

⁷² Section 1012.98(4)(b)1., F.S.

⁷³ Section 1012.98(4)(a)1., F.S.

⁷⁴ Section 1012.98(7)(a), F.S.

⁷⁵ Section 1012.98(7)(b), F.S.

⁷⁶ National Council on Teacher Quality, *NCTQ Databurst: Teacher Leadership Opportunities* (October 2019), available at https://www.nctq.org/dmsView/NCTQ_Databurst_Teacher_Leadership_Opportunities, at 1.

⁷⁷ Section 1012.05(2)(k), F.S.

increasing rigorous and relevant content, increasing student achievement and engagement, meeting identified student needs, and providing effective mentorship activities to new teachers and training to teacher mentors. The PD programs must include a database of exemplary PD activities, a listing of available PD resources, training programs, and available technical assistance.⁷⁸

Professional Development Funding

The Every Student Succeeds Act (ESSA) of 2015⁷⁹ provides grants to state educational agencies and subgrants to local educational agencies to increase student achievement and improve the quality of teachers and school leaders.⁸⁰ Allowable expenses include teacher and school leader training, induction and mentoring, PD, and retention.⁸¹

For 2019-2020, school districts received \$97,203,418 in ESSA funds.⁸² Amounts per district ranged from \$4,389 for the FAMU Developmental Research School and \$9,087 for Liberty County to \$8,954,195 for Broward County and \$12,911,792 for Miami-Dade County.⁸³

Current state funding⁸⁴ for administrator and teacher professional development includes:

- \$7,000,000 for administrator professional development provided by regional professional development academies.⁸⁵
- \$10,000,000 for computer science certification and teacher bonuses.⁸⁶
- \$5,500,000 for mental health awareness and assistance training.⁸⁷
- A percentage of the Florida Education Finance Program base student allocation per full-time equivalent student or other funds must be expended for educational training programs, as determined by the district school board.⁸⁸

Each district school board is required to fund its PD system, and must direct expenditures from other funding sources to continuously strengthen the system in order to increase student achievement and support instructional staff in enhancing rigor and relevance in the classroom.⁸⁹

⁷⁸ Section 1012.98(11), F.S.

⁷⁹ Pub. L. No. 114-95 s. 114 Stat. 1177 (2015-2016).

⁸⁰ United States Department of Education, *Title II — Preparing, Training, and Recruiting High Quality Teachers and Principals*, <https://www2.ed.gov/policy/elsec/leg/esea02/pg20.html> (last visited Jan. 21, 2020).

⁸¹ Florida Department of Education, *Authorized Use of Funds under ESSA – Title II, Part A*, available at <http://www.fldoe.org/core/fileparse.php/5636/urlt/1718TitleIIPartAESSA.pdf>.

⁸² Florida Department of Education, *Title II, Part A: Supporting Effective Instruction*, <http://www.fldoe.org/teaching/professional-dev/title-ii-a-teacher-principal-training-.stml> (last visited Jan. 20, 2020).

⁸³ Email from Mari Presley, Assistant Deputy Commissioner, Finance and Operations, Florida Department of Education (Aug. 6, 2019) (on file with the Senate Committee on Education).

⁸⁴ Specific Appropriation 108, s. 2, ch. 2019-115, L.O.F.

⁸⁵ *Id.*, see also 1012.985, F.S.

⁸⁶ Specific Appropriation 108, s. 2, ch. 2019-115, L.O.F. See also s. 1007.2616(4), F.S.

⁸⁷ Specific Appropriation 108, s. 2, ch. 2019-115, L.O.F. See also s. 1012.584, F.S.

⁸⁸ Section 1011.62(3), F.S.

⁸⁹ Section 1012.98(5), F.S.

Issues in Professional Development

Providing teachers with data-driven feedback, aligned professional development and opportunities for advancement may help limit attrition, contribute to more effective teaching and improve student learning. However, national research shows that much of the professional development teachers currently receive does not improve either teacher or student performance. A 2016 national survey found that even though district and school leaders are committed to professional learning, teachers lack decision-making authority over their own professional development and are not receiving adequate time for job-embedded professional development.⁹⁰ In a recent PD redesign study, the University of Florida Lastinger Center found that:⁹¹

- Sixty-four percent of Florida teachers reported having little to no influence in determining the content of their in-service professional development programs.
- Teachers describe a serious disconnect between professional learning experiences and the real work of teachers.
- Only 26 percent of Florida teachers strongly agreed that their training helps them to do a better job.
- School districts spend as much as five percent of their budget on professional development and teachers may spend more than 70 hours a year participating in it, yet professional learning opportunities often receive low teacher ratings because of poor design and execution.

Effect of Proposed Changes

The bill modifies the requirements for school district professional development in s. 1012.98, F.S.

Professional Development Funds

The bill requires each district school board to calculate a proportionate share of professional development funds for each classroom teacher and allow each classroom teacher to use up to 25 percent of the proportionate share on professional development that addresses the academic needs of students or an identified area of professional growth for the classroom teacher. The DOE must identify professional development opportunities that require the classroom teacher to demonstrate proficiency in a specific classroom practice.

Professional Development Calendar

The bill requires the DOE, by August 1, 2020, to develop a model annual and 5-year calendar that incorporates all state-required professional development. In addition, the bill requires each school district, no later than January 1, 2021, to develop an annual and a 5-year calendar of professional development for inclusion in the professional development system approved by the DOE.

⁹⁰ Education Commission of the States, *Teacher Development and Advancement—What is the Issue and Why Does it Matter?*, (Mar. 2018), available at https://www.ecs.org/wp-content/uploads/Teacher_Development_and_Advancement.pdf, at 1.

⁹¹ University of Florida, Lastinger Center, *An Evaluation of Florida's Education Professional Development System*, Presentation to the House of Representatives Education Committee (Oct. 22, 2019), at 4.

Teacher Choice in Professional Development

The bill requires the DOE to develop and maintain a statewide registry of approved PD providers and PD activities. The bill specifies that any PD provider seeking to be added to the registry must complete an application, which must describe the PD activities and instructor qualifications, require providers maintain specified information about the PD instruction, and ensure compliance with law and PD standards.

The bill stipulates that providers specified in law,⁹² as well as providers approved by authorized entities, are not required to be added to the registry. However, such providers that wish to offer statewide PD opportunities may seek department approval and be added to the registry.

The bill requires the DOE to review applications and inform the provider in writing within 90 days of the approval or denial of the provider. The approval is valid for a period not to exceed five years, after which the provider must reapply. In addition, the bill requires:

- Each school district accept an approved PD activity on the registry toward meeting the requirements for renewal of a professional certificate.
- The DOE to determine the number of inservice hours to be awarded for completion of each specified PD activity.

The bill creates a three-year Professional Development Choice Pilot Program (pilot program) in the DOE, subject to legislative appropriation. The purpose of the pilot program is to provide grants to eligible teachers to select professional learning opportunities that best meet each teacher's individual needs. The bill specifies pilot program requirements for teachers, as follows:

- An eligible teacher may use a pilot program grant for PD approved by a school district or by a DOE-approved provider that is aligned to PD standards and satisfies requirements for renewal of a professional certificate. An eligible teacher must:
 - Hold a professional certificate.
 - Be employed as a classroom teacher, as defined in law, excluding substitute teachers, by a district school board or by a charter school.
 - Apply for a grant in a format determined by the DOE. In addition, the application must require an applicant to describe how the professional development activity relates to and will improve instruction in the classroom.
- Pilot program activities may include, but are not limited to, in-person or online training; travel and registration for conferences or workshops; college credit courses; and district professional development certification and education competency programs.
- Each eligible teacher may receive a once-a-year reimbursement for training, not to exceed \$500 per school year. The pilot program grants must be awarded on a first-come, first-served basis.

The bill also establishes requirements for each school district and for the DOE, which specifies that:

- Each school district must review a proposed PD activity to determine alignment with district and individual professional development plans and determine the number of inservice credit hours to be awarded, and approve any PD opportunity included on the DOE's registry.

⁹² Providers not required to be registered are the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations. Section 1012.98(1), F.S.

- The DOE must maintain a registry of approved providers and PD activities, and establish, no later than August 1, 2020, a grant application form.

The pilot program appears to be consistent with the President's education budget for the 2020 fiscal year, which proposes eliminating the Supporting Effective Instruction State Grants program⁹³ that provides formula grants to states and local education agencies to increase student achievement, primarily through professional development for teachers and class-size reduction. According to the budget summary, the program is largely duplicative; virtually all other Elementary and Secondary Education Act formula grant funds (e.g., Title I, Title III) may be used for teacher or staff professional development.⁹⁴

The modifications to school district PD systems and the provision of additional resources may improve teacher access to additional high-quality PD opportunities.

Professional Education Excellence Resources (PEER) Pilot Program

The bill creates s. 1012.981, F.S., to establish the Professional Education Excellence Resources (PEER) Pilot Program in the DOE to provide school district flexibility to increase opportunities for professional learning, collaboration with teachers and leaders, and teacher leadership. The program is established only to the extent specifically funded and authorized by law, and participation in the PEER Pilot program is limited to Clay, Palm Beach, Pinellas, and Walton Counties.

The bill specifies that school districts that participate in the PEER Pilot Program may:

- Extend the contract day or the contract year, or both, for participating teachers for PD, collaboration with colleagues, or instructional coaching. The bill requires a district that chooses to extend the contract day or year must, before the start of the 2020-2021 school year, negotiate with the certified collective bargaining unit for instructional personnel a memorandum of understanding to address participation requirements.
- Use program funds to:
 - Compensate teachers who are assigned to an extended school day or school year.
 - Hire additional instructional personnel to provide teachers with additional planning periods or other release time to complete PD, collaborate with colleagues, or perform other appropriate activities.
 - Provide content area specialists to provide support for teachers' individual needs and professional growth.
 - Provide instructional coaches for participating teachers.
 - Provide PD opportunities.

The bill requires participating school districts to collaborate with the DOE, postsecondary educational institutions, regional education consortia, the University of Florida Lastinger Center, or other appropriate organizations to develop high-quality online PD opportunities accessible to instructional personnel statewide.

⁹³ The program was appropriated approximately \$2 billion in the 2019 fiscal year.

⁹⁴ United States Department of Education, *Fiscal Year 2020 Budget Summary*, <https://www2.ed.gov/about/overview/budget/budget20/summary/20summary.pdf>, at 55.

The bill also authorizes participating school districts to use program funds to establish a master teacher program to provide accomplished teachers the opportunity to innovate and improve classroom practices, facilitate improved PD, and improve instructional quality through collaboration with teachers and leaders. The bill specifies that each master teacher program must include, but is not limited to:

- Providing release time for planning and meeting with teachers and leaders.
- Additional PD opportunities.
- Monetary compensation.

The bill specifies that school districts may select highly effective teachers for the master teacher academy and may determine other selection criteria, such as peer reviews, principal recommendation, candidate interviews, or content expertise.

Each participating school district must collaborate with the department and with the University of Florida Lastinger Center to develop a master teacher academy to support instructional personnel statewide. The master teacher academy must provide recommendations for master teacher programs, create a bank of online PD, and provide instructional coaching for school-based leaders.

The bill establishes reporting requirements for school districts participating in the PEER Pilot Program. Each participant must annually, by August 1, report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the DOE on the performance of the pilot program. Each report must include information about the use of program funds, the impact on student achievement and teacher evaluation, satisfaction survey results, and recommendations for continuation of the pilot program.

Teachers in school districts that establish a PEER program may have additional options for PD and may be provided opportunities to provide support for school district teachers and curricula as a teacher leader, without leaving the classroom.

Private Education Choice

Present Situation

Many states are expanding school choice options to include private schools in addition to public schools. In total, 27 states and the District of Columbia have enacted policies designed to broaden access to a private education. The three primary policies states have adopted that expand private school choices include:⁹⁵

- School vouchers.
- Scholarship tax credits.
- Education savings accounts.

⁹⁵ School vouchers are state-funded scholarships that pay for students to attend private school rather than public school. Scholarship tax credits allow individuals and corporations to allocate a portion of their owed state taxes to private nonprofit scholarship organizations that issue public and private school scholarships to K-12 students. Education Savings Accounts are state-funded grants deposited into special savings accounts from which parents can withdraw funds for certain educational expenses. National Conference of State Legislatures, *Private School Choice* <http://www.ncsl.org/research/education/private-school-choice635174504.aspx> (last visited Dec. 18, 2019).

Private Education Choice in Florida

A private school in Florida is an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade and is below college level. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. A home education program is not considered a private school.⁹⁶

Florida offers multiple private education choice scholarship programs for students who meet the eligibility requirements. In order to participate in Florida's state school choice scholarship program, private schools must comply with specified requirements.⁹⁷

Two of Florida's scholarship programs are focused on students from low income families:

- Florida Tax Credit (FTC) Scholarship Program.
- Family Empowerment Scholarship (FES).⁹⁸

Florida Tax Credit Scholarship Program

The FTC Scholarship Program allows for private, voluntary contributions from corporate donors to non-profit scholarship funding organizations (SFOs) that award scholarships to eligible children from low-income families.⁹⁹ State law requires the SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to public school in which the student is enrolled that is different from the school to which the student was assigned.

To be eligible for an FTC scholarship a student must meet one or more of the following criteria:

- The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level.
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

A student who initially receives a scholarship as a result of being placed in foster care or in out-of-home care remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level. A student who initially received a scholarship based on income eligibility before the 2019-2020 school year remains eligible to participate until he or she graduates from high school, attains the age of 21 years, or the student's household income level exceeds 260 percent of the federal poverty level, whichever occurs first. A sibling of a student who is participating in the

⁹⁶ Section 1002.01(2), F.S.

⁹⁷ Section 1002.421(1), F.S.

⁹⁸ Section 1002.395(8)(a), F. S.

⁹⁹ The program include credits against the insurance premium tax for contributions to eligible non-profit SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. Section 1002.395(6)(d), F.S.

scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.¹⁰⁰

A student is not eligible for a scholarship while he or she is enrolled in a Department of Juvenile Justice program; receiving another state educational scholarship; or enrolled in a home education, private tutoring, virtual, correspondence, distance learning program; or enrolled in the Florida School for the Deaf and the Blind.¹⁰¹

During the 2018-19 school year, FTC scholarships in the amount of \$644.6 million were awarded to a total of 104,091 students enrolled in 1,825 participating Florida private schools.¹⁰² More than 109,000 FTC scholarships have been awarded for the 2019-2020 school year.¹⁰³

Family Empowerment Scholarship Program

Beginning in the 2019-20 school year, the FES Program provides educational options to eligible children of families with limited financial resources. A student who receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level.¹⁰⁴ Similar to the McKay Scholarship, the FES is funded through the Florida Education Finance Program (FEFP). The program is capped at 18,000 students for the 2019-2020 school year and can annually increase by 0.25 percent of the state's total public school student enrollment.¹⁰⁵

To be eligible for an FES, a student must meet the following criteria:¹⁰⁶

- The student is:
 - On the direct certification list pursuant to law or the student's household income level does not exceed 300 percent of the federal poverty level; or
 - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student is eligible to enroll in kindergarten or has spent the prior school year in attendance at a Florida public school. However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent's permanent change of station orders or a foster child is exempt from the prior public school attendance requirement.
- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program and the parent has requested a scholarship from the Department of Education at least 60 days before the date of the first scholarship payment.

¹⁰⁰ Section 1002.395(3), F.S.

¹⁰¹ Section 1002.395(4), F.S.

¹⁰² Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program* (Dec. 18, 2019), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Sept-2019.pdf>.

¹⁰³ Email from Amy Graham, Senior Policy Director, Step Up For Students, (Jan. 9, 2020) (on file with the Senate Committee on Education), Email from Patti Froebel, Controller, AAA Scholarship Foundation, (Dec. 18, 2019) (on file with Committee on Education).

¹⁰⁴ Section 1002.394(1), F.S.

¹⁰⁵ Section 1002.394(11)(b), F.S.

¹⁰⁶ Section 1002.394(3), F.S.

Priority is given to students whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care. A sibling of a student who is participating in the scholarship program under this subsection is eligible for a scholarship if the student resides in the same household as the sibling.¹⁰⁷

A student is not eligible for an FES while he or she is:¹⁰⁸

- Enrolled in a public school including the Florida School for the Deaf and Blind, College-Prep Boarding Academy, a developmental research school, or a charter school;
- Enrolled in a school operating for the purpose of providing educational services to youth in a Department of Juvenile Justice commitment program;
- Receiving any other educational scholarship pursuant to Florida law;
- Participating in a home education program;
- Participating in a private tutoring program; or
- Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation.

As of December 2019, 17,795 FES scholarships were awarded to students for the 2019-2020 school year.¹⁰⁹

FTE Funding Limits in the FEFP

For purposes of the FEFP, all FTE student (course) enrollment is capped for funding at 1.0 FTE per student for the year except FTE reported by DJJ students beyond the 180-day school year. School districts report all FTE enrollment, and the department combines all FTE enrollment reported for the student by all school districts, including Florida Virtual School. The department then recalibrates all reported FTE student enrollment for each student to 1.0 FTE if the total reported FTE exceeds 1.0. This 1.0 FTE funding limit currently applies to the FES but not to the McKay Scholarship.¹¹⁰

Effect of Proposed Changes

The bill modifies the eligibility and funding requirements of the FES and the FTC scholarship programs.

Scholarship Eligibility and Alignment

The bill expands scholarship eligibility for the FES to include a student who received an FTC scholarship in the prior year and was in a public school the year prior to initial receipt of the FTC scholarship. The bill also aligns the FES and FTC scholarship eligibility in the following ways:

- Allows an FES scholarship student to participate in no more than two courses from a virtual school, correspondence school, or distance learning program that receives state funding. In

¹⁰⁷ Section 1002.394(3), F.S.

¹⁰⁸ Section 1002.394(5), F.S.

¹⁰⁹ Includes the school districts for 65 counties, four lab school districts, and the Florida School for the Deaf & the Blind. Email from Jared Ochs, Director of Legislative Affairs, Department of Education, (Jan. 2, 2020) (on file with the Senate Committee on Education).

¹¹⁰ Section 1011.61(4)(a), F.S.

addition to the FTC Scholarship Program¹¹¹, the John M. McKay Scholarship for Students with Disabilities Program (McKay scholarship)¹¹² and the Hope Scholarship Program¹¹³ have similar provisions. Allowing FES students to annually take up to two courses from a virtual school, correspondence school, or distance learning program that receives state funding, may provide more flexibility for students to meet their educational goals.

- Modifies the FTC so that a student who receives an FTC scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.

Scholarship Funding

The bill specifies that, beginning in the 2020-2021 school year, the maximum number of students participating in the FES must annually increase by 1 percent, rather than 0.25 percent.

The bill also adds a provision that the FES is not subject to the maximum value of one FTE for funding a student, which aligns the FES scholarship to the McKay scholarship, which is also funded through the FEFP.

Florida Standardized Statewide Assessments

Present Situation

Every Student Succeeds Act

The Every Student Succeeds Act (ESSA)¹¹⁴ is a federal law reauthorizing and substantially revising the Elementary and Secondary Education Act of 1965 (ESEA). The ESSA is the successor to the No Child Left Behind Act of 2001 (NCLB).¹¹⁵ Like its predecessors NCLB and ESEA, the goal of the ESSA is to improve elementary and secondary education in public schools by conditioning the receipt of federal funds on the implementation of federal requirements.

Each state is required to submit a plan that demonstrates that the state educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science,¹¹⁶ and must:¹¹⁷

- Be the same academic assessments used to measure the achievement of all children.
- Be aligned with a state's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards.

The assessments must be administered annually as follows:¹¹⁸

- Reading or language arts and mathematics must be administered:

¹¹¹ Section 1002.395(4)(f), F.S.

¹¹² Section 1002.39(3)(f), F.S.

¹¹³ Section 1002.40(4)(c), F.S.

¹¹⁴ Pub. L. No. 114-95, 129 Stat. 1802 (Dec. 10, 2015); 20 U.S.C. s. 6301 *et seq.*

¹¹⁵ Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

¹¹⁶ 20 U.S.C. 6311, s. 1111(b)(3)(A)

¹¹⁷ 20 U.S.C. 6311, s. 1111(b)(3)(C)

¹¹⁸ 34 C.F.R., s. 200.5. A state must administer an English language proficiency assessment to all English learners in schools served by the State in all grades in which there are English learners, kindergarten through grade 12. Any other subject area assessments are administrated at the state's discretion. *Id.*

- In each of grades 3 through 8; and
- At least once in grades 9 through 12.
- Science assessments must be administered in each of:
 - Grades 3 through 5;
 - Grades 6 through 9; and
 - Grades 10 through 12.

Exceptions¹¹⁹ to the requirement in the ESSA that state assessments be the same assessments used to measure the achievement of all students include:

- Advanced eighth grade mathematics assessments.¹²⁰
- Alternate assessments aligned with alternate academic standards.¹²¹
- Innovative assessments.¹²²
- Locally selected, nationally recognized high school academic assessments.¹²³

A local education agency is authorized under the ESSA to administer a locally selected assessment in lieu of the statewide, standardized high school ELA, math, or science assessments.¹²⁴ However, any such assessment must:¹²⁵

- Be approved by the state.
- Be nationally recognized.¹²⁶
- Be aligned to the state's academic standards, and address the depth and breadth of such standards.
- Be equivalent in its content coverage, difficulty, and quality to the state assessments.
- Provide comparable, valid, and reliable data on academic achievement, as compared to the state assessment, for all students and for each subgroup of students, with results expressed in terms consistent with the state's academic achievement standards.
- Meet the same technical requirements as the state assessments.
- Provide unbiased, rational, and consistent differentiation between schools within the state in order to meet the requirements of the state accountability system.

In 2019-20, eight states used the SAT to meet ESSA's high school testing requirement in math and English language arts. Eleven states used the ACT as a federal accountability test at the high school level. Five states allowed districts to choose between the two exams.¹²⁷

¹¹⁹ 34 C.F.R., s. 200.2(b)(1)(i).

¹²⁰ 24 C.F.R., s. 200.5(b).

¹²¹ 34 C.F.R., s. 200.6(c).

¹²² Pub. L. No. 116-95, s. 1204, 129 Stat. 1808 (Dec. 10, 2015).

¹²³ 34 C.F.R., s. 200.3. "Nationally recognized high school academic assessment" means an assessment of high school students' knowledge and skills that is administered in multiple states and is recognized by institutions of higher education in those or other states for the purposes of entrance or placement into courses in postsecondary education or training programs. 34 CFR 200.3(d)

¹²⁴ See 20 U.S.C. s. 6311(b)(2)(H).

¹²⁵ 20 U.S.C. s. 6311(b)(2)(H)(i)-(v).

¹²⁶ *Supra*, note 123.

¹²⁷ Olson, Lynn, FutureEd, *The New Testing Landscape: How State Assessments Are Changing under the Federal Every Student Succeeds Act* (Sept. 2019), available at <https://www.future-ed.org/wp-content/uploads/2019/09/FutureEdTestingLandscapeReport.pdf>, at 6.

Florida’s Statewide, Standardized Assessments

Florida’s statewide, standardized assessments measure the extent to which students have mastered the Next Generation Sunshine State Standards.¹²⁸ The requirements for students in Florida are as follows:¹²⁹

| Standards | Assessment | Assessment Schedule |
|--|-----------------------------|--|
| Florida Standards Assessments (FSA) ¹³⁰ | English Language Arts (ELA) | Grades 3 through 10 |
| | Mathematics | Grades 3 through 8 |
| | Algebra I EOC | Upon completion of applicable course identified in the Course Code Directory (CCD) |
| | Geometry EOC | |
| Next Generation Sunshine State Standards | Science | Grades 5 and 8 |
| | Biology I EOC | Upon completion of applicable course identified in the CCD |
| | Civics EOC | |
| | U.S. History EOC | |

Effect of Proposed Changes

Beginning in the 2020-2021 school year, the bill requires each school district to provide for the administration of either the SAT or ACT for each public school student in grade 11 in the district, including students attending public high schools, alternative schools, and centers of the Department of Juvenile Justice. The bill specifies that funding for the provision of the SAT or ACT will be as provided in the General Appropriations Act (GAA).

Incentive Funding for Acceleration Programs

Present Situation

Florida Education Finance Program (FEFP)

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida school districts. Under the FEFP, financial support for education is based on the full-time equivalent (FTE) student membership in public schools.¹³¹ The number of FTE students in each of the funded education programs is multiplied by cost factors¹³² relative to each program to obtain weighted FTE student values.¹³³ The base student allocation from state

¹²⁸ Section 1008.22(3), F.S.

¹²⁹ See s. 1008.22(3)(a) and (b), F.S. See also Florida Department of Education, *Florida Statewide Assessment Program, 2019-2020 Schedule*, available at <http://fldoe.org/core/fileparse.php/5663/urlt/Statewide-Assessment-Schedule-2019-20.pdf>.

¹³⁰ Beginning in 2014-15, assessments aligned to the Florida Standards replaced assessments aligned to the Next Generation Sunshine State Standards in mathematics and English language arts (formerly reading and writing). The NGSSS Algebra 1 and Geometry assessments were replaced by Florida Standards Assessments (FSA) in these subjects. Florida Department of Education, *End-of-Course Assessments*, <http://fldoe.org/accountability/assessments/k-12-student-assessment/end-of-course-ec-assessments/> (last visited Feb. 18, 2020)

¹³¹ Section 1011.62, F.S.

¹³² Program cost factors are based on desired relative cost differences between the following programs as established in the annual General Appropriations Act: grades K-3; 4-8; 9-12; two program cost factors for exceptional students; secondary career education programs; and English for Speakers of Other Languages. Section 1011.62(1)(c), F.S.

¹³³ Section 1011.62, F.S.; Department of Education, *2019-20 Funding for Florida School Districts* available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 1.

and local funds is determined annually by the Legislature in the GAA and is a component in the calculation of each school district’s base funding.¹³⁴ In addition to the base funding, the Legislature may appropriate categorical funding for specified programs, activities or purposes, such as for mental health assistance, and funding compression.¹³⁵

Dual Enrollment and Collegiate High School Programs

The dual enrollment program is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree. An eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with s. 1002.42(2) and provides a secondary curriculum pursuant to s. 1003.4282.¹³⁶ The following table shows 2018-2019 academic year dual enrollment participation by public and private school and home education program students at Florida College System (FCS) institutions, state universities, and at eligible private colleges and universities.

| | FCS Institutions ¹³⁷ | State Universities ¹³⁸ | Private Colleges and Universities ¹³⁹ |
|----------------|---------------------------------|-----------------------------------|--|
| Public School | 73,408 | 9,250 | 6,908 |
| Private School | 2,607 | 688 | |
| Home Education | 3,818 | 113 | |

Collegiate high school programs are intended to provide an option for public school students in grade 11 or grade 12 participating in the program, for at least 1 full school year, to earn CAPE industry certifications and to successfully complete 30 credit hours through the dual enrollment program toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program. Each Florida College System institution is required to work with each district school board in its designated service area to establish one or more collegiate high school programs.¹⁴⁰ In fall 2018, there were 11,146 students enrolled in a collegiate high school or collegiate high school program.¹⁴¹

¹³⁴ Department of Education, *2019-20 Funding for Florida School Districts available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>* at 17.

¹³⁵ Section 1011.62(6) F.S.

¹³⁶ Section 1007.271(1) and (2), F.S.

¹³⁷ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education (Jan. 8, 2020) (on file with the Senate Committee on Education).

¹³⁸ Email from Jason Jones, Chief Data Officer, Florida Board of Governors (Jan. 3, 2020) (on file with the Senate Committee on Education).

¹³⁹ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education (Jan. 8, 2020) (on file with the Senate Committee on Education).

¹⁴⁰ Section 1007.273(1) and (2), F.S.

¹⁴¹ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education (Jan. 8, 2020) (on file with the Senate Committee on Education).

Incentive Funding for Acceleration Programs

Dual enrollment and collegiate high school program funding for public schools is included in the calculation of FTE students within the FEFP.¹⁴² There is no provision in law to allow for additional performance funding for students earning dual enrollment credit.

The FEFP provides a funding incentive for school districts with students in Advanced Placement (AP), International Baccalaureate (IB), and Advanced International Certificate of Education (AICE) courses who successfully complete AP, IB, and AICE examinations or earn an IB or AICE diploma.¹⁴³ The additional FTE is calculated as follows:

- A value of 0.16 FTE student membership is calculated for each student in each AP course who receives a score of 3 or higher on the College Board AP examination.¹⁴⁴
- A value of 0.16 FTE student membership is calculated for each student enrolled in an IB course who receives a score of 4 or higher on a subject examination. A value of 0.3 FTE student membership is calculated for each student who receives an IB diploma.¹⁴⁵
- A value of 0.16 FTE student membership is calculated for each student enrolled in a full-credit AICE course, and 0.08 FTE student membership for each student enrolled in a half-credit AICE course, for each student who receives a score of E or higher on a subject examination. A value of 0.3 FTE student membership is calculated for each student who receives an AICE diploma.¹⁴⁶

In addition, classroom teachers may receive bonus funds for the performance of their students on AP, IB, and AICE examinations. School districts must use the additional FTE funds for purposes specified in law.¹⁴⁷

Effect of Proposed Changes

The bill adds new provisions for FEFP funding for students enrolled in dual enrollment courses and collegiate high school programs that are similar to FTE student membership incentives districts earn for students who complete AP, IB, and AICE examinations. Specifically, for the 2020-2021 school year and thereafter, the bill:

- Provides bonus FTE funding to public school districts for any student who completes a general education core course through dual enrollment with an earned grade of “B” or better. Specifically:
 - Students enrolled in a collegiate high school program pursuant to s. 1007.273, F.S., generate a 0.16 FTE student membership bonus.
 - Students not enrolled in a collegiate high school program pursuant to s. 1007.273, F.S., generate a 0.08 FTE student membership bonus.

¹⁴² Department of Education, *2019-20 Funding for Florida School Districts*, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 11.

¹⁴³ Section 1011.62, F.S. Accelerated mechanisms include, but are not limited to, dual enrollment and early admission, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program. Section 1007.27(1), F.S.

¹⁴⁴ Section 1011.62(1)(n), F.S.

¹⁴⁵ Section 1011.62(1)(l), F.S.

¹⁴⁶ Section 1011.62(1)(m), F.S.

¹⁴⁷ Section 1011.62(1)(l)-(n), F.S.

- Provides bonus FTE funding for each associate degree earned through the dual enrollment program with 3.0 GPA or better. Students earning an associate degree with the required GPA generate a 0.3 FTE student membership bonus. Courses taken prior to 2020-2021 may be included in the associate degree for purposes of the bonus.
- Specifies that bonus funding will be added to the total FTE student membership in basic programs for grades 9-12 in the subsequent fiscal year and requires school districts to allocate at least 50 percent of the bonus funds to the schools that generated the funds to support academic guidance and postsecondary readiness.

Florida Charter Schools

Present Situation

Charter schools are public schools that operate under a performance contract (charter),¹⁴⁸ which frees them from many regulations created for traditional public schools while holding them accountable for academic and financial results.¹⁴⁹ The charter between the charter school governing board and the charter school sponsor details the school's mission, program, goals, students served, methods of assessment, and ways to measure success.¹⁵⁰

A district school board may sponsor a charter school in the county in which the district school board has jurisdiction.¹⁵¹ Additionally, a state university may grant a charter to a developmental research (laboratory) school.¹⁵²

In the 2018-2019 school year, over 313,000 students were enrolled in 658 charter schools in 47 Florida school districts.¹⁵³

Charter School Applications

An application for a new charter school may be made by an individual, a teacher, a parent, a group of individuals, a municipality, or a legal entity organized under the laws of this state.¹⁵⁴

A sponsor receives and reviews all charter school applications¹⁵⁵ and must, within 90 calendar days of receipt, approve or deny the application by majority vote.¹⁵⁶ Charter applicants are required to prepare and submit an application on a standard form prepared by the Department of Education (DOE), which application contains information a sponsor may require and information specified in law.¹⁵⁷

¹⁴⁸ Section 1002.33(5)(a), F.S.

¹⁴⁹ Section 1002.33(7), F.S.

¹⁵⁰ Florida Department of Education, *FAQ, What are charter schools?* <http://fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited Jan. 14, 2020).

¹⁵¹ Section 1002.33(5)(a)1., F.S.

¹⁵² Section 1002.32, F.S. Such school must be considered a charter lab school. Section 1002.33(5)(a)2., F.S.

¹⁵³ Florida Department of Education, *Florida's Charter Schools* (Sept. 2019), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2019.pdf>.

¹⁵⁴ Section 1002.33(3)(a), F.S.

¹⁵⁵ Section 1002.33(6)(b), F.S.

¹⁵⁶ Section 1002.33(6)(b)3.a., F.S.

¹⁵⁷ Section 1002.33(6)(a), F.S. Charter school applications are incorporated into State Board of Education Rule 6A-6.0786, F.A.C.

A sponsor must receive and consider charter school applications received on or before February 1 of each year in order for charter schools to be opened 18 months later at the beginning of the school district's school year, or to be opened at a time determined by the applicant. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment.¹⁵⁸

Charter School Students

A charter school may be exempt from specific enrollment requirements if the school is open to any student covered in an inter-district agreement and any student residing in the school district in which the charter school is located.¹⁵⁹ A charter school may limit the enrollment process only to target the following student populations:¹⁶⁰

- Students within specific age groups or grade levels.
- Students considered at risk of dropping out of school or academic failure.
- Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality.¹⁶¹
- Students residing within a reasonable distance of the charter school.
- Students who meet established academic, artistic, or other eligibility standards.
- Students articulating from one charter school to another.
- Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$5 million to be used as a charter school to mitigate the educational impact created by the development of new residential dwelling units. Students living in the development are entitled to no more than 50 percent of the student stations in the charter school.

Effect of Proposed Changes

Charter School Applications

The bill removes the specified date by which charter school applications must be submitted and received each calendar year in order for the school to be opened the next year and prohibits a sponsor from refusing to receive a charter school application submitted any time during the calendar year. The bill also allows a charter school to be opened at a time determined by the applicant, such that the agreement of the sponsor is no longer required.

Charter School Students

The bill expands criteria by which a charter school may target enrollment for students living in a specified development. The bill expands the contributing entities to include a developer, including any affiliated business entity or charitable foundation. In addition, the bill expands the contributions to development of a charter school to include, in addition to provision of a school facility, contributions to the formation, acquisition, construction, or operation of one or more

¹⁵⁸ Section 1002.33(6)(b), F.S. A sponsor may receive and consider applications after February 1, if it chooses. *Id.*

¹⁵⁹ Section 1002.33(10)(a), F.S.

¹⁶⁰ Section 1002.33(10)(e), F.S.

¹⁶¹ Section 1002.33(15), F.S.

charter schools or charter school facilities and related property in an amount equal to or having a total appraised value of at least \$5 million. The bill may expand the number of developments in which students living in such development may be entitled to 50 percent of the student stations in the charter school.

Pathways in Technology Early College High School (P-TECH)

Present Situation

P-TECH, co-developed by the IBM Corporation, is an approach to education that blends high school, community college and workplace skills.¹⁶² P-TECH schools are primarily public schools, governed and supported by the local school district, although there are some examples of similar charter schools. P-TECH is designed to help close the achievement gap among underserved youth. Within six years of enrolling in ninth grade, students graduate with their high school diplomas, no-cost associate degrees and applicable credentials, and participate in workplace learning opportunities.¹⁶³

P-TECH schools are defined by a set of six key tenets:¹⁶⁴

- Public-private partnership;
- Six year integrated program;
- Workplace learning including internships;
- Open enrollment with no grade or testing requirements;
- Cost-free; and
- First in-line for job openings with industry partners.

The P-TECH model has spread to 200 schools¹⁶⁵ in 23 countries and 8 states¹⁶⁶, serving 100,000 students¹⁶⁷ since its founding in 2011. The P-TECH programs currently in operation have developed 12 different pathways based on regional workforce demand, including:¹⁶⁸

- Construction technology;
- Process technology;
- Cybersecurity;
- Business;
- Mechanical engineering;
- Energy management;
- Healthcare;
- Advanced manufacturing;
- Machining;

¹⁶² P-TECH, *P-TECH About* <http://www.ptech.org/about/> (last visited Dec. 17, 2019).

¹⁶³ P-TECH, *P-TECH Mission* <http://www.ptech.org/about/mission/> (last visited Dec. 17, 2019).

¹⁶⁴ *Id.*

¹⁶⁵ IBM, *P-TECH: when skills meet opportunity, success happens* <https://www.ibm.com/thought-leadership/ptech/index.html> (last visited Jan. 8, 2020).

¹⁶⁶ P-TECH, *P-TECH Our Schools* <http://www.ptech.org/resources/schools-map/> (last visited Jan. 8, 2020).

¹⁶⁷ IBM, *P-TECH: when skills meet opportunity, success happens* <https://www.ibm.com/thought-leadership/ptech/index.html> (last visited Jan. 8, 2020).

¹⁶⁸ P-TECH, *P-TECH Network, Our Schools, USA* <http://www.ptech.org/p-tech-network/our-schools/usa/> (last visited Dec. 17, 2019).

- Early childhood education;
- Computer science; and
- Networking technology.

Effect of Proposed Changes

To determine the feasibility of implementing the P-TECH program, or a similar program, in Florida, the bill requires the Commissioner of Education to submit a report by December 1, 2020, to the Governor, Senate President, Speaker of the House, BOG, and the SBE, with recommendations addressing the feasibility of implementing in Florida.

The bill requires the P-TECH program, or a similar program, to achieve the following:

- Incorporate secondary and postsecondary education with workforce education and work experience in a flexible 6-year integrated model.
- Allow students to earn a high school diploma, an associate degree, and applicable industry certifications and gain work experience, within 6 years after enrolling in the 9th grade.
- Have an open enrollment policy that encourages a diverse student body, including students from low-income families and first-generation college students.
- Support student success through flexible class scheduling, advising and mentoring, and other wrap-around services.
- Provide seamless articulation to Florida's postsecondary institutions.

The commissioner's report must, at a minimum, include the following:

- Timelines for implementing a P-TECH program, or similar program, including courses of study which support completion in 4 to 6 years and which meet regional workforce demand.
- A funding model that provides the P-TECH program, or similar program, at no cost to students and may incorporate K-12, postsecondary, and workforce funding, grants, scholarships, and other funding options.
- Partnerships with industries and businesses, including private investment, work-based job training, internships, and priority placement for job opportunities after graduation.
- Recommendations for modifications, if any, to the school and school district accountability requirements.¹⁶⁹

The bill provides that this section relating to the P-TECH program and report will be effective upon becoming law and expire on December 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁶⁹ Section 1008.34, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Educator Certification

Persons seeking an educator certificate who demonstrate subject area knowledge by a specified baccalaureate degree from an approved institution may not have to take a subject area examination, and so would not have to pay the fee for such exam.

Private Education Choice

Expanding Family Empowerment Scholarship (FES) eligibility as provided for in the bill to a student who received a Florida Tax Credit (FTC) scholarship will provide more flexibility for families and increase eligibility for the programs, potentially reducing costs for students and families.

Allowing FES students to annually take up to two courses from a virtual school, correspondence school, or distance learning program that receives state funding, may provide more flexibility for students to meet their educational goals.

Dual Enrollment Incentives

The financial supports for the dual enrollment and early college programs may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

Educator Certification

If individuals demonstrate mastery of subject area competence through a specified bachelor's degree as authorized in the bill rather than by a subject area examination, the Department of Education may experience decreased revenue from the loss of subject area

examination fees. Such fees are deposited into the Educational Certification and Services Trust Fund and are used for the payment of expenses incurred by the Educational Practices Commission and in the printing of forms and bulletins and the issuing of certificates. The number of individuals who may demonstrate subject area competence under this additional option is not known.

Professional Development

The Department of Education (DOE) may incur costs related to developing model annual and 5-year calendars that incorporate all state-required professional development. In addition, the DOE may incur costs to develop and maintain a statewide registry of approved professional development providers and activities.

The implementation of the Professional Development Choice Pilot Program is subject to legislative appropriation and the Professional Education Excellence Resources (PEER) Pilot Program shall be implemented to the extent specifically funded and authorized by law.

Private Education Choice

Increasing the allowable annual growth for student participation in the FES from 0.25 percent of total public school enrollment to 1.0 percent, will increase the FTE and funding needed for the FEFP. The annual growth in maximum student participation will increase from approximately 7,000 to 28,000 students (over and above the current 18,000).

Expanding the FES eligibility to include a student who received a FTC scholarship after being enrolled in a public school the prior year may increase the need for additional state funds. Students who move from the FTC scholarship to the FES, would be added to the FTE count and funding for the FEFP. It is unknown at this time how many students would meet the requirements to be reclassified between the two scholarships.

Exempting the FES scholarship amount from the 1.0 FTE requirement has the potential to increase the FTE used in the FEFP funding calculation, thus having a state fiscal impact.

Dual Enrollment Incentive

Beginning in the 2021-2022 fiscal year, the bill may reallocate funds within the FEFP to those school districts with relatively more students successfully completing dual enrollment coursework; however, an additional appropriation is not required.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.33, 1002.394, 1002.395, 1004.04, 1004.85, 1008.22, 1011.61, 1012.56, 1012.585, 1012.586, 1012.79, and 1012.98.

This bill creates s. 1012.981 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.)

Recommended CS/CS by Appropriations Subcommittee on Education on February 25, 2020:

The committee substitute maintains the provisions in the bill relating to:

- Admissions, core curricula, and instructional requirements for initial teacher preparation (ITP) and educator preparation institute (EPI) programs.
- Modifications to educator certification requirements to demonstrate mastery of subject area competence and limit application of inservice points not related to student learning or professional growth.
- Authorization for the Commissioner of Education to select and remove the Education Practices Commission executive director, and establish the duties of the executive director.
- Modifications to school district professional development (PD) systems and the creation of new PD opportunities.
- Modifications to eligibility requirements for the Family Empowerment Scholarship (FES) and the Florida Tax Credit (FTC) scholarship.

The committee substitute also adds provisions relating to charter schools, annual growth of the Family Empowerment Scholarship (FES), national assessments, dual enrollment bonus funding, the PEER pilot program, and workforce education, which:

- Modifies the charter school application process and enrollment limitations by:
 - Requiring a sponsor to receive and consider a charter school application submitted at any time during the calendar year.
 - Modifying enrollment limitations to prioritize a developer and charitable foundation that perform specified actions.
- Modifies the growth of the FES to authorize an annual increase of 1.0 percent of the state public school enrollment (rather than 0.25 percent) starting in 2020-2021.
- Providing that a student eligible for an FTC scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.
- Requires school districts to provide for the administration of the SAT or ACT to all students in grade 11, beginning in 2020-2021, with funding as provided in the GAA.
- Establishes a series of school district FTE bonus for completion of general education core courses with a grade of "B" or higher through dual enrollment, and completion of an associate degree through dual enrollment.

- Expands the Professional Education Excellence Resources (PEER) Pilot Program to include Palm Beach County.
- Requires the Commissioner to submit a report by December 1, 2020, meeting specified requirements, to determine the feasibility of implementing a Pathways in Technology Early College High School (P-TECH) or similar program, in Florida.

CS by Education on January 21, 2020:

The committee substitute maintains the provisions in the bill, which include

- Modifying initial teacher preparation (ITP) program core curricula relating to reading instructional strategies and adds a new requirement for mental health strategies and support.
- Changing ITP program provisions related to student grade point average and mastery of general knowledge from admission requirements to program requirements.
- Modifying educator certification requirements to authorize applicants to demonstrate mastery of subject area competence with a bachelor's degree in the subject area earned within the past 10 years.
- Modifying requirements relating to the Education Practices Commission (EPC) to specify that:
 - The Commissioner of Education may select and remove the EPC executive director, and may establish the duties of the executive director.
 - The assignment of the EPC to the Department of Education (DOE) includes fiscal accountability.
 - The EPC may expend funds for legal services, and removes the authority to expend funds for a general counsel or access to counsel.

The committee substitute adds additional provisions related to teacher preparation programs and educator certification, but also adds provisions related to teacher professional development and state scholarship programs. The committee substitute:

- Requires ITP and educator preparation institute (EPI) programs to include: the opportunity for student to complete an endorsement; instruction in mandatory training for instructional personnel; and in program performance evaluation employer surveys measures regarding student proficiency.
- Modifies the renewal requirement for an educator professional certificate by specifying that a teacher may only earn inservice points once in the five years certificate validity period for any mandatory training topic that is not linked to student learning or professional growth.
- Modifies requirements relating to professional development (PD) by:
 - Authorizing teachers to use up to 25 percent of their proportional share of a district calculation of PD funds for specified purposes, and requiring the DOE to identify PD that requires demonstration of proficiency.
 - Requiring the DOE to create an annual and 5-year model calendar of state-mandated PD, and the school district to create similar calendars as a part of the professional PD system.
 - Requiring the DOE to maintain a statewide registry of specified approved professional development providers.

- Creating the Professional Development Choice Pilot Program in the DOE, subject to appropriation, to allow a teacher to receive a grant up to \$500 for PD that is aligned to PD standards and satisfies professional certificate inservice requirements.
- Establishes the Professional Education Excellence Resources (PEER) Pilot Program (program), subject to legislative appropriation, and:
 - Establishes the PEER program in Clay, Pinellas, and Walton counties.
 - Authorizes PEER program participants to extend the teacher contract day or year for specified PD purposes, subject to salary considerations.
 - Specifies the use of program funds to include teacher compensation, instructional personnel, content area specialists, instructional coaches, and PD opportunities.
 - Requires PEER program participants to collaborate with specified entities to develop high-quality online PD.
 - Authorizes PEER program participants to establish a master teacher program subject to requirements, and requires participates to collaborate with the University of Florida Lastinger Center to develop a master teacher academy.
 - Establishes reporting requirements regarding the use of PEER program funds, the impact on teacher evaluations and student achievement, and recommendations for continuation of the program.
- Modifies the Family Empowerment Scholarship (FES), by:
 - Expanding scholarship eligibility to an FES student who received a Florida Tax Credit (FTC) scholarship in the prior year and was in a public school the year prior to initial receipt of the FTC scholarship.
 - Adding a provision that, similar to the McKay scholarship, the FES is not subject to the maximum value for funding a student.
- Aligns FES and FTC eligibility by:
 - Allowing an FES student to participate in up to two courses from a virtual school, correspondence school, or distance learning program that receives state funding.
 - Increasing the FTC scholarship income eligibility threshold for a student whose household income level does not exceed 300 percent of the federal poverty level with priority given to students whose household income levels do not exceed 185 percent of the federal poverty level.
 - Modifying that a student eligible for an FTC scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present paragraphs (b), (c), and (d) of subsection (10) of section 1002.394, Florida Statutes, are redesignated as paragraphs (c), (d,) and (e), respectively, paragraph (i) of subsection (9) and a new paragraph (b) of subsection (10) are added to that section, and subsections (3) and (7), paragraph (c) of subsection (8), and paragraph (a) of



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11 subsection (11) of that section are amended, to read:

12 1002.394 The Family Empowerment Scholarship Program.—

13 (3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible
14 for a Family Empowerment Scholarship under this section if the
15 student meets the following criteria:

16 (a)1. The student is on the direct certification list
17 pursuant to s. 1002.395(2)(c) or the student's household income
18 level does not exceed 185 ~~300~~ percent of the federal poverty
19 level; ~~or~~

20 2. The student is currently placed, or during the previous
21 state fiscal year was placed, in foster care or in out-of-home
22 care as defined in s. 39.01; or

23 3. The student's household income level does not exceed 300
24 percent of the federal poverty level or an adjusted maximum
25 percent of the federal poverty level as established pursuant to
26 paragraph (e).

27

28 ~~Priority shall be given to students whose household income~~
29 ~~levels do not exceed 185 percent of the federal poverty level or~~
30 ~~who are in foster care or out-of-home care.~~ A student who
31 initially receives a scholarship based on eligibility under
32 subparagraph 2. remains eligible to participate until the
33 student graduates from high school or attains the age of 21
34 years, whichever occurs first, regardless of the student's
35 household income level. A sibling of a student who is
36 participating in the scholarship program under this subsection
37 is eligible for a scholarship if the student resides in the same
38 household as the sibling.

39 (b)1. The student is eligible to enroll in kindergarten;



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40 2. The student ~~or~~ has spent the prior school year in
41 attendance at a Florida public school; or
42 3. Beginning with the 2020-2021 school year, the student
43 received a scholarship pursuant to s. 1002.395 during the
44 previous school year but did not receive a renewal scholarship
45 based solely on the eligible nonprofit scholarship-funding
46 organization's lack of available funds after the organization
47 fully exhausts its efforts to use funds available for awards
48 under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit
49 scholarship-funding organizations with students who meet the
50 eligibility criterion of this subparagraph must annually notify
51 the department in a format and by a date established by the
52 department.
53
54 For purposes of this paragraph, the term "prior school year in
55 attendance" means that the student was enrolled full time and
56 reported by a school district for funding during the preceding
57 October and February Florida Education Finance Program surveys
58 in kindergarten through grade 12, which includes time spent in a
59 Department of Juvenile Justice commitment program if funded
60 under the Florida Education Finance Program. However, a
61 dependent child of a member of the United States Armed Forces
62 who transfers to a school in this state from out of state or
63 from a foreign country due to a parent's permanent change of
64 station orders or a foster child is exempt from the prior public
65 school attendance requirement under this paragraph, but must
66 meet the other eligibility requirements specified under this
67 section to participate in the program.
68 (c) The parent has obtained acceptance for admission of the



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69 student to a private school that is eligible for the program
70 under subsection (8), and the parent has requested a scholarship
71 from the Department of Education by a date established by the
72 department pursuant to paragraph (7)(e), but no later than at
73 least 60 days before the date of the first scholarship payment.
74 The request must be communicated directly to the department in a
75 manner that creates a written or electronic record of the
76 request and the date of receipt of the request. The department
77 must notify the school district of the parent's intent upon
78 receipt of the parent's request.

79 (d) The student is awarded a scholarship in accordance with
80 the following priority order:

81 1. An eligible student who received a Family Empowerment
82 Scholarship during the previous school year and requested a
83 renewal scholarship award.

84 2. An eligible student who meets the criteria for an
85 initial award under both paragraph (a) and subparagraph (b)3.

86 3. An eligible student who meets the criteria for an
87 initial award under subparagraph (b)2. and either subparagraph
88 (a)1. or subparagraph (a)2.

89 4. An eligible student who meets the criteria for an
90 initial award under subparagraph (b)1. and either subparagraph
91 (a)1. or subparagraph (a)2.

92 5. An eligible student who meets the criteria for an
93 initial award under subparagraph (a)3. and, in priority order,
94 either subparagraph (b)2. or subparagraph (b)1.

95 (e) The student's household income level does not exceed an
96 adjusted maximum percent of the federal poverty level that is
97 increased by 25 percent in the fiscal year following any fiscal



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98 year in which more than 5 percent of the available scholarships
99 authorized under subsection (11) have not been awarded.

100 (7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
101 shall:

102 (a) Publish and update, as necessary, information on the
103 department website about the Family Empowerment Scholarship
104 Program, including, but not limited to, student eligibility
105 criteria, parental responsibilities, and relevant data.

106 (b) Cross-check the list of participating scholarship
107 students with the public school enrollment lists before each
108 scholarship payment to avoid duplication.

109 (c) Maintain and publish a list of nationally norm-
110 referenced tests identified for purposes of satisfying the
111 testing requirement in subparagraph (8)(c)1. The tests must meet
112 industry standards of quality in accordance with state board
113 rule.

114 (d) Notify eligible nonprofit scholarship-funding
115 organizations of the deadlines for submitting the verified list
116 of students determined to be eligible for an initial or renewal
117 scholarship.

118 (e) Establish deadlines for the receipt of initial
119 applications and renewal notifications in order to implement the
120 priority order for scholarship awards pursuant to paragraph
121 (3)(d).

122 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
123 eligible to participate in the Family Empowerment Scholarship
124 Program, a private school may be sectarian or nonsectarian and
125 must:

126 (c)1. Annually administer or make provision for students



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127 participating in the program in grades 3 through 10 to take one
128 of the nationally norm-referenced tests that are identified by
129 the department pursuant to paragraph (7)(c) or to take the
130 statewide assessments pursuant to s. 1008.22. Students with
131 disabilities for whom standardized testing is not appropriate
132 are exempt from this requirement. A participating private school
133 shall report a student's scores to his or her parent. By August
134 15 of each year, a participating private school must report the
135 scores of all participating students to a state university as
136 described in s. 1002.395(9)(f).

137 2. Administer the statewide assessments pursuant to s.
138 1008.22 if the private school chooses to offer the statewide
139 assessments. A participating private school may choose to offer
140 and administer the statewide assessments to all students who
141 attend the private school in grades 3 through 10 and must submit
142 a request in writing to the department by March 1 of each year
143 in order to administer the statewide assessments in the
144 subsequent school year.

145
146 If a private school fails to meet the requirements of this
147 subsection or s. 1002.421, the commissioner may determine that
148 the private school is ineligible to participate in the
149 scholarship program.

150 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
151 PARTICIPATION.—A parent who applies for a Family Empowerment
152 Scholarship is exercising his or her parental option to place
153 his or her child in a private school.

154 (i) The parent must annually renew participation in the
155 program by the date established by the department pursuant to



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156 paragraph (7) (e).

157 (10) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING
158 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
159 organization:

160 (b) Shall award initial and renewal scholarships in
161 priority order pursuant to paragraph (3) (d). The eligible
162 nonprofit scholarship-funding organization shall implement the
163 deadlines established by the department pursuant to paragraphs
164 (7) (d) and (e).

165 (11) SCHOLARSHIP FUNDING AND PAYMENT.—

166 (a) The scholarship is established for up to 18,000
167 students annually ~~on a first-come, first-served~~ basis beginning
168 in with the 2019-2020 school year. Beginning in the 2020-2021
169 school year, the maximum number of students participating in the
170 scholarship program under this section shall ~~may~~ annually
171 increase by 1.0 ~~0.25~~ percent of the state's total public school
172 student enrollment.

173 Section 2. Subsection (3) and paragraphs (e) and (f) of
174 subsection (6) of section 1002.395, Florida Statutes, are
175 amended to read:

176 1002.395 Florida Tax Credit Scholarship Program.—

177 (3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

178 (a) The Florida Tax Credit Scholarship Program is
179 established.

180 (b) A student is eligible for a Florida tax credit
181 scholarship under this section if the student meets one or more
182 of the following criteria:

183 1. The student is on the direct certification list or the
184 student's household income level does not exceed 260 ~~185~~ percent



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185 of the federal poverty level; or

186 2. The student is currently placed, or during the previous
187 state fiscal year was placed, in foster care or in out-of-home
188 care as defined in s. 39.01.

189 ~~3. The student's household income level is greater than 185~~
190 ~~percent of the federal poverty level but does not exceed 260~~
191 ~~percent of the federal poverty level.~~

192
193 Priority must be given to a student whose household income level
194 does not exceed 185 percent of the federal poverty level or who
195 is in foster care or out-of-home care. A student who initially
196 receives a scholarship based on eligibility under this paragraph
197 ~~subparagraph (b)2.~~ remains eligible to participate until he or
198 she ~~the student~~ graduates from high school or attains the age of
199 21 years, whichever occurs first, regardless of the student's
200 household income level. ~~A student who initially received a~~
201 ~~scholarship based on income eligibility before the 2019-2020~~
202 ~~school year remains eligible to participate until he or she~~
203 ~~graduates from high school, attains the age of 21 years, or the~~
204 ~~student's household income level exceeds 260 percent of the~~
205 ~~federal poverty level, whichever occurs first.~~ A sibling of a
206 student who is participating in the scholarship program under
207 this subsection is eligible for a scholarship if the student
208 resides in the same household as the sibling.

209 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
210 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
211 organization:

212 (e) Must give first priority to eligible renewal students
213 who received a full-time scholarship from an eligible nonprofit



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214 scholarship-funding organization or from the State of Florida
215 during the previous school year. The eligible nonprofit
216 scholarship-funding organization must fully apply and exhaust
217 all funds available under this section and s. 1002.40(11)(i) for
218 renewal scholarship awards before awarding any initial
219 scholarships. Beginning in the 2016-2017 school year, an
220 eligible nonprofit scholarship-funding organization shall give
221 priority to new applicants whose household income levels do not
222 exceed 185 percent of the federal poverty level or who are in
223 foster care or out-of-home care.

224 (f) Must provide a renewal or initial scholarship to an
225 eligible student on a first-come, first-served basis unless the
226 student qualifies for priority pursuant to paragraph (e). Each
227 eligible nonprofit scholarship-funding organization must refer
228 any student eligible for a scholarship pursuant to this section
229 who did not receive a renewal or initial scholarship based
230 solely on the lack of available funds under this section and s.
231 1002.40(11)(i) to another eligible nonprofit scholarship-funding
232 organization that may have funds available.

233
234 Information and documentation provided to the Department of
235 Education and the Auditor General relating to the identity of a
236 taxpayer that provides an eligible contribution under this
237 section shall remain confidential at all times in accordance
238 with s. 213.053.

239 Section 3. Paragraph (i) of subsection (11) of section
240 1002.40, Florida Statutes, is amended to read:

241 1002.40 The Hope Scholarship Program.—

242 (11) FUNDING AND PAYMENT.—



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243 (i) Notwithstanding s. 1002.395(6)(j)2., no more than 5
244 percent of net eligible contributions may be carried forward to
245 the following state fiscal year by an eligible scholarship-
246 funding organization. For audit purposes, all amounts carried
247 forward must be specifically identified for individual students
248 by student name and by the name of the school to which the
249 student is admitted, subject to the requirements of ss. 1002.21
250 and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and
251 regulations issued pursuant to such requirements. Any amounts
252 carried forward shall be expended for annual scholarships or
253 partial-year scholarships in the following state fiscal year.
254 Net eligible contributions remaining on June 30 of each year
255 which are in excess of the 5 percent that may be carried forward
256 shall be transferred to other eligible nonprofit scholarship-
257 funding organizations participating in the Hope Scholarship
258 Program to provide scholarships for eligible students. All
259 transferred funds must be deposited by each eligible nonprofit
260 scholarship-funding organization receiving such funds into the
261 scholarship account of eligible students. All transferred
262 amounts received by an eligible nonprofit scholarship-funding
263 organization must be separately disclosed in the annual
264 financial audit requirement under s. 1002.395(6)(m). If no other
265 eligible nonprofit scholarship-funding organization participates
266 in the Hope Scholarship Program, net eligible contributions in
267 excess of the 5 percent may be used to fund scholarships for
268 students eligible under s. 1002.395 only after fully exhausting
269 all contributions made in support of scholarships under that
270 section in accordance with the priority established in s.
271 1002.395(6)(e) prior to awarding any initial scholarships ~~s.~~



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272 ~~1002.395(3).~~

273 Section 4. This act shall take effect July 1, 2020.

274

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

276 And the title is amended as follows:

277 Delete everything before the enacting clause

278 and insert:

279 A bill to be entitled

280 An act relating to K-12 scholarship programs; amending

281 s. 1002.394, F.S.; revising initial scholarship

282 eligibility criteria for the Family Empowerment

283 Scholarship Program; establishing a priority order for

284 award of a scholarship that includes an adjusted

285 maximum eligible household income level that is

286 increased in specified circumstances; requiring the

287 Department of Education to maintain and publish a list

288 of nationally norm-referenced tests and to establish

289 deadlines for lists of eligible students,

290 applications, and notifications; requiring a private

291 school to report scores to a state university by a

292 specified date; requiring parents to annually renew

293 participation in the program; requiring an eligible

294 nonprofit scholarship-funding organization to award

295 scholarships in priority order and implement

296 deadlines; requiring, rather than authorizing, an

297 annual specified increase in the maximum number of

298 students participating in the scholarship program;

299 amending s. 1002.395, F.S.; revising eligibility

300 criteria for the Florida Tax Credit Scholarship



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301 Program and applying the criteria only to initial
302 eligibility; requiring that priority be given to
303 students whose household income levels do not exceed a
304 specified amount or who are in foster care or out-of-
305 home care; requiring scholarship-funding organizations
306 to prioritize renewal scholarships over initial
307 scholarships; requiring a scholarship-funding
308 organization to refer students who did not receive a
309 scholarship because of lack of funds to another
310 scholarship-funding organization; amending s. 1002.40,
311 F.S.; requiring scholarship-funding organizations to
312 use excess contributions to fund scholarships for
313 specified students under certain conditions; providing
314 an effective date.



888996

576-04145-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to education; amending s. 1002.33, F.S.; prohibiting sponsors from refusing to receive a charter school application submitted during the calendar year; authorizing charter schools to limit the enrollment process to target certain additional student populations; amending s. 1002.394, F.S.; revising initial scholarship eligibility criteria for the Family Empowerment Scholarship Program, beginning with a specified school year; providing that participation in certain virtual schools, correspondence schools, or distance learning programs does not make a student ineligible for a scholarship under the program in certain circumstances; requiring, rather than authorizing, an annual specified increase in the maximum number of students participating in such program; amending s. 1002.395, F.S.; revising eligibility criteria for the Florida Tax Credit Scholarship Program and applying the criteria only to initial eligibility; requiring that priority be given to students whose household income levels do not exceed a specified amount; amending s. 1004.04, F.S.; requiring that the rules to establish uniform core curricula for each state-approved teacher preparation program include evidence-based reading instructional strategies and mental health strategies and support; requiring state-approved teacher preparation programs



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to include opportunities to complete endorsements and complete training required of instructional personnel; removing admissions requirements; deleting a provision allowing teacher preparation programs to waive admission requirements for up to 10 percent of the students admitted; requiring an assessment of student proficiency to be included in employer surveys; amending s. 1004.85, F.S.; providing additional requirements for a postsecondary educator preparation institute to be approved by the Department of Education; amending s. 1008.22, F.S.; requiring school districts to administer the SAT or the ACT to grade 11 students beginning in a specified school year; requiring school districts to choose which assessment to administer; amending s. 1011.61, F.S.; providing that a certain scholarship award is not subject to the maximum value for funding a student under the Florida Education Finance Program; amending s. 1011.62, F.S.; changing the calculation of full-time equivalent student membership for dual enrollment purposes; amending s. 1012.56, F.S.; providing that for a subject requiring only a baccalaureate degree, a baccalaureate degree with a major in the subject area, conferred within the last 10 years, is an acceptable means of demonstrating mastery of subject area knowledge; amending s. 1012.585, F.S.; specifying that teachers may earn inservice points only once during a certain time period for any mandatory training topic not linked to student learning or professional growth;



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57 amending s. 1012.79, F.S.; directing the Commissioner
58 of Education, with the advice and consent of the chair
59 of the Education Practices Commission, to appoint an
60 executive director who is exempt from career service
61 and who may be removed by the commissioner; specifying
62 that the executive director has administrative duties,
63 as determined by the commissioner; prohibiting the
64 executive director from impacting or influencing
65 commission decisions; making a technical change;
66 amending s. 1012.98, F.S.; requiring district school
67 boards to calculate a proportionate share of
68 professional development funds for each classroom
69 teacher; authorizing classroom teachers to use up to a
70 certain amount of such funds for certain purposes;
71 requiring the Department of Education to identify
72 professional development opportunities for classroom
73 teachers to demonstrate proficiency in a specific
74 classroom practice; requiring the department to
75 develop a model annual and 5-year calendar of
76 professional development by a specified date;
77 requiring school districts to develop annual and 5-
78 year calendars of professional development for
79 inclusion in the department's professional development
80 system by a specified date; requiring the department
81 to develop and maintain a statewide registry of
82 approved professional development providers and
83 professional development activities for use by
84 teachers; requiring professional development providers
85 to be approved by the department; specifying



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86 requirements for professional development providers;
87 requiring the department to review professional
88 development provider applications for compliance and
89 to approve or deny an application within a certain
90 timeframe; providing for provider reapplication;
91 requiring each school district to accept an approved
92 professional development activity for a certain
93 purpose; requiring the department to determine the
94 number of inservice hours to be awarded for completion
95 of an activity; creating the Professional Development
96 Choice Pilot Program to be administered by the
97 department for a specified period; providing the pilot
98 program's purpose; authorizing the use of pilot
99 program grants for specified purposes; providing
100 requirements for the use of such grants; providing
101 eligibility requirements for receiving pilot program
102 grants; providing requirements and limits for grant
103 disbursements; providing certain duties of each school
104 district; requiring the department to maintain a
105 registry of approved providers and professional
106 development activities; requiring the department to
107 establish an application form by a specified date;
108 creating s. 1012.981, F.S.; creating the Professional
109 Education Excellence Resources (PEER) Pilot Program in
110 specified counties; authorizing school districts
111 implementing the pilot program to engage in certain
112 activities; authorizing school districts to use
113 program funds for certain purposes; requiring school
114 districts participating in the program to collaborate



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115 with the department and other entities to develop
116 high-quality online professional development
117 opportunities accessible to instructional personnel
118 statewide; providing requirements for such
119 professional online development opportunities;
120 authorizing participating school districts to use
121 program funds to establish a master teacher program;
122 providing requirements for the master teacher program;
123 authorizing school districts to determine selection
124 criteria for participation in the program; requiring
125 participating school districts to collaborate with the
126 department and the University of Florida Lastinger
127 Center to develop a master teacher academy; providing
128 duties for the master teacher academy; requiring each
129 school district participating in the PEER Pilot
130 Program to report annually to the Governor, the
131 Legislature, and the department on the performance of
132 the pilot program; requiring the annual report to
133 contain certain information; requiring the State Board
134 of Education to adopt rules; specifying that the pilot
135 program be implemented only to the extent specifically
136 funded and authorized by law; requiring the
137 Commissioner of Education to submit to certain
138 entities by a specified date a report with
139 recommendations relating to the implementation of the
140 Pathways in Technology Early College High School
141 program, or a similar program; providing requirements
142 for such program and report; providing for expiration;
143 amending s. 1012.586, F.S.; conforming a cross-



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144 reference; providing effective dates.
145
146 Be It Enacted by the Legislature of the State of Florida:
147
148 Section 1. Paragraph (b) of subsection (6) and paragraph
149 (e) of subsection (10) of section 1002.33, Florida Statutes, are
150 amended to read:
151 1002.33 Charter schools.-
152 (6) APPLICATION PROCESS AND REVIEW.-Charter school
153 applications are subject to the following requirements:
154 (b) A sponsor shall receive and review all applications for
155 a charter school using the evaluation instrument developed by
156 the Department of Education. A sponsor shall receive and
157 consider charter school applications received during ~~on or~~
158 ~~before August 1~~ of each calendar year for charter schools to be
159 opened at the beginning of the school district's next school
160 year, or to be opened at a time determined ~~agreed to~~ by the
161 applicant ~~and the sponsor~~. A sponsor may not refuse to receive a
162 charter school application submitted by an applicant during the
163 calendar year, ~~before August 1~~ and ~~may receive an application~~
164 ~~submitted later than August 1 if it chooses. Beginning in 2018~~
165 ~~and thereafter, a sponsor shall receive and consider charter~~
166 ~~school applications received on or before February 1 of each~~
167 ~~calendar year for charter schools to be opened 18 months later~~
168 ~~at the beginning of the school district's school year, or to be~~
169 ~~opened at a time determined by the applicant. A sponsor may not~~
170 ~~refuse to receive a charter school application submitted before~~
171 ~~February 1 and may receive an application submitted later than~~
172 ~~February 1 if it chooses. A sponsor may not charge an applicant~~



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173 for a charter any fee for the processing or consideration of an
174 application, and a sponsor may not base its consideration or
175 approval of a final application upon the promise of future
176 payment of any kind. Before approving or denying any
177 application, the sponsor shall allow the applicant, upon receipt
178 of written notification, at least 7 calendar days to make
179 technical or nonsubstantive corrections and clarifications,
180 including, but not limited to, corrections of grammatical,
181 typographical, and like errors or missing signatures, if such
182 errors are identified by the sponsor as cause to deny the final
183 application.

184 1. In order to facilitate an accurate budget projection
185 process, a sponsor shall be held harmless for FTE students who
186 are not included in the FTE projection due to approval of
187 charter school applications after the FTE projection deadline.
188 In a further effort to facilitate an accurate budget projection,
189 within 15 calendar days after receipt of a charter school
190 application, a sponsor shall report to the Department of
191 Education the name of the applicant entity, the proposed charter
192 school location, and its projected FTE.

193 2. In order to ensure fiscal responsibility, an application
194 for a charter school shall include a full accounting of expected
195 assets, a projection of expected sources and amounts of income,
196 including income derived from projected student enrollments and
197 from community support, and an expense projection that includes
198 full accounting of the costs of operation, including start-up
199 costs.

200 3.a. A sponsor shall by a majority vote approve or deny an
201 application no later than 90 calendar days after the application



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202 is received, unless the sponsor and the applicant mutually agree
203 in writing to temporarily postpone the vote to a specific date,
204 at which time the sponsor shall by a majority vote approve or
205 deny the application. If the sponsor fails to act on the
206 application, an applicant may appeal to the State Board of
207 Education as provided in paragraph (c). If an application is
208 denied, the sponsor shall, within 10 calendar days after such
209 denial, articulate in writing the specific reasons, based upon
210 good cause, supporting its denial of the application and shall
211 provide the letter of denial and supporting documentation to the
212 applicant and to the Department of Education.

213 b. An application submitted by a high-performing charter
214 school identified pursuant to s. 1002.331 or a high-performing
215 charter school system identified pursuant to s. 1002.332 may be
216 denied by the sponsor only if the sponsor demonstrates by clear
217 and convincing evidence that:

218 (I) The application of a high-performing charter school
219 does not materially comply with the requirements in paragraph
220 (a) or, for a high-performing charter school system, the
221 application does not materially comply with s. 1002.332(2)(b);

222 (II) The charter school proposed in the application does
223 not materially comply with the requirements in paragraphs
224 (9)(a)-(f);

225 (III) The proposed charter school's educational program
226 does not substantially replicate that of the applicant or one of
227 the applicant's high-performing charter schools;

228 (IV) The applicant has made a material misrepresentation or
229 false statement or concealed an essential or material fact
230 during the application process; or



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231 (V) The proposed charter school's educational program and
232 financial management practices do not materially comply with the
233 requirements of this section.

234
235 Material noncompliance is a failure to follow requirements or a
236 violation of prohibitions applicable to charter school
237 applications, which failure is quantitatively or qualitatively
238 significant either individually or when aggregated with other
239 noncompliance. An applicant is considered to be replicating a
240 high-performing charter school if the proposed school is
241 substantially similar to at least one of the applicant's high-
242 performing charter schools and the organization or individuals
243 involved in the establishment and operation of the proposed
244 school are significantly involved in the operation of replicated
245 schools.

246 c. If the sponsor denies an application submitted by a
247 high-performing charter school or a high-performing charter
248 school system, the sponsor must, within 10 calendar days after
249 such denial, state in writing the specific reasons, based upon
250 the criteria in sub-subparagraph b., supporting its denial of
251 the application and must provide the letter of denial and
252 supporting documentation to the applicant and to the Department
253 of Education. The applicant may appeal the sponsor's denial of
254 the application in accordance with paragraph (c).

255 4. For budget projection purposes, the sponsor shall report
256 to the Department of Education the approval or denial of an
257 application within 10 calendar days after such approval or
258 denial. In the event of approval, the report to the Department
259 of Education shall include the final projected FTE for the



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260 approved charter school.

261 5. Upon approval of an application, the initial startup
262 shall commence with the beginning of the public school calendar
263 for the district in which the charter is granted. A charter
264 school may defer the opening of the school's operations for up
265 to 3 years to provide time for adequate facility planning. The
266 charter school must provide written notice of such intent to the
267 sponsor and the parents of enrolled students at least 30
268 calendar days before the first day of school.

269 (10) ELIGIBLE STUDENTS.—

270 (e) A charter school may limit the enrollment process only
271 to target the following student populations:

272 1. Students within specific age groups or grade levels.
273 2. Students considered at risk of dropping out of school or
274 academic failure. Such students shall include exceptional
275 education students.

276 3. Students enrolling in a charter school-in-the-workplace
277 or charter school-in-a-municipality established pursuant to
278 subsection (15).

279 4. Students residing within a reasonable distance of the
280 charter school, as described in paragraph (20)(c). Such students
281 shall be subject to a random lottery and to the racial/ethnic
282 balance provisions described in subparagraph (7)(a)8. or any
283 federal provisions that require a school to achieve a
284 racial/ethnic balance reflective of the community it serves or
285 within the racial/ethnic range of other public schools in the
286 same school district.

287 5. Students who meet reasonable academic, artistic, or
288 other eligibility standards established by the charter school



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289 and included in the charter school application and charter or,
290 in the case of existing charter schools, standards that are
291 consistent with the school's mission and purpose. Such standards
292 shall be in accordance with current state law and practice in
293 public schools and may not discriminate against otherwise
294 qualified individuals.

295 6. Students articulating from one charter school to another
296 pursuant to an articulation agreement between the charter
297 schools that has been approved by the sponsor.

298 7. Students living in a development in which a developer,
299 including any affiliated business entity or charitable
300 foundation, contributes to the formation, acquisition,
301 construction, or operation of one or more charter schools or
302 charter ~~provides the school facilities facility~~ and related
303 property in an amount equal to or having a total ~~an~~ appraised
304 value of at least \$5 million to be used as a charter schools
305 ~~school~~ to mitigate the educational impact created by the
306 development of new residential dwelling units. Students living
307 in the development ~~are shall be~~ entitled to ~~no more than~~ 50
308 percent of the student stations in the charter schools ~~school~~.
309 The students who are eligible for enrollment are subject to a
310 random lottery, the racial/ethnic balance provisions, or any
311 federal provisions, as described in subparagraph 4. The
312 remainder of the student stations must ~~shall~~ be filled in
313 accordance with subparagraph 4.

314 Section 2. Paragraph (b) of subsection (3), subsection (5),
315 and paragraph (a) of subsection (11) of section 1002.394,
316 Florida Statutes, are amended to read:

317 1002.394 The Family Empowerment Scholarship Program.—



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318 (3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible
319 for a Family Empowerment Scholarship under this section if the
320 student meets the following criteria:

321 (b) 1. The student is eligible to enroll in kindergarten or
322 has spent the prior school year in attendance at a Florida
323 public school; or

324 2. Beginning with the 2020-2021 school year, the student
325 received a scholarship pursuant to s. 1002.395 during the
326 previous school year and, before initial receipt of such
327 scholarship, spent the prior school year in attendance at a
328 Florida public school.

329
330 For purposes of this paragraph, the term "prior school year in
331 attendance" means that the student was enrolled and reported by
332 a school district for funding during the preceding October and
333 February Florida Education Finance Program surveys in
334 kindergarten through grade 12, which includes time spent in a
335 Department of Juvenile Justice commitment program if funded
336 under the Florida Education Finance Program. However, a
337 dependent child of a member of the United States Armed Forces
338 who transfers to a school in this state from out of state or
339 from a foreign country due to a parent's permanent change of
340 station orders or a foster child is exempt from the prior public
341 school attendance requirement under this paragraph, but must
342 meet the other eligibility requirements specified under this
343 section to participate in the program.

344 (5) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for
345 a Family Empowerment Scholarship while he or she is:

346 (a) Enrolled in a public school, including, but not limited



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347 to, the Florida School for the Deaf and the Blind, the College-
348 Preparatory Boarding Academy, a developmental research school
349 authorized under s. 1002.32, or a charter school authorized
350 under this chapter;

351 (b) Enrolled in a school operating for the purpose of
352 providing educational services to youth in a Department of
353 Juvenile Justice commitment program;

354 (c) Receiving any other educational scholarship pursuant to
355 this chapter;

356 (d) Participating in a home education program as defined in
357 s. 1002.01(1);

358 (e) Participating in a private tutoring program pursuant to
359 s. 1002.43; or

360 (f) Participating in a virtual school, correspondence
361 school, or distance learning program that receives state funding
362 pursuant to the student's participation, unless the
363 participation is limited to no more than two courses per school
364 year.

365 (11) SCHOLARSHIP FUNDING AND PAYMENT.—

366 (a) The scholarship is established for up to 18,000
367 students annually on a first-come, first-served basis beginning
368 ~~in with~~ the 2019-2020 school year. Beginning in the 2020-2021
369 school year, the maximum number of students participating in the
370 scholarship program under this section shall ~~may~~ annually
371 increase by 1.0 ~~0.25~~ percent of the state's total public school
372 student enrollment.

373 Section 3. Subsection (3) and paragraph (e) of subsection
374 (6) of section 1002.395, Florida Statutes, are amended to read:
375 1002.395 Florida Tax Credit Scholarship Program.—



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376 (3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

377 (a) The Florida Tax Credit Scholarship Program is
378 established.

379 (b) A student is eligible for a Florida tax credit
380 scholarship under this section if the student meets one or more
381 of the following criteria:

382 1. The student is on the direct certification list or the
383 student's household income level does not exceed 260 ~~185~~ percent
384 of the federal poverty level; or

385 2. The student is currently placed, or during the previous
386 state fiscal year was placed, in foster care or in out-of-home
387 care as defined in s. 39.01.

388 ~~3. The student's household income level is greater than 185~~
389 ~~percent of the federal poverty level but does not exceed 260~~
390 ~~percent of the federal poverty level.~~

391
392 Priority must be given to students whose household income levels
393 do not exceed 185 percent of the federal poverty level or who

394 are in foster care or out-of-home care. A student who initially
395 receives a scholarship based on eligibility under this paragraph
396 ~~subparagraph (b)2.~~ remains eligible to participate until he or
397 ~~she the student~~ graduates from high school or attains the age of
398 21 years, whichever occurs first, regardless of the student's
399 household income level. ~~A student who initially received a~~
400 ~~scholarship based on income eligibility before the 2019-2020~~
401 ~~school year remains eligible to participate until he or she~~
402 ~~graduates from high school, attains the age of 21 years, or the~~
403 ~~student's household income level exceeds 260 percent of the~~
404 ~~federal poverty level, whichever occurs first.~~ A sibling of a



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405 student who is participating in the scholarship program under
406 this subsection is eligible for a scholarship if the student
407 resides in the same household as the sibling.

408 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
409 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
410 organization:

411 (e) Must give first priority to eligible students who
412 received a scholarship from an eligible nonprofit scholarship-
413 funding organization or from the State of Florida during the
414 previous school year. ~~Beginning in the 2016-2017 school year, an~~
415 ~~eligible nonprofit scholarship funding organization shall give~~
416 ~~priority to new applicants whose household income levels do not~~
417 ~~exceed 185 percent of the federal poverty level or who are in~~
418 ~~foster care or out-of-home care.~~

419 Information and documentation provided to the Department of
420 Education and the Auditor General relating to the identity of a
421 taxpayer that provides an eligible contribution under this
422 section shall remain confidential at all times in accordance
423 with s. 213.053.

424 Section 4. Paragraph (b) of subsection (2), paragraph (b)
425 of subsection (3), and paragraph (a) of subsection (4) of
426 section 1004.04, Florida Statutes, are amended, and paragraphs
427 (d) and (e) are added to subsection (3) of that section, to
428 read:

429 read:
430 1004.04 Public accountability and state approval for
431 teacher preparation programs.—

432 (2) UNIFORM CORE CURRICULA AND CANDIDATE ASSESSMENT.—

433 (b) The rules to establish uniform core curricula for each



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434 state-approved teacher preparation program must include, but are
435 not limited to, the following:

436 1. Candidate instruction and assessment in the Florida
437 Educator Accomplished Practices across content areas.

438 2. The use of state-adopted content standards to guide
439 curricula and instruction.

440 3. ~~Evidence-based Scientifically researched and evidence-~~
441 ~~based~~ reading instructional strategies that improve reading
442 performance for all students, including explicit, systematic,
443 and sequential approaches to teaching phonemic awareness,
444 phonics, vocabulary, fluency, and text comprehension and
445 multisensory intervention strategies.

446 4. Content literacy and mathematics practices.

447 5. Strategies appropriate for the instruction of English
448 language learners.

449 6. Strategies appropriate for the instruction of students
450 with disabilities.

451 7. Strategies to differentiate instruction based on student
452 needs.

453 8. The use of character-based classroom management.

454 9. Mental health strategies and support.

455 (3) INITIAL STATE PROGRAM APPROVAL.—

456 (b) Each teacher preparation program approved by the
457 Department of Education, as provided for by this section, shall
458 require students, at a minimum, to meet, ~~at a minimum, the~~
459 ~~following as prerequisites for admission into the program:~~

460 1. Have a grade point average of at least 2.5 on a 4.0
461 scale for the general education component of undergraduate
462 studies or have completed the requirements for a baccalaureate



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463 degree with a minimum grade point average of 2.5 on a 4.0 scale
464 from any college or university accredited by a regional
465 accrediting association as defined by State Board of Education
466 rule or any college or university otherwise approved pursuant to
467 State Board of Education rule.

468 2. Demonstrate mastery of general knowledge ~~sufficient for~~
469 ~~entry into the program~~, including the ability to read, write,
470 and perform in mathematics, by passing the General Knowledge
471 Test of the Florida Teacher Certification Examination or, for a
472 graduate level program, obtain a baccalaureate degree from an
473 institution that is accredited or approved pursuant to the rules
474 of the State Board of Education.

475 ~~Each teacher preparation program may waive these admissions~~
476 ~~requirements for up to 10 percent of the students admitted.~~
477 ~~Programs shall implement strategies to ensure that students~~
478 ~~admitted under a waiver receive assistance to demonstrate~~
479 ~~competencies to successfully meet requirements for certification~~
480 ~~and shall annually report to the Department of Education the~~
481 ~~status of each candidate admitted under such a waiver.~~

482 (d) Each program must include the opportunity for the
483 candidate to complete coursework to obtain a required
484 endorsement in the candidate's chosen teaching field.

485 (e) Each program must include, in addition to the core
486 standards for effective education, instruction in the training
487 required of certified instructional personnel, including, but
488 not limited to:

489 1. Identification, intervention, and prevention of child
490 abuse, abandonment, and neglect;
491



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492 2. Integration of technology into classroom teaching;
493 3. Management, assessment, and monitoring of student
494 learning and performance;
495 4. Skills in classroom management, violence prevention,
496 conflict resolution, and related areas;
497 5. Developmental disabilities pursuant to s. 1012.582;
498 6. Youth suicide awareness and prevention pursuant to s.
499 1012.583; and
500 7. Youth mental health awareness and assistance pursuant to
501 s. 1012.584.

502 (4) CONTINUED PROGRAM APPROVAL.—Continued approval of a
503 teacher preparation program shall be based upon evidence that
504 the program continues to implement the requirements for initial
505 approval and upon significant, objective, and quantifiable
506 measures of the program and the performance of the program
507 completers.

508 (a) The criteria for continued approval must include each
509 of the following:

510 1. Documentation from the program that each program
511 candidate met the admission requirements provided in subsection
512 (3).

513 2. Documentation from the program that the program and each
514 program completer have met the requirements provided in
515 subsection (2).

516 3. Evidence of performance in each of the following areas:

517 a. Placement rate of program completers into instructional
518 positions in Florida public schools and private schools, if
519 available.

520 b. Rate of retention for employed program completers in



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521 instructional positions in Florida public schools.

522 c. Performance of students in prekindergarten through grade
523 12 who are assigned to in-field program completers on statewide
524 assessments using the results of the student learning growth
525 formula adopted under s. 1012.34.

526 d. Performance of students in prekindergarten through grade
527 12 who are assigned to in-field program completers aggregated by
528 student subgroup, as defined in the federal Elementary and
529 Secondary Education Act (ESEA), 20 U.S.C. s.
530 6311(b)(2)(C)(v)(II), as a measure of how well the program
531 prepares teachers to work with a diverse population of students
532 in a variety of settings in Florida public schools.

533 e. Results of program completers' annual evaluations in
534 accordance with the timeline as set forth in s. 1012.34.

535 f. Production of program completers in statewide critical
536 teacher shortage areas as identified in s. 1012.07.

537 4. Results of the program completers' survey measuring
538 their satisfaction with preparation for the realities of the
539 classroom.

540 5. Results of the employers' survey measuring satisfaction
541 with the program and the program's responsiveness to local
542 school districts. The survey must include the employers'
543 assessment of the student's proficiency in the use of state-
544 adopted content standards and general preparation for the
545 classroom.

546 Section 5. Paragraph (a) of subsection (3) and subsection
547 (5) of section 1004.85, Florida Statutes, are amended to read:
548 1004.85 Postsecondary educator preparation institutes.-
549 (3) Educator preparation institutes approved pursuant to



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550 this section may offer competency-based certification programs
551 specifically designed for noneducation major baccalaureate
552 degree holders to enable program participants to meet the
553 educator certification requirements of s. 1012.56. An educator
554 preparation institute choosing to offer a competency-based
555 certification program pursuant to the provisions of this section
556 must implement a program previously approved by the Department
557 of Education for this purpose or a program developed by the
558 institute and approved by the department for this purpose.
559 Approved programs shall be available for use by other approved
560 educator preparation institutes.

561 (a) Within 90 days after receipt of a request for approval,
562 the Department of Education shall approve a preparation program
563 pursuant to the requirements of this subsection or issue a
564 statement of the deficiencies in the request for approval. The
565 department shall approve a certification program if the
566 institute provides evidence of the institute's capacity to
567 implement a competency-based program that includes each of the
568 following:

569 1.a. Participant instruction and assessment in the Florida
570 Educator Accomplished Practices across content areas.

571 b. The use of state-adopted student content standards to
572 guide curriculum and instruction.

573 c. Scientifically researched and evidence-based reading
574 instructional strategies that improve reading performance for
575 all students, including explicit, systematic, and sequential
576 approaches to teaching phonemic awareness, phonics, vocabulary,
577 fluency, and text comprehension and multisensory intervention
578 strategies.



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- 579 d. Content literacy and mathematical practices.
580 e. Strategies appropriate for instruction of English
581 language learners.
582 f. Strategies appropriate for instruction of students with
583 disabilities.
584 g. Strategies to differentiate instruction based on student
585 needs.
586 h. The use of character-based classroom management.
587 2. An educational plan for each participant to meet
588 certification requirements and demonstrate his or her ability to
589 teach the subject area for which the participant is seeking
590 certification, which is based on an assessment of his or her
591 competency in the areas listed in subparagraph 1.
592 3. Field experiences appropriate to the certification
593 subject area specified in the educational plan with a diverse
594 population of students in a variety of challenging environments,
595 including, but not limited to, high-poverty schools, urban
596 schools, and rural schools, under the supervision of qualified
597 educators.
598 4. A certification ombudsman to facilitate the process and
599 procedures required for participants who complete the program to
600 meet any requirements related to the background screening
601 pursuant to s. 1012.32 and educator professional or temporary
602 certification pursuant to s. 1012.56.
603 5. The opportunity for a candidate to complete coursework
604 to obtain a required endorsement in the candidate's chosen
605 teaching field.
606 6. In addition to the core standards for effective
607 education, instruction in the training required of certified



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- 608 instructional personnel, including, but not limited to:
609 a. Identification, intervention, and prevention of child
610 abuse, abandonment, and neglect;
611 b. Integration of technology into classroom teaching;
612 c. Management, assessment, and monitoring of student
613 learning and performance;
614 d. Skills in classroom management, violence prevention,
615 conflict resolution, and related areas;
616 e. Developmental disabilities pursuant to s. 1012.582;
617 f. Youth suicide awareness and prevention pursuant to s.
618 1012.583; and
619 g. Youth mental health awareness and assistance pursuant to
620 s. 1012.584.
621 (5) Each institute approved pursuant to this section shall
622 submit to the Department of Education annual performance
623 evaluations that measure the effectiveness of the programs,
624 including the pass rates of participants on all examinations
625 required for teacher certification, employment rates,
626 longitudinal retention rates, and satisfaction surveys of
627 employers and candidates. The satisfaction surveys must be
628 designed to measure the sufficient preparation of the educator
629 for the student's proficiency in the use of state-adopted
630 content standards, the realities of the classroom, and the
631 institute's responsiveness to local school districts. These
632 evaluations shall be used by the Department of Education for
633 purposes of continued approval of an educator preparation
634 institute's certification program.
635 Section 6. Present paragraphs (c) through (g) of subsection
636 (3) of section 1008.22, Florida Statutes, are redesignated as



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637 paragraphs (d) through (h), respectively, and a new paragraph
638 (c) is added to that subsection, to read:
639 1008.22 Student assessment program for public schools.—
640 (3) STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.—The
641 Commissioner of Education shall design and implement a
642 statewide, standardized assessment program aligned to the core
643 curricular content established in the Next Generation Sunshine
644 State Standards. The commissioner also must develop or select
645 and implement a common battery of assessment tools that will be
646 used in all juvenile justice education programs in the state.
647 These tools must accurately measure the core curricular content
648 established in the Next Generation Sunshine State Standards.
649 Participation in the assessment program is mandatory for all
650 school districts and all students attending public schools,
651 including adult students seeking a standard high school diploma
652 under s. 1003.4282 and students in Department of Juvenile
653 Justice education programs, except as otherwise provided by law.
654 If a student does not participate in the assessment program, the
655 school district must notify the student's parent and provide the
656 parent with information regarding the implications of such
657 nonparticipation. The statewide, standardized assessment program
658 shall be designed and implemented as follows:
659 (c) Nationally recognized high school assessments.—
660 1. Beginning with the 2020-2021 school year, each school
661 district shall provide for the administration of the SAT or the
662 ACT to each public school student in grade 11 in the district,
663 including students attending public high schools, alternative
664 schools, and centers of the Department of Juvenile Justice.
665 2. School districts must choose either the SAT or the ACT



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666 for districtwide administration.
667 3. Funding for the SAT and the ACT for all grade 11
668 students shall be as provided in the General Appropriations Act.
669 Section 7. Subsection (4) of section 1011.61, Florida
670 Statutes, is amended to read:
671 1011.61 Definitions.—Notwithstanding the provisions of s.
672 1000.21, the following terms are defined as follows for the
673 purposes of the Florida Education Finance Program:
674 (4) The maximum value for funding a student in kindergarten
675 through grade 12 or in a prekindergarten program for exceptional
676 children as provided in s. 1003.21(1)(e) shall be the sum of the
677 calculations in paragraphs (a), (b), and (c) as calculated by
678 the department.
679 (a) The sum of the student's full-time equivalent student
680 membership value for the school year or the equivalent derived
681 from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-
682 subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and
683 subsection (2). If the sum is greater than 1.0, the full-time
684 equivalent student membership value for each program or course
685 shall be reduced by an equal proportion so that the student's
686 total full-time equivalent student membership value is equal to
687 1.0.
688 (b) If the result in paragraph (a) is less than 1.0 full-
689 time equivalent student and the student has full-time equivalent
690 student enrollment pursuant to sub-sub-subparagraph
691 (1)(c)1.b.(VIII), calculate an amount that is the lesser of the
692 value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of
693 1.0 less the value in paragraph (a).
694 (c) The full-time equivalent student enrollment value in



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695 sub-subparagraph (1)(c)2.a.

696

697 A scholarship award provided to a student enrolled in the John
698 M. McKay Scholarships for Students with Disabilities Program
699 pursuant to s. 1002.39 or the Family Empowerment Scholarship
700 Program pursuant to s. 1002.394 is not subject to the maximum
701 value for funding a student under this subsection.

702 Section 8. Paragraph (i) of subsection (1) of section
703 1011.62, Florida Statutes, is amended to read:

704 1011.62 Funds for operation of schools.—If the annual
705 allocation from the Florida Education Finance Program to each
706 district for operation of schools is not determined in the
707 annual appropriations act or the substantive bill implementing
708 the annual appropriations act, it shall be determined as
709 follows:

710 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
711 OPERATION.—The following procedure shall be followed in
712 determining the annual allocation to each district for
713 operation:

714 (i) *Calculation of full-time equivalent membership with*
715 *respect to dual enrollment instruction.—*

716 1. Full-time equivalent students.—Students enrolled in dual
717 enrollment instruction pursuant to s. 1007.271 may be included
718 in calculations of full-time equivalent student memberships for
719 basic programs for grades 9 through 12 by a district school
720 board. Instructional time for dual enrollment may vary from 900
721 hours; however, the full-time equivalent student membership
722 value shall be subject to the provisions in s. 1011.61(4). Dual
723 enrollment full-time equivalent student membership shall be



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724 calculated in an amount equal to the hours of instruction that
725 would be necessary to earn the full-time equivalent student
726 membership for an equivalent course if it were taught in the
727 school district. Students in dual enrollment courses may also be
728 calculated as the proportional shares of full-time equivalent
729 enrollments they generate for a Florida College System
730 institution or university conducting the dual enrollment
731 instruction. Early admission students shall be considered dual
732 enrollments for funding purposes. Students may be enrolled in
733 dual enrollment instruction provided by an eligible independent
734 college or university and may be included in calculations of
735 full-time equivalent student memberships for basic programs for
736 grades 9 through 12 by a district school board. However, those
737 provisions of law which exempt dual enrolled and early admission
738 students from payment of instructional materials and tuition and
739 fees, including laboratory fees, shall not apply to students who
740 select the option of enrolling in an eligible independent
741 institution. An independent college or university, which is not
742 for profit, is accredited by a regional or national accrediting
743 agency recognized by the United States Department of Education,
744 and confers degrees as defined in s. 1005.02 shall be eligible
745 for inclusion in the dual enrollment or early admission program.
746 Students enrolled in dual enrollment instruction shall be exempt
747 from the payment of tuition and fees, including laboratory fees.
748 No student enrolled in college credit mathematics or English
749 dual enrollment instruction shall be funded as a dual enrollment
750 unless the student has successfully completed the relevant
751 section of the entry-level examination required pursuant to s.
752 1008.30.



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753 2. Additional full-time equivalent student membership.--For
754 students enrolled in a program pursuant to s. 1007.273, a value
755 of 0.16 full-time equivalent student membership shall be
756 calculated for each student who completes a general education
757 core course through the dual enrollment program with a grade of
758 "B" or better. For students who are not enrolled in a program
759 pursuant to s. 1007.273, a value of 0.08 full-time equivalent
760 student membership shall be calculated for each student who
761 completes a general education core course through the dual
762 enrollment program with a grade of "B" or better. In addition, a
763 value of 0.3 full-time equivalent student membership shall be
764 calculated for any student who receives an associate degree
765 through the dual enrollment program with a 3.0 grade point
766 average or better. This value shall be added to the total full-
767 time equivalent student membership in basic programs for grades
768 9 through 12 in the subsequent fiscal year. This section shall
769 be effective for credit earned by dually enrolled students for
770 courses taken in the 2020-2021 school year and each school year
771 thereafter. If the associate degree pursuant to this
772 subparagraph is earned in 2020-2021 following completion of
773 courses taken in the 2020-2021 school year, then courses taken
774 towards the degree as part of the dual enrollment program prior
775 to 2020-2021 may not preclude eligibility for the 0.3 additional
776 full-time equivalent student membership bonus. Each school
777 district shall allocate at least 50 percent of the funds
778 received from the dual enrollment bonus FTE funding, in
779 accordance with this paragraph, to the schools that generated
780 the funds to support student academic guidance and postsecondary
781 readiness.



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782 3. Qualifying courses.--For the purposes of this paragraph,
783 general education core courses are those that are identified in
784 rule by the State Board of Education and in regulation by the
785 Board of Governors pursuant to s. 1007.25(3).
786 Section 9. Subsection (5) of section 1012.56, Florida
787 Statutes, is amended to read:
788 1012.56 Educator certification requirements.--
789 (5) MASTERY OF SUBJECT AREA KNOWLEDGE.--Acceptable means of
790 demonstrating mastery of subject area knowledge are:
791 (a) For a subject requiring only a baccalaureate degree, a
792 baccalaureate degree with a major in the subject area, conferred
793 within the last 10 years from an accredited or approved
794 institution as defined in rule 6A-4.003, Florida Administrative
795 Code;
796 (b)(a) For a subject requiring only a baccalaureate degree
797 for which a Florida subject area examination has been developed,
798 achievement of a passing score on the Florida-developed subject
799 area examination specified in state board rule;
800 (c)(b) For a subject for which a Florida subject area
801 examination has not been developed, achievement of a passing
802 score on a standardized examination specified in state board
803 rule, including, but not limited to, passing scores on both the
804 oral proficiency and written proficiency examinations
805 administered by the American Council on the Teaching of Foreign
806 Languages;
807 (d)(c) For a subject for which a Florida subject area
808 examination has not been developed or a standardized examination
809 has not been specified in state board rule, completion of the
810 subject area specialization requirements specified in state



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811 board rule and verification of the attainment of the essential
812 subject matter competencies by the district school
813 superintendent of the employing school district or chief
814 administrative officer of the employing state-supported or
815 private school;

816 ~~(e)~~(d) For a subject requiring a master's or higher degree,
817 completion of the subject area specialization requirements
818 specified in state board rule and achievement of a passing score
819 on the Florida-developed subject area examination or a
820 standardized examination specified in state board rule;

821 ~~(f)~~(e) Documentation of a valid professional standard
822 teaching certificate issued by another state;

823 ~~(g)~~(f) Documentation of a valid certificate issued by the
824 National Board for Professional Teaching Standards or a national
825 educator credentialing board approved by the State Board of
826 Education;

827 ~~(h)~~(g) Documentation of successful completion of a United
828 States Defense Language Institute Foreign Language Center
829 program; or

830 ~~(i)~~(h) Documentation of a passing score on the Defense
831 Language Proficiency Test (DLPT).

832
833 School districts are encouraged to provide mechanisms for middle
834 grades teachers holding only a K-6 teaching certificate to
835 obtain a subject area coverage for middle grades through
836 postsecondary coursework or district add-on certification.

837 Section 10. Paragraph (g) is added to subsection (3) of
838 section 1012.585, Florida Statutes, to read:

839 1012.585 Process for renewal of professional certificates.-



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840 (3) For the renewal of a professional certificate, the
841 following requirements must be met:

842 (g) A teacher may earn inservice points only once during
843 each 5-year validity period for any mandatory training topic
844 that is not linked to student learning or professional growth.

845 Section 11. Subsections (5), (6), and (9) of section
846 1012.79, Florida Statutes, are amended to read:

847 1012.79 Education Practices Commission; organization.-

848 (5) The Commissioner of Education, with the advice and
849 consent of the commission chair, is responsible for appointing,
850 and may remove, commission, by a vote of three fourths of the
851 membership, shall employ an executive director, who shall be
852 exempt from career service. The executive director shall have
853 administrative duties, as determined by the Commissioner of
854 Education. The executive director may not impact or influence
855 decisions of the commission. The executive director may be
856 dismissed by a majority vote of the membership.

857 (6) (a) The commission shall be assigned to the Department
858 of Education for administrative and fiscal accountability
859 purposes. The commission, in the performance of its powers and
860 duties, shall not be subject to control, supervision, or
861 direction by the Department of Education.

862 (b) The property, personnel, and appropriations related to
863 the specified authority, powers, duties, and responsibilities of
864 the commission shall be provided to the commission by the
865 Department of Education.

866 (9) The commission shall make such expenditures as may be
867 necessary in exercising its authority and powers and carrying
868 out its duties and responsibilities, including expenditures for



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869 personal services, ~~legal services general counsel or access to~~
870 ~~counsel~~, and rent at the seat of government and elsewhere; for
871 books of reference, periodicals, furniture, equipment, and
872 supplies; and for printing and binding. The expenditures of the
873 commission shall be subject to the powers and duties of the
874 Department of Financial Services as provided in s. 17.03.

875 Section 12. Subsection (5) of section 1012.98, Florida
876 Statutes, is amended, and subsections (13), (14), and (15) are
877 added to that section, to read:

878 1012.98 School Community Professional Development Act.—

879 (5) Each district school board shall provide funding for
880 the professional development system as required by s. 1011.62
881 and the General Appropriations Act, and shall direct
882 expenditures from other funding sources to continuously
883 strengthen the system in order to increase student achievement
884 and support instructional staff in enhancing rigor and relevance
885 in the classroom. Each district school board shall calculate a
886 proportionate share of professional development funds for each
887 classroom teacher and allow each classroom teacher to use up to
888 25 percent of the proportionate share on professional
889 development that addresses the academic needs of students or an
890 identified area of professional growth for the classroom
891 teacher. The department shall identify professional development
892 opportunities that require the classroom teacher to demonstrate
893 proficiency in a specific classroom practice. A school district
894 may coordinate its professional development program with that of
895 another district, with an educational consortium, or with a
896 Florida College System institution or university, especially in
897 preparing and educating personnel. Each district school board



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898 shall make available inservice activities to instructional
899 personnel of nonpublic schools in the district and the state
900 certified teachers who are not employed by the district school
901 board on a fee basis not to exceed the cost of the activity per
902 all participants.

903 (13) To assist school district planning for required
904 teacher professional development, by August 1, 2020, the
905 department shall develop a model annual and 5-year calendar that
906 incorporates all state-required professional development. No
907 later than January 1, 2021, school districts shall develop an
908 annual and a 5-year calendar of professional development for
909 inclusion in the professional development system approved by the
910 department pursuant to subsection (4).

911 (14) The department shall develop and maintain a statewide
912 registry of approved professional development providers and
913 professional development activities for use by teachers in this
914 state. The registry is intended to provide educators with high-
915 quality professional development opportunities in addition to
916 those offered by an entity specified in subsection (1).

917 (a) Any professional development provider seeking to be
918 added to the registry must complete an application developed by
919 the department. Approved providers are responsible for notifying
920 the department of any changes to the provider or approved
921 activities using an update form developed by the department. The
922 approval form must include, but is not limited to, requirements
923 that the provider specify:

924 1. Compliance with this section.

925 2. The alignment of professional development activities
926 with professional development standards adopted by the state



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927 board in rule and standards adopted by the National Staff
928 Development Council.

929 3. Professional development activities offered by the
930 provider.

931 4. Qualifications of instructors for the professional
932 development activities to be approved.

933 (b) Providers specified in subsection (1), as well as
934 providers approved by such entities, are not required to seek
935 department approval to offer professional development activities
936 and are not required to be added to the registry. However, such
937 providers that wish to offer statewide professional development
938 opportunities may seek department approval and be added to the
939 registry.

940 (c) Providers approved by the department must maintain
941 information that includes, but is not limited to, the
942 professional development activity, the date of the activity, the
943 hours of instruction, and instructor, if applicable. The
944 approved provider must provide such information to each
945 participant.

946 (d) The department shall review the professional
947 development provider application for compliance with
948 requirements. The department must inform the provider in writing
949 within 90 days after submission of an application regarding the
950 approval or denial of the provider. The approval is valid for a
951 period not to exceed 5 years, after which the provider must
952 reapply.

953 1. Each school district shall accept an approved
954 professional development activity on the registry toward meeting
955 the requirements of s. 1012.585(3).



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956 2. The department shall determine the number of inservice
957 hours to be awarded for completion of each specified
958 professional development activity.

959 (15) There is created the Professional Development Choice
960 Pilot Program to be administered by the department for a period
961 of 3 years, subject to legislative appropriation. The purpose of
962 the pilot program is to provide grants to eligible teachers to
963 select professional learning opportunities that best meet each
964 teacher's individual needs.

965 (a) A teacher may use a pilot program grant for
966 professional development approved by a school district or by a
967 provider approved by the department pursuant to subsection (14).

968 1. Professional development must be aligned with the
969 standards adopted by the state board in rule and standards
970 adopted by the National Staff Development Council.

971 2. Training completed under this subsection must comply
972 with and satisfy the requirements of s. 1012.585(3).

973 3. Professional learning activities may include, but are
974 not limited to, in-person or online training; travel and
975 registration for conferences or workshops; college credit
976 courses; and district professional development certification and
977 education competency programs.

978 (b) To be eligible for a pilot program grant, an individual
979 must:

980 1. Hold a professional certificate issued pursuant to s.
981 1012.56(7)(a);

982 2. Be employed as a classroom teacher, as defined in s.
983 1012.01(2)(a), excluding substitute teachers, by a district
984 school board or by a charter school; and



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985 3. Apply for a grant in a format determined by the
986 department. The application must require an applicant to
987 describe how the professional development activity relates to
988 and will improve instruction in the classroom.

989 (c) Each classroom teacher eligible under paragraph (b) may
990 receive a reimbursement for training pursuant to paragraph (a).
991 The reimbursement for each teacher participating in the pilot
992 program may not exceed \$500 per school year. Each classroom
993 teacher is eligible for one grant per school year. The pilot
994 program grants must be awarded on a first-come, first-served
995 basis.

996 (d) Each school district shall:

997 1. Review a proposed professional development activity to
998 determine alignment with district and individual professional
999 development plans and determine the number of inservice credit
1000 hours to be awarded; and

1001 2. Approve any professional development opportunity
1002 included on the department's registry pursuant to subsection
1003 (13).

1004 (e) The department shall:

1005 1. Maintain a registry of approved providers and
1006 professional development activities pursuant to subsection (14).

1007 2. Establish, no later than August 1, 2020, a grant
1008 application form.

1009 Section 13. Section 1012.981, Florida Statutes, is created
1010 to read:

1011 1012.981 Professional Education Excellence Resources Pilot
1012 Program.—

1013 (1) There is established the Professional Education



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1014 Excellence Resources (PEER) Pilot Program, administered by the
1015 department, to provide school district flexibility to increase
1016 opportunities for professional learning, collaboration with
1017 teachers and leaders, and teacher leadership.

1018 (2) The PEER Pilot Program is established in Clay, Palm
1019 Beach, Pinellas, and Walton Counties.

1020 (3) Participating school districts implementing the PEER
1021 Pilot Program may:

1022 (a) Extend the contract day or the contract year, or both,
1023 for participating teachers for professional development,
1024 collaboration with colleagues, or instructional coaching. A
1025 participating school district that chooses to extend the
1026 contract day or year must, before the start of the 2020-2021
1027 school year, negotiate with the certified collective bargaining
1028 unit for instructional personnel a memorandum of understanding
1029 that addresses the additional duty hours in a week or duty days
1030 in a school year and additional payments based on the salary
1031 scale of the district to teachers who participate in the pilot
1032 program.

1033 (b) Use program funds to:

1034 1. Compensate teachers who are assigned to an extended
1035 school day or school year pursuant to paragraph (a).

1036 2. Hire additional instructional personnel to provide
1037 teachers with additional planning periods or other release time
1038 to complete professional development, collaborate with
1039 colleagues, or perform other appropriate activities.

1040 3. Provide content area specialists to provide support for
1041 teachers' individual needs and professional growth.

1042 4. Provide instructional coaches for participating



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1043 teachers.
1044 5. Provide professional development opportunities.
1045 (4) School districts participating in the pilot program
1046 must collaborate with the department, postsecondary educational
1047 institutions, regional education consortia, the University of
1048 Florida Lastinger Center, or other appropriate organizations to
1049 develop high-quality online professional development
1050 opportunities accessible to instructional personnel statewide.
1051 Such online professional development must:
1052 (a) Be self-paced and available to teachers at any time.
1053 (b) Align with standards for professional development as
1054 described in state board rule.
1055 (c) Protect the private information of participants.
1056 (d) Satisfy requirements for renewal of an educator
1057 certificate.
1058 (e) Include online assessments with timely feedback to
1059 evaluate participant learning measured against program goals.
1060 (5) Participating school districts may use program funds to
1061 establish a master teacher program. The master teacher program
1062 provides accomplished teachers the opportunity to innovate and
1063 improve classroom practices, facilitate improved professional
1064 development, and improve instructional quality through
1065 collaboration with teachers and leaders. School districts shall
1066 determine the specific roles assigned to a master teacher.
1067 (a) Each master teacher program must include, but is not
1068 limited to:
1069 1. Providing release time for planning and meeting with
1070 teachers and leaders;
1071 2. Additional professional development opportunities, to



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1072 include participation in local and national conferences or
1073 payments for college credit courses to increase skills or obtain
1074 a higher university degree; and
1075 3. Monetary compensation.
1076 (b) School districts may select for the master teacher
1077 program teachers who were rated highly effective in the previous
1078 school year and may determine other selection criteria, which
1079 may include, but are not limited to, information in performance
1080 evaluations, peer reviews, demonstration of content expertise,
1081 principal recommendation, or candidate interviews.
1082 (c) Each participating school district must collaborate
1083 with the department and with the University of Florida Lastinger
1084 Center to develop a master teacher academy to support
1085 instructional personnel statewide. The master teacher academy
1086 must:
1087 1. Provide recommendations for the selection, training, and
1088 support of district master teachers.
1089 2. Create a bank of online professional development tools
1090 that serve as exemplars for instructional best practices. Such
1091 content may include pedagogy, instructional delivery,
1092 professional learning communities, collaboration, personalized
1093 learning, teacher and student or parent conferencing, positive
1094 behavior supports, and using data to improve instruction.
1095 3. Provide instructional coaching for school-based leaders
1096 and principal supervisors. The content must focus on providing
1097 teachers with actionable feedback on performance.
1098 (6) Each school district participating in the PEER Pilot
1099 Program must annually, by August 1, report to the Governor, the
1100 President of the Senate, the Speaker of the House of



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1101 Representatives, and the department on the performance of the
1102 pilot program. Each report must include, but is not limited to:
1103 (a) The use of the pilot program funds.
1104 (b) The impact of the pilot program on student achievement.
1105 (c) The impact of the pilot program on teacher annual
1106 evaluations.
1107 (d) The results of satisfaction surveys given to pilot
1108 program participants.
1109 (e) Recommendations for continuation of the pilot program
1110 and for scaling the pilot program for statewide implementation.
1111 (7) The State Board of Education shall adopt rules to
1112 administer this section.
1113 (8) This section shall be implemented only to the extent
1114 specifically funded and authorized by law.
1115 Section 14. Pathways in Technology Early College High
1116 School (P-TECH) program.-
1117 (1) By December 1, 2020, the Commissioner of Education
1118 shall submit to the Governor, the President of the Senate, the
1119 Speaker of the House of Representatives, the Board of Governors,
1120 and the State Board of Education a report with recommendations
1121 that address the feasibility of implementing the Pathways in
1122 Technology Early College High School (P-TECH) program, or a
1123 similar program, in Florida. The P-TECH program must:
1124 (a) Incorporate secondary and postsecondary education with
1125 workforce education and work experience through a flexible 6-
1126 year integrated model.
1127 (b) Allow students to earn a high school diploma, an
1128 associate degree, and applicable industry certifications and
1129 gain work experience within 6 years after enrolling in the 9th



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1130 grade.
1131 (c) Have an open enrollment policy that encourages a
1132 diverse student body, including students from low-income
1133 families and first-generation college students.
1134 (d) Support student success through flexible class
1135 scheduling, advising and mentoring components, and other wrap-
1136 around services.
1137 (e) Provide seamless articulation with Florida's
1138 postsecondary institutions.
1139 (2) The report must, at a minimum, include all of the
1140 following:
1141 (a) Timelines for implementing a P-TECH program, or a
1142 similar program, as described in subsection (1), including
1143 courses of study which support program completion in 4 to 6
1144 years and which meet regional workforce demand.
1145 (b) A funding model that provides the P-TECH program, or a
1146 similar program, at no cost to students. The funding model may
1147 incorporate K-12, postsecondary, and workforce funding, grants,
1148 scholarships, and other funding options.
1149 (c) Partnerships with industries and businesses, which
1150 include private investment, work-based training, internships,
1151 and priority placement for job opportunities upon graduation.
1152 (d) Recommendations for modifications, if any, to the
1153 school and school district accountability requirements of s.
1154 1008.34, Florida Statutes.
1155 (3) This section shall take effect upon this act becoming a
1156 law and shall expire on December 1, 2020.
1157 Section 15. Subsection (1) of section 1012.586, Florida
1158 Statutes, is amended to read:



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1159 1012.586 Additions or changes to certificates; duplicate
1160 certificates.—A school district may process via a Department of
1161 Education website certificates for the following applications of
1162 public school employees:

1163 (1) Addition of a subject coverage or endorsement to a
1164 valid Florida certificate on the basis of the completion of the
1165 appropriate subject area testing requirements of s.
1166 1012.56(5)(b) ~~s. 1012.56(5)(a)~~ or the completion of the
1167 requirements of an approved school district program or the
1168 inservice components for an endorsement.

1169 (a) To reduce duplication, the department may recommend the
1170 consolidation of endorsement areas and requirements to the State
1171 Board of Education.

1172 (b) By July 1, 2018, and at least once every 5 years
1173 thereafter, the department shall conduct a review of existing
1174 subject coverage or endorsement requirements in the elementary,
1175 reading, and exceptional student educational areas. The review
1176 must include reciprocity requirements for out-of-state
1177 certificates and requirements for demonstrating competency in
1178 the reading instruction professional development topics listed
1179 in s. 1012.98(4)(b)11. The review must also consider the award
1180 of an endorsement to an individual who holds a certificate
1181 issued by an internationally recognized organization that
1182 establishes standards for providing evidence-based interventions
1183 to struggling readers or who completes a postsecondary program
1184 that is accredited by such organization. Any such certificate or
1185 program must require an individual who completes the certificate
1186 or program to demonstrate competence in reading intervention
1187 strategies through clinical experience. At the conclusion of



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1188 each review, the department shall recommend to the state board
1189 changes to the subject coverage or endorsement requirements
1190 based upon any identified instruction or intervention strategies
1191 proven to improve student reading performance. This paragraph
1192 does not authorize the state board to establish any new
1193 certification subject coverage.

1194
1195 The employing school district shall charge the employee a fee
1196 not to exceed the amount charged by the Department of Education
1197 for such services. Each district school board shall retain a
1198 portion of the fee as defined in the rules of the State Board of
1199 Education. The portion sent to the department shall be used for
1200 maintenance of the technology system, the web application, and
1201 posting and mailing of the certificate.

1202 Section 16. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 1220

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Diaz

SUBJECT: K-12 Scholarship Programs

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|----------------|------------|--------------------------|
| 1. | <u>Bouck</u> | <u>Sikes</u> | <u>ED</u> | <u>Fav/CS</u> |
| 2. | <u>Underhill</u> | <u>Elwell</u> | <u>AED</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Underhill</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1220 modifies provisions in the Family Empowerment Scholarship (FES) program, the Florida Tax Credit (FTC) scholarship program, and the Hope Scholarship Program (HSP) in order to establish a priority order for award of FES and FTC scholarships, and to ensure renewal FTC scholarship students are able to retain a state scholarship. Specifically, the bill:

- Modifies the Florida Tax Credit Scholarship program to:
 - Specify that a student who receives an FTC scholarship remains eligible until high school graduation or age 21, regardless of the student's household income level.
 - Require each eligible nonprofit scholarship-funding organization (SFO) to refer any student who does not get a renewal FTC scholarship because of a lack of available funds to another SFO that may have available funds.
- Modifies the Family Empowerment Scholarship program to:
 - Establish a priority order for award of an FES, which includes a student who received an FTC scholarship in the previous school year but did not receive a renewal scholarship because of a lack of available funds.
 - Require the Department of Education to maintain and publish a list of nationally norm-referenced tests and to establish deadlines relating to applications, renewal notifications, and verification of student eligibility.
 - Require each private school to report test scores of students receiving a FES to a specified state university.

- Change the annual growth of the FES from 0.25 percent to 1.0 percent of the state's total public school enrollment.
- Allow the maximum household income level for eligibility to increase by 25 percent in any year following a fiscal year in which more than 5 percent of available FES scholarships are not awarded.
- Modifies the HSP to specify that an SFO that uses excess contributions to the HSP to fund FTC scholarships must prioritize renewal scholarships before awarding any initial scholarships.

Revising the increase for maximum student participation in the FES from 0.25 percent (roughly 7,000 students) to 1.0 percent (roughly 28,000 students) annually may increase the student FTE and state funding needed for the FEFP. In addition, expanding the Florida Empowerment Scholarship (FES) eligibility to include FTC students may increase FTE and state funding needed for the FEFP.

See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Private Education Choice

Present Situation

Many states are expanding school choice options to include private schools in addition to public schools. In total, 27 states and the District of Columbia have enacted policies designed to broaden access to a private education. The three primary policies states have adopted that expand private school choices include:¹

- School vouchers.
- Scholarship tax credits.
- Education savings accounts.

Private Education Choice in Florida

A private school in Florida is an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational

¹ School vouchers are state-funded scholarships that pay for students to attend private school rather than public school. Scholarship tax credits allow individuals and corporations to allocate a portion of their owed state taxes to private nonprofit scholarship organizations that issue public and private school scholarships to K-12 students. Education Savings Accounts are state-funded grants deposited into special savings accounts from which parents can withdraw funds for certain educational expenses. National Conference of State Legislatures, *Private School Choice* <http://www.ncsl.org/research/education/private-school-choice635174504.aspx> (last visited Dec. 18, 2019).

center that includes kindergarten or a higher grade and is below college level. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. A home education program is not considered a private school.²

Florida offers multiple private education choice scholarship programs for students who meet the eligibility requirements. In order to participate in Florida's state school choice scholarship program, private schools must comply with specified requirements.³

Two of Florida's scholarship programs are focused on students from low income families:

- Florida Tax Credit (FTC) Scholarship Program.
- Family Empowerment Scholarship (FES).⁴

Florida Tax Credit Scholarship Program

The FTC Scholarship Program allows for private, voluntary contributions from corporate donors to eligible non-profit scholarship-funding organizations (SFOs) that award scholarships to eligible children from low-income families.⁵ State law requires the SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to public school in which the student is enrolled that is different from the school to which the student was assigned.

To be eligible for an FTC scholarship a student must meet one or more of the following criteria:

- The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level.
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

A student who initially receives a scholarship as a result of being placed in foster care or in out-of-home care remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level. A student who initially received a scholarship based on income eligibility before the 2019-2020 school year remains eligible to participate until he or she graduates from high school, attains the age of 21 years, or the student's household income level exceeds 260 percent of the federal poverty level, whichever occurs first. A sibling of a student who is participating in the scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.⁶

² Section 1002.01(2), F.S.

³ Section 1002.421(1), F.S.

⁴ Section 1002.395(8)(a), F. S.

⁵ The program include credits against the insurance premium tax for contributions to eligible non-profit SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. Section 1002.395(6)(d), F.S.

⁶ Section 1002.395(3), F.S.

A student is not eligible for a scholarship while he or she is enrolled in a Department of Juvenile Justice program; receiving another state educational scholarship; or enrolled in a home education, private tutoring, virtual, correspondence, distance learning program; or enrolled in the Florida School for the Deaf and the Blind.⁷

SFOs must comply with requirements relating to administration of the FTC scholarship program, which include antidiscrimination, background checks, and private school choice. In addition, SFOs must:⁸

- Give first priority to eligible students who received a scholarship from an eligible SFO or from the state during the previous school year; and must also prioritize new applicants whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.
- Provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority established in law.

During the 2018-19 school year, FTC scholarships in the amount of \$644.6 million were awarded to a total of 104,091 students enrolled in 1,825 participating Florida private schools.⁹ More than 109,000 FTC scholarships have been awarded for the 2019-2020 school year.¹⁰

Family Empowerment Scholarship Program

Beginning in the 2019-2020 school year, the FES Program provides educational options to eligible children of families with limited financial resources. A student who receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level.¹¹ Similar to the McKay Scholarship, the FES is funded through the Florida Education Finance Program (FEFP). The program is capped at 18,000 students for the 2019-2020 school year and can annually increase by 0.25 percent of the state's total public school student enrollment.¹²

To be eligible for an FES, a student must meet the following criteria:¹³

- The student is:
 - On the direct certification list pursuant to law or the student's household income level does not exceed 300 percent of the federal poverty level; or
 - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student is eligible to enroll in kindergarten or has spent the prior school year in attendance at a Florida public school. However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign

⁷ Section 1002.395(4), F.S.

⁸ Section 1002.395(6), F.S.

⁹ Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program* (Dec. 18, 2019), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Sept-2019.pdf>.

¹⁰ Email from Amy Graham, Senior Policy Director, Step Up For Students, (Jan. 9, 2020) (on file with the Senate Committee on Education), Email from Patti Froebel, Controller, AAA Scholarship Foundation, (Dec. 18, 2019) (on file with Committee on Education).

¹¹ Section 1002.394(1), F.S.

¹² Section 1002.394(11)(b), F.S.

¹³ Section 1002.394(3), F.S.

country due to a parent's permanent change of station orders or a foster child is exempt from the prior public school attendance requirement.

- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program and the parent has requested a scholarship from the Department of Education at least 60 days before the date of the first scholarship payment.

Priority is given to students whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care. A sibling of a student who is participating in the scholarship program under this subsection is eligible for a scholarship if the student resides in the same household as the sibling.¹⁴

A student is not eligible for an FES while he or she is:¹⁵

- Enrolled in a public school including the Florida School for the Deaf and Blind, College-Prep Boarding Academy, a developmental research school, or a charter school;
- Enrolled in a school operating for the purpose of providing educational services to youth in a Department of Juvenile Justice commitment program;
- Receiving any other educational scholarship pursuant to Florida law;
- Participating in a home education program;
- Participating in a private tutoring program; or
- Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation.

The DOE is required to:¹⁶

- Publish and update, as necessary, information on the DOE website about the FES Program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.
- Cross-check the list of participating scholarship students with the public school enrollment lists before each scholarship payment to avoid duplication.

Among other requirements, to be eligible to participate in the FES program, a private school must annually administer or make provision for students participating in the FES program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the DOE or take the statewide standardized assessments. A participating private school must report a student's scores to his or her parent.¹⁷

An eligible nonprofit SFO:¹⁸

- Must verify the household income level of students and submit the verified list of students and related documentation to the DOE.
- May use a specified amount of the total amount of scholarships for administrative expenses.
- Must, in a timely manner, submit any information requested by the DOE relating to the scholarship under this section.

¹⁴ Section 1002.394(3), F.S.

¹⁵ Section 1002.394(5), F.S.

¹⁶ Section 1002.394(7), F.S.

¹⁷ Section 1002.394(8), F.S.

¹⁸ Section 1002.394(10), F.S.

- Must notify the DOE about any violation of the requirements of the FES program by a parent or a private school.

The FES was initially established for up to 18,000 students annually on a first-come, first-served basis beginning with the 2019-2020 school year. Beginning in the 2020-2021 school year, the number of students participating in the FES program may annually increase by 0.25 percent of the state's total public school student enrollment.¹⁹

As of December 2019, 17,795 FES scholarships were awarded to students for the 2019-2020 school year.²⁰

Hope Scholarship Program

The Hope Scholarship Program (HSP) was established in 2018²¹ to provide the parent of a public school student an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend an eligible private school if that student has been subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school.²²

A tax credit²³ is available for use by a person that makes an eligible contribution.²⁴ Eligible contributions shall be used to fund HSP scholarships and may be used to fund FTC scholarships, with conditions. An SFO may carry forward to the next state fiscal year no more than five percent of net eligible contributions to the HSP. Any amounts carried forward must be expended for annual scholarships or partial-year scholarships in the following state fiscal year, and must be transferred to other eligible nonprofit scholarship-funding organizations participating in the HSP to provide scholarships for eligible students. If no other eligible nonprofit scholarship-funding organization participates in the HSP, net eligible contributions in excess of the 5 percent may be used to fund scholarships for students eligible for a FTC scholarship.²⁵

Effect of Proposed Changes

The bill modifies s. 1002.394, F.S., relating to the Family Empowerment Scholarship (FES) program, s. 1002.395, F.S., relating to the Florida Tax Credit (FTC) scholarship program, and s. 1002.40, F.S., relating to the Hope Scholarship Program (HSP).

¹⁹ Section 1002.394(11)(a), F.S.

²⁰ Includes the school districts for 65 counties, four lab school districts, and the Florida School for the Deaf & the Blind. Email from Jared Ochs, Director of Legislative Affairs, Department of Education, (Jan. 2, 2020) (on file with the Senate Committee on Education).

²¹ Section 16, ch. 2018-6, L.O.F.

²² Section 1002.40(1) and (6), F.S.

²³ The purchaser of a motor vehicle is granted a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization for the Hope Scholarship Program against any tax imposed by the state and collected from the purchaser by a dealer, designated agent, or private tag agent as a result of the purchase or acquisition of a motor vehicle, except that a credit may not exceed the tax that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Section 212.1832(1), F.S.

²⁴ Section 1002.40(13), F.S.

²⁵ Section 1002.40(11)(i), F.S.

Florida Tax Credit Scholarship Program

The bill establishes that first priority for an FTC scholarship is for a student who received a full-time scholarship from an eligible SFO in the previous year. The bill also specifies that priority for an initial FTC scholarship must be given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

The bill requires eligible nonprofit SFOs to apply all funds available under the FTC scholarship program and the Hope Scholarship Program for renewal scholarship awards before awarding any initial scholarships. The bill also requires each eligible nonprofit SFO to refer any student eligible for an FTC scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC scholarship program or HSP to another eligible nonprofit SFO that may have funds available.

The bill modifies continued eligibility requirements to specify that a student eligible for an FTC scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.

Family Empowerment Scholarship Program

The bill modifies initial eligibility for the FES program, which currently sets a maximum household income level of 300 percent of the federal poverty level, by specifying that the maximum household income level will increase by 25 percent in the fiscal year following any fiscal year in which more than 5 percent of the available scholarships authorized under the FES program have not been awarded.

The bill establishes an additional eligibility criterion for FES to include, beginning with the 2020-2021 school year, a student who received an FTC scholarship during the previous school year but did not receive a renewal FTC scholarship based solely on the eligible nonprofit SFO's lack of available funds after the SFO fully exhausts funds under the FTC scholarship program and the HSP. The purpose of this provision is to ensure that FTC scholarship program students will continue to have access to a scholarship program even if contributions to the program decline. The bill requires eligible nonprofit SFOs with such students to annually notify the DOE in a format and by a date established by the DOE.

The bill establishes a priority order for award of an FES, and removes the requirement that the scholarship is awarded on a first-come, first-served basis. The priority order is as follows.

- A student who received and FES during the previous school year and requested a renewal scholarship award.
- A student who received an FTC scholarship in the previous school year but did not receive a renewal scholarship because of a lack of funds under FTC and excess Hope Scholarship contributions; and is on the direct certification list or whose household income does not exceed 185 percent of the federal poverty level, is placed in foster care or in-home care, or has a household income level does not exceed 300 percent of the federal poverty level, or an adjusted maximum.
- A student who is on the direct certification list or whose household income does not exceed 185 percent of the federal poverty level, or is placed in foster care or in-home care; and spent the prior year in full-time attendance at a Florida public school.

- A student who is on the direct certification list or whose household income does not exceed 185 percent of the federal poverty level, or is placed in foster care or in-home care; and is eligible to enroll in kindergarten.
- A student who is in a household with an income level that does not exceed 300 percent of the federal poverty level, or an adjusted maximum; and, in priority order, spent the prior year in full-time attendance at a Florida public school; or is eligible to enroll in kindergarten.

In order to implement the priority order established in the bill, the bill requires:

- The DOE to:
 - Notify eligible nonprofit SFOs of the deadlines for submitting the verified list of students determined to be eligible for an initial or renewal scholarship.
 - Establish deadlines for the receipt of initial applications and renewal notifications in order to implement the established priority order for scholarship awards.
- Parents to request a scholarship by a date established by the DOE, and to annually renew participation in the FES program by the date established by the DOE.
- Eligible nonprofit SFOs to award initial and renewal scholarships in the priority order established in the bill. The SFO must also comply with the deadlines established by the DOE.

Similar to requirements in law for the FTC scholarship program, the bill requires for the FES program:

- The DOE to maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES program testing requirement.
- Each private school to, by August 15 of each year, report the scores of all participating students to a state university for the purpose of annual reporting of performance data.

Finally, the bill increases the annual growth of the FES to specify that, beginning in the 2020-2021 school year, the maximum number of students participating in the FES must annually increase by 1 percent (rather than 0.25 percent currently in law) of the state's total public school student enrollment.

Hope Scholarship Program

The bill specifies that if an SFO uses excess eligible contributions to the HSP to fund FTC scholarships, the SFO must fully exhaust all contributions made to the HSP for renewal FTC scholarship students prior to awarding any initial scholarships.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Increasing the allowable annual growth for student participation in the FES from 0.25 percent of total public school enrollment to 1.0 percent, may increase the student FTE and funding needed for the FEFP. The annual growth in maximum student participation will increase from approximately 7,000 to 28,000 students (over and above the current 18,000).

Expanding the FES eligibility to include a student who received a FTC scholarship may increase the need for additional state funds. Students who move from the FTC scholarship to the FES, would be added to the FTE count and funding for the FEFP. It is unknown at this time how many students would meet the requirements to be reclassified between the two scholarships.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.394, 1002.395, and 1002.40.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute modifies provisions in the bill relating to the Family Empowerment Scholarship (FES) and the Florida Tax Credit (FTC) Scholarship, and adds a provision in the Hope Scholarship Program (HSP).

- Modifies the Family Empowerment Scholarship program to:
 - Modify initial eligibility to establish an adjusted maximum percent of the federal poverty level to conform to a provision in the bill increasing the maximum income level under certain conditions.
 - Establish eligibility for a student who received an FTC scholarship in the previous school year but did not receive a renewal FTC because of a lack of available funds. The committee substitute requires any eligible scholarship-funding organization (SFO) with such students to annually notify the Department of Education.
 - Clarify that “prior school year in attendance” applies to students enrolled full time.
 - Add to the eligibility requirements for parents to request a scholarship that such request be made by the date established by the Department of Education (DOE); and for parents to annually renew participation in the FES program by the date established by the DOE.
 - Establish a priority order for award of a scholarship.
 - Specify that the maximum household income level increases by 25 percent following a fiscal year in which more than 5 percent of the FES are not awarded.
 - Authorize FES to annually increase by 1.0 percent of public school enrollment (rather than 0.25), starting in 2020-2021.
 - Require the DOE to maintain and publish a list of nationally norm-referenced tests; notify SFOs of the deadlines for submitting student eligibility verifications; and establish deadlines for receipt of initial applications and renewal notifications.
 - Require each private school to report test scores to state university, which is similar to the requirement for the FTC scholarship program.
 - Require each SFO to comply with the established priority order for award of a scholarship and with deadlines established by the DOE.
- Modifies the Florida Tax Credit Scholarship program to:
 - Authorize a student to receive an award until high school graduation or age 21, regardless of family income.
 - Clarify that first priority must be given to renewal students who received a full-time scholarship in the previous year.
 - Require SFOs to exhaust all FTC scholarship and Hope Scholarship Program (HSP) funds for renewal scholarships before awarding initial scholarships.
 - Require SFOs to refer students to another SFO those students who did not get an FTC renewal scholarship because of lack of funds.

- Modifies the Hope Scholarship Program to specify that an SFO that uses excess contributions to the HSP to fund an FTC scholarship must prioritize renewal scholarships before awarding any initial scholarships.
- Removes from the bill provisions related to:
 - Initial teacher preparation programs and educator preparation institutes.
 - Educator certification requirements relating to demonstration of subject area competence.
 - The Education Practices Commission.
 - Teacher professional development.

CS by Education on January 21, 2020:

The committee substitute maintains the provisions in the bill, which include

- Modifying initial teacher preparation (ITP) program core curricula relating to reading instructional strategies and adds a new requirement for mental health strategies and support.
- Changing ITP program provisions related to student grade point average and mastery of general knowledge from admission requirements to program requirements.
- Modifying educator certification requirements to authorize applicants to demonstrate mastery of subject area competence with a bachelor's degree in the subject area earned within the past 10 years.
- Modifying requirements relating to the Education Practices Commission (EPC) to specify that:
 - The Commissioner of Education may select and remove the EPC executive director, and may establish the duties of the executive director.
 - The assignment of the EPC to the Department of Education (DOE) includes fiscal accountability.
 - The EPC may expend funds for legal services, and removes the authority to expend funds for a general counsel or access to counsel.

The committee substitute adds additional provisions related to teacher preparation programs and educator certification, but also adds provisions related to teacher professional development and state scholarship programs. The committee substitute:

- Requires ITP and educator preparation institute (EPI) programs to include: the opportunity for student to complete an endorsement; instruction in mandatory training for instructional personnel; and in program performance evaluation employer surveys measures regarding student proficiency.
- Modifies the renewal requirement for an educator professional certificate by specifying that a teacher may only earn inservice points once in the five years certificate validity period for any mandatory training topic that is not linked to student learning or professional growth.
- Modifies requirements relating to professional development (PD) by:
 - Authorizing teachers to use up to 25 percent of their proportional share of a district calculation of PD funds for specified purposes, and requiring the DOE to identify PD that requires demonstration of proficiency.

- Requiring the DOE to create an annual and 5-year model calendar of state-mandated PD, and the school district to create similar calendars as a part of the professional PD system.
- Requiring the DOE to maintain a statewide registry of specified approved professional development providers.
- Creating the Professional Development Choice Pilot Program in the DOE, subject to appropriation, to allow a teacher to receive a grant up to \$500 for PD that is aligned to PD standards and satisfies professional certificate inservice requirements.
- Establishes the Professional Education Excellence Resources (PEER) Pilot Program (program), subject to legislative appropriation, and:
 - Establishes the PEER program in Clay, Pinellas, and Walton counties.
 - Authorizes PEER program participants to extend the teacher contract day or year for specified PD purposes, subject to salary considerations.
 - Specifies the use of program funds to include teacher compensation, instructional personnel, content area specialists, instructional coaches, and PD opportunities.
 - Requires PEER program participants to collaborate with specified entities to develop high-quality online PD.
 - Authorizes PEER program participants to establish a master teacher program subject to requirements, and requires participates to collaborate with the University of Florida Lastinger Center to develop a master teacher academy.
 - Establishes reporting requirements regarding the use of PEER program funds, the impact on teacher evaluations and student achievement, and recommendations for continuation of the program.
- Modifies the Family Empowerment Scholarship (FES), by:
 - Expanding scholarship eligibility to an FES student who received a Florida Tax Credit (FTC) scholarship in the prior year and was in a public school the year prior to initial receipt of the FTC scholarship.
 - Adding a provision that, similar to the McKay scholarship, the FES is not subject to the maximum value for funding a student.
- Aligns FES and FTC eligibility by:
 - Allowing an FES student to participate in up to two courses from a virtual school, correspondence school, or distance learning program that receives state funding.
 - Increasing the FTC scholarship income eligibility threshold for a student whose household income level does not exceed 300 percent of the federal poverty level with priority given to students whose household income levels do not exceed 185 percent of the federal poverty level.
 - Modifying that a student eligible for an FTC scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.

B. Amendments:

None.

By the Committee on Education; and Senator Diaz

581-02438-20

20201220c1

1 A bill to be entitled
 2 An act relating to education; amending s. 1002.394,
 3 F.S.; revising initial scholarship eligibility
 4 criteria for the Family Empowerment Scholarship
 5 Program, beginning with a specified school year;
 6 providing that participation in certain virtual
 7 schools, correspondence schools, or distance learning
 8 programs does not make a student ineligible for a
 9 scholarship under the program in certain
 10 circumstances; amending s. 1002.395, F.S.; revising
 11 eligibility criteria for the Florida Tax Credit
 12 Scholarship Program and applying the criteria only to
 13 initial eligibility; requiring that priority be given
 14 to students whose household incomes do not exceed a
 15 specified amount; amending s. 1004.04, F.S.; requiring
 16 that the rules to establish uniform core curricula for
 17 each state-approved teacher preparation program
 18 include evidence-based reading instructional
 19 strategies and mental health strategies and support;
 20 requiring state-approved teacher preparation programs
 21 include opportunities to complete endorsements and
 22 complete training required of instructional personnel;
 23 removing admission requirements, and deleting a
 24 provision allowing teacher preparation programs to
 25 waive admission requirements for up to 10 percent of
 26 the students admitted; requiring an assessment of
 27 student proficiency is employer surveys; amending s.
 28 1004.85, F.S.; expanding requirements for the
 29 certification program of a postsecondary educator

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30 preparation institute to be approved by the Department
 31 of Education; amending s. 1011.61, F.S.; providing
 32 that a certain scholarship award is not subject to the
 33 maximum value for funding a student under the Florida
 34 Education Finance Program; amending s. 1012.56, F.S.;
 35 providing that for a subject requiring only a
 36 baccalaureate degree, a baccalaureate degree with a
 37 major in the subject area, conferred within the last
 38 10 years, is an acceptable means of demonstrating
 39 mastery of subject area knowledge; amending s.
 40 1012.585, F.S.; specifying that teachers may earn
 41 inservice points only once during a certain time
 42 period for any mandatory training topic not linked to
 43 student learning or professional growth; amending s.
 44 1012.79, F.S.; directing the Commissioner of
 45 Education, with the advice and consent of the chair of
 46 the Education Practices Commission, to appoint an
 47 executive director who is exempt from career service
 48 and may be removed by the commissioner; specifying
 49 that the executive director will have administrative
 50 duties, as determined by the commissioner; making a
 51 technical change; amending s. 1012.98, F.S.; requiring
 52 district school boards to calculate a proportionate
 53 share of professional development funds for each
 54 classroom teacher; authorizing classroom teachers to
 55 use up to a certain amount of such funds for certain
 56 purposes; requiring the Department of Education to
 57 identify professional development opportunities for
 58 classroom teachers to demonstrate proficiency in a

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59 specific classroom practice; requiring the department
 60 to create and develop a model annual and 5-year
 61 calendar of professional development by a specified
 62 date; requiring school districts to develop annual and
 63 5-year calendars of professional development for
 64 inclusion in the department's professional development
 65 system by a specified date; requiring the department
 66 to maintain a statewide registry of approved
 67 professional development providers and professional
 68 development activities for use by teachers; requiring
 69 professional development providers to be approved by
 70 the department; specifying requirements for
 71 professional development providers; requiring the
 72 department to review professional development provider
 73 applications for compliance and to approve or deny an
 74 application within a certain timeframe; providing for
 75 provider reapplication; requiring each school district
 76 to accept an approved professional development
 77 activity for a certain purpose; requiring the
 78 department to determine the number of inservice hours
 79 to be awarded for completion of an activity; creating
 80 the Professional Development Choice Pilot Program to
 81 be administered by the department for a specified
 82 period; providing the pilot program's purpose;
 83 authorizing the use of pilot program grants for
 84 specified purposes; providing requirements for the use
 85 of such grants; providing eligibility requirements for
 86 receiving pilot program grants; providing requirements
 87 and limits for grant disbursements; providing certain

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88 duties of each school district; requiring the
 89 department to maintain a registry of approved provider
 90 and professional development activities; requiring the
 91 department to establish an application form by a
 92 specified date; creating s. 1012.981, F.S.; creating
 93 the Professional Education Excellence Resources (PEER)
 94 Pilot Program in specified counties; authorizing
 95 school districts implementing the pilot program to
 96 engage in certain activities; authorizing school
 97 districts to use program funds for certain purposes;
 98 requiring school districts participating in the
 99 program to collaborate with the department and other
 100 entities to develop high-quality online professional
 101 development opportunities accessible to instructional
 102 personnel statewide; providing requirements for such
 103 professional online development opportunities;
 104 authorizing participating school districts to use
 105 program funds to establish a master teacher program;
 106 providing requirements for the master teacher program;
 107 requiring participating school districts to
 108 collaborate with the department and the University of
 109 Florida Lastinger Center to develop a master teacher
 110 academy; providing duties for the master teacher
 111 academy; requiring each school district participating
 112 in the PEER Pilot Program to report annually to the
 113 Governor, the Legislature, and the department on the
 114 performance of the pilot program; requiring the annual
 115 report to contain certain information; requiring the
 116 State Board of Education to adopt rules; specifying

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117 that the pilot program be implemented only to the
 118 extent specifically funded and authorized by law;
 119 amending s. 1012.586, F.S.; conforming a cross-
 120 reference; providing an effective date.

121
 122 Be It Enacted by the Legislature of the State of Florida:

123
 124 Section 1. Paragraph (b) of subsection (3) and subsection
 125 (5) of section 1002.394, Florida Statutes, are amended to read:
 126 1002.394 The Family Empowerment Scholarship Program.—

127 (3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible
 128 for a Family Empowerment Scholarship under this section if the
 129 student meets the following criteria:

130 (b)1. The student is eligible to enroll in kindergarten or
 131 has spent the prior school year in attendance at a Florida
 132 public school; or

133 2. Beginning with the 2020-2021 school year, the student
 134 received a scholarship pursuant to s. 1002.395 during the
 135 previous school year and, before initial receipt of such
 136 scholarship, spent the prior school year in attendance at a
 137 Florida public school.

138
 139 For purposes of this paragraph, the term "prior school year in
 140 attendance" means that the student was enrolled and reported by
 141 a school district for funding during the preceding October and
 142 February Florida Education Finance Program surveys in
 143 kindergarten through grade 12, which includes time spent in a
 144 Department of Juvenile Justice commitment program if funded
 145 under the Florida Education Finance Program. However, a

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146 dependent child of a member of the United States Armed Forces
 147 who transfers to a school in this state from out of state or
 148 from a foreign country due to a parent's permanent change of
 149 station orders or a foster child is exempt from the prior public
 150 school attendance requirement under this paragraph, but must
 151 meet the other eligibility requirements specified under this
 152 section to participate in the program.

153 (5) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for
 154 a Family Empowerment Scholarship while he or she is:

155 (a) Enrolled in a public school, including, but not limited
 156 to, the Florida School for the Deaf and the Blind, the College-
 157 Preparatory Boarding Academy, a developmental research school
 158 authorized under s. 1002.32, or a charter school authorized
 159 under this chapter;

160 (b) Enrolled in a school operating for the purpose of
 161 providing educational services to youth in a Department of
 162 Juvenile Justice commitment program;

163 (c) Receiving any other educational scholarship pursuant to
 164 this chapter;

165 (d) Participating in a home education program as defined in
 166 s. 1002.01(1);

167 (e) Participating in a private tutoring program pursuant to
 168 s. 1002.43; or

169 (f) Participating in a virtual school, correspondence
 170 school, or distance learning program that receives state funding
 171 pursuant to the student's participation, unless the
 172 participation is limited to no more than two courses per school
 173 year.

174 Section 2. Subsection (3) and paragraph (e) of subsection

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175 (6) of section 1002.395, Florida Statutes, are amended to read:

176 1002.395 Florida Tax Credit Scholarship Program.—

177 (3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

178 (a) The Florida Tax Credit Scholarship Program is
179 established.

180 (b) A student is eligible for a Florida tax credit
181 scholarship under this section if the student meets one or more
182 of the following criteria:

183 1. The student is on the direct certification list or the
184 student's household income level does not exceed 300 ~~185~~ percent
185 of the federal poverty level; or

186 2. The student is currently placed, or during the previous
187 state fiscal year was placed, in foster care or in out-of-home
188 care as defined in s. 39.01.

189 ~~3. The student's household income level is greater than 185
190 percent of the federal poverty level but does not exceed 260
191 percent of the federal poverty level.~~

192
193 Priority must be given to students whose household income levels
194 do not exceed 185 percent of the federal poverty level or who
195 are in foster care or out-of-home care. A student who initially
196 receives a scholarship based on eligibility under this paragraph
197 ~~subparagraph (b)2.~~ remains eligible to participate until he or
198 ~~she~~ the student graduates from high school or attains the age of
199 21 years, whichever occurs first, regardless of the student's
200 household income level. ~~A student who initially received a
201 scholarship based on income eligibility before the 2019-2020
202 school year remains eligible to participate until he or she
203 graduates from high school, attains the age of 21 years, or the~~

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204 ~~student's household income level exceeds 260 percent of the~~
205 ~~federal poverty level, whichever occurs first.~~ A sibling of a
206 student who is participating in the scholarship program under
207 this subsection is eligible for a scholarship if the student
208 resides in the same household as the sibling.

209 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
210 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
211 organization:

212 (e) Must give first priority to eligible students who
213 received a scholarship from an eligible nonprofit scholarship-
214 funding organization or from the State of Florida during the
215 previous school year. ~~Beginning in the 2016-2017 school year, an~~
216 ~~eligible nonprofit scholarship funding organization shall give~~
217 ~~priority to new applicants whose household income levels do not~~
218 ~~exceed 185 percent of the federal poverty level or who are in~~
219 ~~foster care or out-of-home care.~~

220
221 Information and documentation provided to the Department of
222 Education and the Auditor General relating to the identity of a
223 taxpayer that provides an eligible contribution under this
224 section shall remain confidential at all times in accordance
225 with s. 213.053.

226 Section 3. Paragraph (b) of subsection (2) of section
227 1004.04, Florida Statutes, is amended, paragraph (b) of
228 subsection (3) of that section is amended, paragraphs (d) and
229 (e) of subsection (3) of that section are added, and subsection
230 (4) of that section is amended, to read:

231 1004.04 Public accountability and state approval for
232 teacher preparation programs.—

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- 233 (2) UNIFORM CORE CURRICULA AND CANDIDATE ASSESSMENT.—
- 234 (b) The rules to establish uniform core curricula for each
- 235 state-approved teacher preparation program must include, but are
- 236 not limited to, the following:
- 237 1. Candidate instruction and assessment in the Florida
- 238 Educator Accomplished Practices across content areas.
- 239 2. The use of state-adopted content standards to guide
- 240 curricula and instruction.
- 241 3. Evidence-based ~~Scientifically researched and evidence-~~
- 242 ~~based~~ reading instructional strategies that improve reading
- 243 performance for all students, including explicit, systematic,
- 244 and sequential approaches to teaching phonemic awareness,
- 245 phonics, vocabulary, fluency, and text comprehension and
- 246 multisensory intervention strategies.
- 247 4. Content literacy and mathematics practices.
- 248 5. Strategies appropriate for the instruction of English
- 249 language learners.
- 250 6. Strategies appropriate for the instruction of students
- 251 with disabilities.
- 252 7. Strategies to differentiate instruction based on student
- 253 needs.
- 254 8. The use of character-based classroom management.
- 255 9. Mental health strategies and support.
- 256 (3) INITIAL STATE PROGRAM APPROVAL.—
- 257 (b) Each teacher preparation program approved by the
- 258 Department of Education, as provided for by this section, shall
- 259 require students, at a minimum, to meet, ~~at a minimum, the~~
- 260 ~~following as prerequisites for admission into the program:~~
- 261 1. Have a grade point average of at least 2.5 on a 4.0

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- 262 scale for the general education component of undergraduate
- 263 studies or have completed the requirements for a baccalaureate
- 264 degree with a minimum grade point average of 2.5 on a 4.0 scale
- 265 from any college or university accredited by a regional
- 266 accrediting association as defined by State Board of Education
- 267 rule or any college or university otherwise approved pursuant to
- 268 State Board of Education rule.
- 269 2. Demonstrate mastery of general knowledge ~~sufficient for~~
- 270 ~~entry into the program,~~ including the ability to read, write,
- 271 and perform in mathematics, by passing the General Knowledge
- 272 Test of the Florida Teacher Certification Examination or, for a
- 273 graduate level program, obtain a baccalaureate degree from an
- 274 institution that is accredited or approved pursuant to the rules
- 275 of the State Board of Education.
- 276
- 277 ~~Each teacher preparation program may waive these admissions~~
- 278 ~~requirements for up to 10 percent of the students admitted.~~
- 279 ~~Programs shall implement strategies to ensure that students~~
- 280 ~~admitted under a waiver receive assistance to demonstrate~~
- 281 ~~competencies to successfully meet requirements for certification~~
- 282 ~~and shall annually report to the Department of Education the~~
- 283 ~~status of each candidate admitted under such a waiver.~~
- 284 (d) Each program must include the opportunity for the
- 285 candidate to complete coursework to obtain a required
- 286 endorsement in the candidate's chosen teaching field.
- 287 (e) Each program must include, in addition to the core
- 288 standards for effective education, instruction in the training
- 289 required of certified instructional personnel, including, but
- 290 not limited to:

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291 1. Identification, intervention, and prevention of child
 292 abuse, abandonment, and neglect;
 293 2. Integration of technology into classroom teaching;
 294 3. Management, assessment, and monitoring of student
 295 learning and performance;
 296 4. Skills in classroom management, violence prevention,
 297 conflict resolution, and related areas;
 298 5. Developmental disabilities pursuant to s. 1012.582;
 299 6. Youth suicide awareness and prevention pursuant to s.
 300 1012.583; and
 301 7. Youth mental health awareness and assistance pursuant to
 302 s. 1012.584.

303 (4) CONTINUED PROGRAM APPROVAL.—Continued approval of a
 304 teacher preparation program shall be based upon evidence that
 305 the program continues to implement the requirements for initial
 306 approval and upon significant, objective, and quantifiable
 307 measures of the program and the performance of the program
 308 completers.

309 (a) The criteria for continued approval must include each
 310 of the following:

311 1. Documentation from the program that each program
 312 candidate met the admission requirements provided in subsection
 313 (3).

314 2. Documentation from the program that the program and each
 315 program completer have met the requirements provided in
 316 subsection (2).

317 3. Evidence of performance in each of the following areas:

318 a. Placement rate of program completers into instructional
 319 positions in Florida public schools and private schools, if

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320 available.

321 b. Rate of retention for employed program completers in
 322 instructional positions in Florida public schools.

323 c. Performance of students in prekindergarten through grade
 324 12 who are assigned to in-field program completers on statewide
 325 assessments using the results of the student learning growth
 326 formula adopted under s. 1012.34.

327 d. Performance of students in prekindergarten through grade
 328 12 who are assigned to in-field program completers aggregated by
 329 student subgroup, as defined in the federal Elementary and
 330 Secondary Education Act (ESEA), 20 U.S.C. s.
 331 6311(b)(2)(C)(v)(II), as a measure of how well the program
 332 prepares teachers to work with a diverse population of students
 333 in a variety of settings in Florida public schools.

334 e. Results of program completers' annual evaluations in
 335 accordance with the timeline as set forth in s. 1012.34.

336 f. Production of program completers in statewide critical
 337 teacher shortage areas as identified in s. 1012.07.

338 4. Results of the program completers' survey measuring
 339 their satisfaction with preparation for the realities of the
 340 classroom.

341 5. Results of the employers' survey measuring satisfaction
 342 with the program and the program's responsiveness to local
 343 school districts. The survey must include the employer's
 344 assessment of the student's proficiency in the use of state-
 345 adopted content standards and general preparation for the
 346 classroom.

347 Section 4. Paragraph (a) of subsection (3) and subsection
 348 (5) of section 1004.85, Florida Statutes, are amended to read:

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349 1004.85 Postsecondary educator preparation institutes.-
 350 (3) Educator preparation institutes approved pursuant to
 351 this section may offer competency-based certification programs
 352 specifically designed for noneducation major baccalaureate
 353 degree holders to enable program participants to meet the
 354 educator certification requirements of s. 1012.56. An educator
 355 preparation institute choosing to offer a competency-based
 356 certification program pursuant to the provisions of this section
 357 must implement a program previously approved by the Department
 358 of Education for this purpose or a program developed by the
 359 institute and approved by the department for this purpose.
 360 Approved programs shall be available for use by other approved
 361 educator preparation institutes.

362 (a) Within 90 days after receipt of a request for approval,
 363 the Department of Education shall approve a preparation program
 364 pursuant to the requirements of this subsection or issue a
 365 statement of the deficiencies in the request for approval. The
 366 department shall approve a certification program if the
 367 institute provides evidence of the institute's capacity to
 368 implement a competency-based program that includes each of the
 369 following:

370 1.a. Participant instruction and assessment in the Florida
 371 Educator Accomplished Practices across content areas.

372 b. The use of state-adopted student content standards to
 373 guide curriculum and instruction.

374 c. Scientifically researched and evidence-based reading
 375 instructional strategies that improve reading performance for
 376 all students, including explicit, systematic, and sequential
 377 approaches to teaching phonemic awareness, phonics, vocabulary,

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378 fluency, and text comprehension and multisensory intervention
 379 strategies.

380 d. Content literacy and mathematical practices.

381 e. Strategies appropriate for instruction of English
 382 language learners.

383 f. Strategies appropriate for instruction of students with
 384 disabilities.

385 g. Strategies to differentiate instruction based on student
 386 needs.

387 h. The use of character-based classroom management.

388 2. An educational plan for each participant to meet
 389 certification requirements and demonstrate his or her ability to
 390 teach the subject area for which the participant is seeking
 391 certification, which is based on an assessment of his or her
 392 competency in the areas listed in subparagraph 1.

393 3. Field experiences appropriate to the certification
 394 subject area specified in the educational plan with a diverse
 395 population of students in a variety of challenging environments,
 396 including, but not limited to, high-poverty schools, urban
 397 schools, and rural schools, under the supervision of qualified
 398 educators.

399 4. A certification ombudsman to facilitate the process and
 400 procedures required for participants who complete the program to
 401 meet any requirements related to the background screening
 402 pursuant to s. 1012.32 and educator professional or temporary
 403 certification pursuant to s. 1012.56.

404 5. The opportunity for a candidate to complete coursework
 405 to obtain a required endorsement in the candidate's chosen
 406 teaching field.

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407 6. In addition to the core standards for effective
 408 education, instruction in the training required of certified
 409 instructional personnel, including, but not limited to:
 410 a. Identification, intervention, and prevention of child
 411 abuse, abandonment, and neglect;
 412 b. Integration of technology into classroom teaching;
 413 c. Management, assessment, and monitoring of student
 414 learning and performance;
 415 d. Skills in classroom management, violence prevention,
 416 conflict resolution, and related areas;
 417 e. Developmental disabilities pursuant to s. 1012.582;
 418 f. Youth suicide awareness and prevention pursuant to s.
 419 1012.583; and
 420 g. Youth mental health awareness and assistance pursuant to
 421 s. 1012.584.

422 (5) Each institute approved pursuant to this section shall
 423 submit to the Department of Education annual performance
 424 evaluations that measure the effectiveness of the programs,
 425 including the pass rates of participants on all examinations
 426 required for teacher certification, employment rates,
 427 longitudinal retention rates, and satisfaction surveys of
 428 employers and candidates. The satisfaction surveys must be
 429 designed to measure the sufficient preparation of the educator
 430 for the student's proficiency in the use of state-adopted
 431 content standards, the realities of the classroom, and the
 432 institute's responsiveness to local school districts. These
 433 evaluations shall be used by the Department of Education for
 434 purposes of continued approval of an educator preparation
 435 institute's certification program.

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436 Section 5. Subsection (4) of section 1011.61, Florida
 437 Statutes, is amended to read:
 438 1011.61 Definitions.—Notwithstanding the provisions of s.
 439 1000.21, the following terms are defined as follows for the
 440 purposes of the Florida Education Finance Program:
 441 (4) The maximum value for funding a student in kindergarten
 442 through grade 12 or in a prekindergarten program for exceptional
 443 children as provided in s. 1003.21(1)(e) shall be the sum of the
 444 calculations in paragraphs (a), (b), and (c) as calculated by
 445 the department.
 446 (a) The sum of the student's full-time equivalent student
 447 membership value for the school year or the equivalent derived
 448 from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-
 449 subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and
 450 subsection (2). If the sum is greater than 1.0, the full-time
 451 equivalent student membership value for each program or course
 452 shall be reduced by an equal proportion so that the student's
 453 total full-time equivalent student membership value is equal to
 454 1.0.
 455 (b) If the result in paragraph (a) is less than 1.0 full-
 456 time equivalent student and the student has full-time equivalent
 457 student enrollment pursuant to sub-sub-subparagraph
 458 (1)(c)1.b.(VIII), calculate an amount that is the lesser of the
 459 value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of
 460 1.0 less the value in paragraph (a).
 461 (c) The full-time equivalent student enrollment value in
 462 sub-subparagraph (1)(c)2.a.
 463
 464 A scholarship award provided to a student enrolled in the John

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465 M. McKay Scholarships for Students with Disabilities Program
 466 pursuant to s. 1002.39 or the Family Empowerment Scholarship
 467 Program pursuant to s. 1002.394 is not subject to the maximum
 468 value for funding a student under this subsection.

469 Section 6. Subsection (5) of section 1012.56, Florida
 470 Statutes, is amended to read:

471 1012.56 Educator certification requirements.—

472 (5) MASTERY OF SUBJECT AREA KNOWLEDGE.—Acceptable means of
 473 demonstrating mastery of subject area knowledge are:

474 (a) For a subject requiring only a baccalaureate degree, a
 475 baccalaureate degree with a major in the subject area, conferred
 476 within the last 10 years from an accredited or approved
 477 institution as defined in rule 6A-4.003, Florida Administrative
 478 Code;

479 (b)(a) For a subject requiring only a baccalaureate degree
 480 for which a Florida subject area examination has been developed,
 481 achievement of a passing score on the Florida-developed subject
 482 area examination specified in state board rule;

483 (c)(b) For a subject for which a Florida subject area
 484 examination has not been developed, achievement of a passing
 485 score on a standardized examination specified in state board
 486 rule, including, but not limited to, passing scores on both the
 487 oral proficiency and written proficiency examinations
 488 administered by the American Council on the Teaching of Foreign
 489 Languages;

490 (d)(e) For a subject for which a Florida subject area
 491 examination has not been developed or a standardized examination
 492 has not been specified in state board rule, completion of the
 493 subject area specialization requirements specified in state

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494 board rule and verification of the attainment of the essential
 495 subject matter competencies by the district school
 496 superintendent of the employing school district or chief
 497 administrative officer of the employing state-supported or
 498 private school;

499 (e)(d) For a subject requiring a master's or higher degree,
 500 completion of the subject area specialization requirements
 501 specified in state board rule and achievement of a passing score
 502 on the Florida-developed subject area examination or a
 503 standardized examination specified in state board rule;

504 (f)(e) Documentation of a valid professional standard
 505 teaching certificate issued by another state;

506 (g)(f) Documentation of a valid certificate issued by the
 507 National Board for Professional Teaching Standards or a national
 508 educator credentialing board approved by the State Board of
 509 Education;

510 (h)(g) Documentation of successful completion of a United
 511 States Defense Language Institute Foreign Language Center
 512 program; or

513 (i)(h) Documentation of a passing score on the Defense
 514 Language Proficiency Test (DLPT).

515
 516 School districts are encouraged to provide mechanisms for middle
 517 grades teachers holding only a K-6 teaching certificate to
 518 obtain a subject area coverage for middle grades through
 519 postsecondary coursework or district add-on certification.

520 Section 7. Paragraph (g) is added to subsection (3) of
 521 section 1012.585, Florida Statutes, to read:

522 1012.585 Process for renewal of professional certificates.—

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523 (3) For the renewal of a professional certificate, the
 524 following requirements must be met:
 525 (g) A teacher may earn inservice points only once during
 526 each 5-year validity period for any mandatory training topic
 527 that is not linked to student learning or professional growth.
 528 Section 8. Subsections (5), (6), and (9) of section
 529 1012.79, Florida Statutes, are amended to read:
 530 1012.79 Education Practices Commission; organization.—
 531 (5) The Commissioner of Education, with the advice and
 532 consent of the commission chair, is responsible for appointing,
 533 and may remove, commission, by a vote of three-fourths of the
 534 membership, shall employ an executive director, who shall be
 535 exempt from career service. The executive director shall have
 536 administrative duties, as determined by the Commissioner of
 537 Education. The executive director may not impact or influence
 538 decisions of the commission. The executive director may be
 539 dismissed by a majority vote of the membership.
 540 (6) (a) The commission shall be assigned to the Department
 541 of Education for administrative and fiscal accountability
 542 purposes. The commission, in the performance of its powers and
 543 duties, shall not be subject to control, supervision, or
 544 direction by the Department of Education.
 545 (b) The property, personnel, and appropriations related to
 546 the specified authority, powers, duties, and responsibilities of
 547 the commission shall be provided to the commission by the
 548 Department of Education.
 549 (9) The commission shall make such expenditures as may be
 550 necessary in exercising its authority and powers and carrying
 551 out its duties and responsibilities, including expenditures for

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552 personal services, legal services ~~general counsel or access to~~
 553 ~~counsel~~, and rent at the seat of government and elsewhere; for
 554 books of reference, periodicals, furniture, equipment, and
 555 supplies; and for printing and binding. The expenditures of the
 556 commission shall be subject to the powers and duties of the
 557 Department of Financial Services as provided in s. 17.03.
 558 Section 9. Subsection (5) of section 1012.98, Florida
 559 Statutes, is amended, and subsections (13), (14), and (15) are
 560 added to that section, to read:
 561 1012.98 School Community Professional Development Act.—
 562 (5) Each district school board shall provide funding for
 563 the professional development system as required by s. 1011.62
 564 and the General Appropriations Act, and shall direct
 565 expenditures from other funding sources to continuously
 566 strengthen the system in order to increase student achievement
 567 and support instructional staff in enhancing rigor and relevance
 568 in the classroom. Each district school board shall calculate a
 569 proportionate share of professional development funds for each
 570 classroom teacher and allow each classroom teacher to use up to
 571 25 percent of the proportionate share on professional
 572 development that addresses the academic needs of students or an
 573 identified area of professional growth for the classroom
 574 teacher. The department shall identify professional development
 575 opportunities that require the classroom teacher to demonstrate
 576 proficiency in a specific classroom practice. A school district
 577 may coordinate its professional development program with that of
 578 another district, with an educational consortium, or with a
 579 Florida College System institution or university, especially in
 580 preparing and educating personnel. Each district school board

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581 shall make available inservice activities to instructional
582 personnel of nonpublic schools in the district and the state
583 certified teachers who are not employed by the district school
584 board on a fee basis not to exceed the cost of the activity per
585 all participants.

586 (13) To assist school district planning for required
587 teacher professional development, by August 1, 2020, the
588 department shall develop a model annual and 5-year calendar that
589 incorporates all state-required professional development. No
590 later than January 1, 2021, school districts shall develop an
591 annual and a 5-year calendar of professional development for
592 inclusion in the professional development system approved by the
593 department pursuant to subsection (4).

594 (14) The department shall develop and maintain a statewide
595 registry of approved professional development providers and
596 professional development activities for use by teachers in this
597 state. The registry is intended to provide educators with high-
598 quality professional development opportunities in addition to
599 those offered by an entity specified in subsection (1).

600 (a) Any professional development provider seeking to be
601 added to the registry must complete an application developed by
602 the department. Approved providers are responsible for notifying
603 the department of any changes to the provider or approved
604 activities using an update form developed by the department. The
605 approval form must include, but is not limited to, requirements
606 that the provider specify:

607 1. Compliance with this section.

608 2. The alignment of professional development activities
609 with professional development standards adopted by the state

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610 board in rule and standards adopted by the National Staff
611 Development Council.

612 3. Professional development activities offered by the
613 provider.

614 4. Qualifications of instructors for the professional
615 development activities to be approved.

616 (b) Providers specified in subsection (1), as well as
617 providers approved by such entities, are not required to seek
618 department approval to offer professional development activities
619 and are not required to be added to the registry. However, such
620 providers that wish to offer statewide professional development
621 opportunities may seek department approval and be added to the
622 registry.

623 (c) Providers approved by the department must maintain
624 information that includes, but is not limited to, the
625 professional development activity, date of the activity, hours
626 of instruction, and instructor, if applicable. The approved
627 provider must provide such information to each participant.

628 (d) The department shall review the professional
629 development provider application for compliance with
630 requirements. The department must inform the provider in writing
631 within 90 days after submission of an application regarding the
632 approval or denial of the provider. The approval is valid for a
633 period not to exceed 5 years, after which the provider must
634 reapply.

635 1. Each school district shall accept an approved
636 professional development activity on the registry toward meeting
637 the requirements of s. 1002.385(3).

638 2. The department shall determine the number of inservice

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639 hours to be awarded for completion of each specified
 640 professional development activity.

641 (15) There is created the Professional Development Choice
 642 Pilot Program to be administered by the department for a period
 643 of 3 years, subject to legislative appropriation. The purpose of
 644 the pilot program is to provide grants to eligible teachers to
 645 select professional learning opportunities that best meet each
 646 teacher's individual needs.

647 (a) A teacher may use a pilot program grant for
 648 professional development approved by a school district or by a
 649 provider approved by the department pursuant to subsection (14).

650 1. Professional development must be aligned with the
 651 standards adopted by the state board in rule and standards
 652 adopted by the National Staff Development Council.

653 2. Training completed under this subsection must comply
 654 with and satisfy the requirements of s. 1012.585(3).

655 3. Professional learning activities may include, but are
 656 not limited to, in-person or online training; travel and
 657 registration for conferences or workshops; college credit
 658 courses; and district professional development certification and
 659 education competency programs.

660 (b) To be eligible for a pilot program grant, an individual
 661 must:

662 1. Hold a professional certificate issued pursuant to s.
 663 1012.56(7) (a);

664 2. Be employed as a classroom teacher, as defined in s.
 665 1012.01(2) (a), excluding substitute teachers, by a district
 666 school board or by a charter school; and

667 3. Apply for a grant in a format determined by the

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668 department. The application must require an applicant to
 669 describe how the professional development activity relates to
 670 and will improve instruction in the classroom.

671 (c) Each classroom teacher eligible under paragraph (b) may
 672 receive a reimbursement for training pursuant to paragraph (a).
 673 The reimbursement for each teacher participating in the pilot
 674 program may not exceed \$500 per school year. Each classroom
 675 teacher is eligible for one grant per school year. The pilot
 676 program grants must be awarded on a first-come, first-served
 677 basis.

678 (d) Each school district shall:

679 1. Review a proposed professional development activity to
 680 determine alignment with district and individual professional
 681 development plans and determine the number of inservice credit
 682 hours to be awarded; and

683 2. Approve any professional development opportunity
 684 included on the department's registry pursuant to subsection
 685 (13).

686 (e) The department shall:

687 1. Maintain a registry of approved providers and
 688 professional development activities pursuant to subsection (14).

689 2. Establish, no later than August 1, 2020, a grant
 690 application form.

691 Section 10. Section 1012.981, Florida Statutes, is created
 692 to read:

693 1012.981 Professional Education Excellence Resources Pilot
 694 Program.—

695 (1) There is established the Professional Education
 696 Excellence Resources (PEER) Pilot Program, administered by the

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697 department, to provide school district flexibility to increase
 698 opportunities for professional learning, collaboration with
 699 teachers and leaders, and teacher leadership.

700 (2) The PEER Pilot Program is established in Clay,
 701 Pinellas, and Walton Counties.

702 (3) Participating school districts implementing the PEER
 703 Pilot Program may:

704 (a) Extend the contract day or the contract year, or both,
 705 for participating teachers for professional development,
 706 collaboration with colleagues, or instructional coaching. A
 707 participating school district that chooses to extend the
 708 contract day or year must, before the start of the 2020-2021
 709 school year, negotiate with the certified collective bargaining
 710 unit for instructional personnel a memorandum of understanding
 711 that addresses the additional duty hours in a week or duty days
 712 in a school year and additional payments based on the salary
 713 scale of the district to teachers who participate in the pilot
 714 program.

715 (b) Use program funds to:

716 1. Compensate teachers who are assigned to an extended
 717 school day or school year pursuant to paragraph (a).

718 2. Hire additional instructional personnel to provide
 719 teachers with additional planning periods or other release time
 720 to complete professional development, collaborate with
 721 colleagues, or perform other appropriate activities.

722 3. Provide content area specialists to provide support for
 723 teachers' individual needs and professional growth.

724 4. Provide instructional coaches for participating
 725 teachers.

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726 5. Provide professional development opportunities.

727 (4) School districts participating in the pilot program
 728 must collaborate with the department, postsecondary educational
 729 institutions, regional education consortia, the University of
 730 Florida Lastinger Center, or other appropriate organizations to
 731 develop high-quality online professional development
 732 opportunities accessible to instructional personnel statewide.

733 Such online professional development must:

734 (a) Be self-paced and available to teachers at any time.

735 (b) Align with standards for professional development as
 736 described in state board rule.

737 (c) Protect the private information of participants.

738 (d) Satisfy requirements for renewal of an educator
 739 certificate.

740 (e) Include online assessments with timely feedback to
 741 evaluate participant learning measured against program goals.

742 (5) Participating school districts may use program funds to
 743 establish a master teacher program. The master teacher program
 744 provides accomplished teachers the opportunity to innovate and
 745 improve classroom practices, facilitate improved professional
 746 development, and improve instructional quality through
 747 collaboration with teachers and leaders. School districts shall
 748 determine the specific roles assigned to a master teacher.

749 (a) Each master teacher program must include, but is not
 750 limited to:

751 1. Providing release time for planning and meeting with
 752 teachers and leaders;

753 2. Additional professional development opportunities, to
 754 include participation in local and national conferences or

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755 payments for college credit courses to increase skills or obtain
 756 a higher university degree; and

757 3. Monetary compensation.

758 (b) School districts may select for the master teacher
 759 program teachers who were rated highly effective in the previous
 760 school year and may determine other selection criteria, which
 761 may include, but are not limited to, information in performance
 762 evaluations, peer reviews, demonstration of content expertise,
 763 principal recommendation, or candidate interviews.

764 (c) Each participating school district must collaborate
 765 with the department and with the University of Florida Lastinger
 766 Center to develop a master teacher academy to support
 767 instructional personnel statewide. The master teacher academy
 768 must:

769 1. Provide recommendations for the selection, training, and
 770 support of district master teachers.

771 2. Create a bank of online professional development tools
 772 that serve as exemplars for instructional best practices. Such
 773 content may include pedagogy, instructional delivery,
 774 professional learning communities, collaboration, personalized
 775 learning, teacher and student or parent conferencing, positive
 776 behavior supports, and using data to improve instruction.

777 3. Provide instructional coaching for school-based leaders
 778 and principal supervisors. The content must focus on providing
 779 teachers with actionable feedback on performance.

780 (6) Each school district participating in the PEER Pilot
 781 Program must annually, by August 1, report to the Governor, the
 782 President of the Senate, the Speaker of the House of
 783 Representatives, and the department on the performance of the

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784 pilot program. Each report must include, but is not limited to:

785 (a) The use of the pilot program funds.

786 (b) The impact of the pilot program on student achievement.

787 (c) The impact of the pilot program on teacher annual
 788 evaluations.

789 (d) The results of satisfaction surveys given to pilot
 790 program participants.

791 (e) Recommendations for continuation of the pilot program
 792 and for scaling the pilot program for statewide implementation.

793 (7) The State Board of Education shall adopt rules to
 794 administer this section.

795 (8) This section shall be implemented only to the extent
 796 specifically funded and authorized by law.

797 Section 11. Subsection (1) of section 1012.586, Florida
 798 Statutes, is amended to read:

799 1012.586 Additions or changes to certificates; duplicate
 800 certificates.—A school district may process via a Department of
 801 Education website certificates for the following applications of
 802 public school employees:

803 (1) Addition of a subject coverage or endorsement to a
 804 valid Florida certificate on the basis of the completion of the
 805 appropriate subject area testing requirements of s.
 806 1012.56(5)(b) ~~s. 1012.56(5)(a)~~ or the completion of the
 807 requirements of an approved school district program or the
 808 inservice components for an endorsement.

809 (a) To reduce duplication, the department may recommend the
 810 consolidation of endorsement areas and requirements to the State
 811 Board of Education.

812 (b) By July 1, 2018, and at least once every 5 years

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813 thereafter, the department shall conduct a review of existing
814 subject coverage or endorsement requirements in the elementary,
815 reading, and exceptional student educational areas. The review
816 must include reciprocity requirements for out-of-state
817 certificates and requirements for demonstrating competency in
818 the reading instruction professional development topics listed
819 in s. 1012.98(4)(b)11. The review must also consider the award
820 of an endorsement to an individual who holds a certificate
821 issued by an internationally recognized organization that
822 establishes standards for providing evidence-based interventions
823 to struggling readers or who completes a postsecondary program
824 that is accredited by such organization. Any such certificate or
825 program must require an individual who completes the certificate
826 or program to demonstrate competence in reading intervention
827 strategies through clinical experience. At the conclusion of
828 each review, the department shall recommend to the state board
829 changes to the subject coverage or endorsement requirements
830 based upon any identified instruction or intervention strategies
831 proven to improve student reading performance. This paragraph
832 does not authorize the state board to establish any new
833 certification subject coverage.

834
835 The employing school district shall charge the employee a fee
836 not to exceed the amount charged by the Department of Education
837 for such services. Each district school board shall retain a
838 portion of the fee as defined in the rules of the State Board of
839 Education. The portion sent to the department shall be used for
840 maintenance of the technology system, the web application, and
841 posting and mailing of the certificate.

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842 Section 12. This act shall take effect July 1, 2020.

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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)

3/3/2020
Meeting Date

1220
Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Matthew Choy

Job Title Policy Director

Address 136 S. Bronough St.

Phone 561-386-3451

Street

Tallahassee

FL

32301

Email mchoy@flchamber.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

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)

3/3/20
Meeting Date

SB 1220
Bill Number (if applicable)

462882
Amendment Barcode (if applicable)

Topic Education

Name Khant-Lien ("Con Lynn") Banks

Job Title Resolutions Chair

Address 1747 Orlando Central Pkwy Phone _____

Orlando FL 32809
City State Zip

Email _____

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.

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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)

3/3/20

Meeting Date

SB 1220

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Consultant

Address 2024 Shangri La Lane

Phone 8503223317

Street

Tally

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 League Women Voters

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20

Meeting Date

SB1220

Bill Number (if applicable)

Topic SB 1220

Amendment Barcode (if applicable)

Name Natalie Gillespie

Job Title parent

Address 1730 Silverwood Dr

Phone 7276748207

Tallahassee FL 32301

City

State

Zip

Email nataliegillespie@att.net

Speaking: For Against Information

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

Representing n/a

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)

3-3-20

Meeting Date

SB 1220

Bill Number (if applicable)

Topic #SB 1220

Amendment Barcode (if applicable)

Name Ashley Pantalon

Job Title parent

Address 2312 Needham Dr.

Phone (813) 526-6112

Street

Valrico, FL

State

33596

Zip

Email pantalon.ashley@gmail

Speaking: For Against Information

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

Representing n/a

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20

Meeting Date

SB 1220

Bill Number (if applicable)

Topic SB 1220

Amendment Barcode (if applicable)

Name Trisha Butler

Job Title parent

Address 550 Jimmy Archer Rd

Phone 850-843-2934

Street Perry

Email Ltfiremedic231@gmail.com

City Perry State FL Zip 32347

Speaking: For Against Information

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

Representing n/a

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)

3/3/2020

Meeting Date

1220

Bill Number (if applicable)

Topic SB 1220 - Education

Amendment Barcode (if applicable)

Name Jared Ochs

Job Title Director of Legislative Affairs

Address 325 W. Gaines Street

Street

Phone _____

Tallahassee

Florida

32399

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Education

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)

3/3/2020

Meeting Date

SB 1220

Bill Number (if applicable)

Topic EDUCATION

Amendment Barcode (if applicable)

Name STARLA BROWN

Job Title Deputy State Director

Address _____

Phone _____

Street

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing AMERICANS FOR PROSPERITY

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)

3/31/2020
Meeting Date

1220
Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name James Herzog

Job Title Associate Director for Education

Address 201 West Park Ave.

Phone (850) 205-6823

Tallahassee FL 32301
City State Zip

Email jherzog@flaccrb.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

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)

March 3, 2020
Meeting Date

SB 1220
Bill Number (if applicable)

Topic SB 1220

Amendment Barcode (if applicable)

Name ~~parent~~ Tara E. McFarlan

Job Title parent

Address 22 Sioux Trail

Phone 850-524-7293

Crawfordville FL 32327

City State Zip

Email terowe41@yahoo.com

Speaking: For Against Information

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

Representing N/A

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)

3/3/20
Meeting Date

SB 1220
Bill Number (if applicable)

Topic Educator

Amendment Barcode (if applicable)

Name Khanh-Lien ("Con Lynn") Banks

Job Title Resolutions Chair

Address 1747 Orlando Central Pkwy Phone _____

Street

Orlando FL 32809 Email _____

City

State

Zip

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.

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 Appropriations

BILL: CS/SB 1276

INTRODUCER: Appropriations Committee and Senator Albritton

SUBJECT: Department of Citrus

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|------------------|
| 1. | <u>Akhavein</u> | <u>Becker</u> | <u>AG</u> | Favorable |
| 2. | <u>Hackett</u> | <u>McVaney</u> | <u>GO</u> | Favorable |
| 3. | <u>Blizzard</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

I. Summary:

CS/SB 1276 establishes the Friends of Florida Citrus Program within the Department of Citrus (department). It provides for the powers and duties of the program and requires any funds received to be deposited into the Florida Citrus Advertising Trust Fund within the department. It also creates the Friends of Florida Citrus Advisory Council, which is to advise and provide recommendations to the Florida Citrus Commission regarding the use of any funds received for the Friends of Florida Citrus Program.

The bill authorizes the department to loan its employees to or to share its employees with specified state and federal entities and to enter into related agreements with such entities. The bill also deletes provisions setting out the required work schedule and staffing of the department.

The bill is expected to have an indeterminate positive impact on the private and governmental sectors.

The bill takes effect on July 1, 2020.

II. Present Situation:

Florida Department of Citrus

The department is an executive agency of Florida government charged with the marketing, research, and regulation of the Florida citrus industry. Activities of the department are funded by an assessment paid by growers on each box of citrus that moves through commercial channels. The industry employs more than 45,000 people, provides an annual economic impact of \$8.6 billion to the state, and contributes hundreds of millions of dollars in tax revenues that help support Florida's schools, roads, and health care services. The department also has extensive

regulatory responsibilities, covering every aspect of the industry, including research, production, maturity standards, licensing, transportation, labeling, packing, and processing.¹

The Florida Citrus Commission

The Florida Citrus Commission (commission) governs the department.² The commission is a nine-member board appointed by the governor to represent citrus growers, processors, and packers. The department carries out commission policy and acts as the commission's staff, by conducting a wide variety of programs, involving regulation; scientific, market, and economic research; advertising; merchandising; public and industry relations; and consumer promotions.³

Assessments collected and levied by the department are paid into the State Treasury and accounted for in the Florida Citrus Advertising Trust Fund.⁴ All money in the State Treasury, including that deposited into the Florida Citrus Advertising Trust Fund, is subject to the legislative appropriations process.⁵

Advisory Councils

Section 20.03(7), F.S., defines an advisory council as an advisory body created by statute and appointed to study problems arising in a specified functional or program area of state government and to recommend policy alternatives. Advisory councils are created on a continuing basis and have no natural ending date.

Section 20.052, F.S., provides guidelines and procedures for a collegial body created by statute such as an advisory council. The body must meet a statutorily defined purpose, conform to s. 20.03, F.S., and its members shall be appointed to staggered four-year terms.⁶ The section also provides that an advisory body's members are to serve without additional compensation but may receive per diem and reimbursement for travel expenses.⁷

Advisory committees serve a public purpose by providing the department with information and expertise on a number of issues important to the citrus industry, such as identifying and prioritizing citrus harvesting problems and evaluating proposals for conducting research on the nutritional benefits of citrus products. Department funding support for these committees comes from excise taxes paid by Florida citrus growers on each box of citrus moved through commercial channels.⁸

The commission currently has the following five advisory councils/committees:

¹ Florida Department of Citrus, See <https://www.floridacitrus.org/grower/about/florida-department-of-citrus> (Last visited January 8, 2020).

² See generally s. 601.04, F.S.

³ Florida Citrus Commission, See <https://www.floridacitrus.org/grower/about/florida-citrus-commission/> (Last visited January 8, 2020).

⁴ Section 601.15(7), F.S.

⁵ FLA. CONST. Art. VII, s. 1(d).

⁶ Section 20.052(4), F.S.

⁷ *Id.*

⁸ Office of Program Policy Analysis and Government Accountability, "Florida Department of Citrus Advisory Committees," September 6, 2007, See <http://www.oppaga.state.fl.us/reports/pdf/07-S09.pdf> (Last visited January 8, 2020).

- Fruit Classification & Standards Committee
- Gift Fruit Advisory Council
- Processing Statistics Reporting Advisory Committee
- Scientific Research Advisory Committee
- State Test House Advisory Council

The chair of the commission is authorized to appoint any advisory committee or council deemed appropriate, subject to the commission's concurrence. No statutory enactment is required for a new advisory council.⁹

Unless specifically exempted from public meetings requirements, all advisory council meetings are public meetings.¹⁰ Minutes and voting records must be recorded and maintained, and the meetings must be noticed.¹¹

Intergovernmental Interchange of Public Employees

Section 112.24, F.S., provides for interchange of public employees within the government. Agencies are allowed to enter into employee interchange agreements with other state agencies, the Federal Government, another state, a municipality, a political subdivision, an institution of higher education, or a nonprofit organization. The details of an interchange program are to be put into an agreement reported to the Department of Management Services, and is not to last longer than two years. Section 112.24(3), F.S., specifies for how salary, leave, travel, transportation, and reimbursements for the employee are to be handled in the agreement. For the 2019-2020 fiscal year, ending July 1, 2020, the assignment of an employee may be made if recommended by the Governor or Chief Justice and approved by the chairs of the legislative appropriations committees.¹²

Marketing Orders

Marketing agreements and orders allow cooperation among handlers, producers, and governmental entities to help provide stable markets for dairy products and twenty-one types of fruits, vegetables, and specialty crops. Each order and agreement is tailored to the individual industry's needs. Marketing Orders are binding regulations for the signatories in the specified geographical area, once approved by the signatories and the Secretary of Agriculture. Marketing Agreements are only binding for those handlers that sign the agreement.¹³

Fruit, vegetable, and specialty crop marketing orders and agreements help producers and handlers work together to solve marketing problems that they cannot solve individually by: (1) maintaining the high quality of produce that is on the market; (2) standardizing packages and containers; (3) regulating the flow of product to market; (4) establishing reserve programs for

⁹ Section 601.04(3)(b), F.S.

¹⁰ Section 20.052(5)(c), F.S.

¹¹ Section 286.011, F.S.

¹² Section 112.24(6), F.S.

¹³ See generally s. 600.051, F.S.

storable commodities; and (5) authorizing production research, marketing research and development, and advertising.¹⁴

III. Effect of Proposed Changes:

Section 1 creates s. 601.041, F.S., to establish the Friends of Florida Citrus Program within the department. Its purpose is to support and assist existing and future programs within the department. Through the program, the department shall:

- Conduct programs and activities related to the protection and enhancement of the quality and reputation of Florida citrus fruit and the canned and concentrated products that are sold in domestic and foreign markets;
- Identify and pursue methods to provide resources and materials for the program; and
- Research methods to integrate the resources and materials that have been identified.

The bill authorizes the department to receive donations from private corporations to support the program. Donations must be deposited into the Florida Citrus Advertising Trust Fund.

The bill establishes the Friends of Florida Citrus Advisory Council (advisory council) to advise and provide recommendations to the commission regarding the use of any funds received for the Friends of Florida Citrus Program. Members of the advisory council are to be appointed by the commission. Initially, the bill requires the commission to appoint two members to a term of four years, one member to a term of three years, one member to a term of two years, and one member to a term of one year. Subsequently, members shall be appointed for four-year terms. The advisory council shall consist of the following members:

- One member of the commission;
- One member recommended by the Florida Citrus Processors Association;
- One member recommended by the statewide voluntary Florida citrus growers association with the highest membership; and
- Two at-large members, at the discretion of the commission.

This program and the advisory council will allow the department to capture and coordinate marketing efforts and marketing funds from outside sources not otherwise subject to the box assessment. More efficient coordination will allow the industry greater flexibility in communal efforts in advertising and outreach than reliance on federal marketing orders, which can take more than a year to be approved.

Section 2 amends s. 601.10, F.S., to authorize the department to loan or share department employees with other state and federal agencies, state universities, or the Department of Agriculture and Consumer Services for marketing orders adopted under the authority of the United States Secretary of Agriculture. The bill authorizes the department to enter into agreements with such entity or entities under terms and conditions that will benefit the state, if the agency or entity with which the employee is loaned or shared reimburses the state for all pay and benefits of the employee, not including a service fee for administration. If the entity directly pays the loaned or shared employee his or her salary and benefits, if applicable, an agreement

¹⁴ United States Department of Agriculture, Agricultural Marketing Service, See <https://ams.usda.gov/rules-regulations/moa> (Last visited January 8, 2020).

with the department is not necessary and the employee may work part-time with the department under terms and conditions mutually agreed to between the department and the employee. All arrangements and agreements are subject to approval by the department.

The bill deletes provisions setting out the required work schedule and staffing of the department.

Section 3 provides that this act shall take effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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:

While the fiscal impact to the private sector is indeterminate, activities under the new program may aid in stabilizing market conditions for citrus producers.

C. Government Sector Impact:

The fiscal impact to the department is indeterminate. The department will be responsible for per diem and travel costs related to the advisory council, which will be absorbed within existing resources. The amount of revenue to be deposited into the Citrus

Advertising Trust Fund from private donations to support the Friends of Florida Citrus Program is unknown.

The bill allows the department to loan or share its employees with specified state and federal entities. The department must approve the loan and the terms and conditions must benefit the state. As such, it appears this provision in the bill will have an indeterminate positive fiscal impact to the state.

VI. Technical Deficiencies:

Lines 39-40 of the bill permit the department to receive donations from private corporations for deposit into the Florida Citrus Advertising Trust Fund. Limiting donations to originating from “corporations” as opposed to “persons,” which would include other types of firms, associations, partnerships, and business entities, may have the unintended effect of disallowing donations the program would otherwise receive.

Lines 44-59 of the bill do not identify operating procedures for the advisory council, including the selection of a chair, the adoption of rules, the location and schedule for meeting, and quorum.

VII. Related Issues:

Until s. 112.24(6), F.S., expires and is not reenacted for an additional period of time, the intergovernmental loan program prescribed in Section 2 of the bill cannot be utilized without the recommendation of the Governor or Chief Justice and the consent of both legislative appropriations committee chairs.

VIII. Statutes Affected:

This bill amends section 601.10 of the Florida Statutes.

This bill creates section 601.041 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 Appropriations on March 3, 2020:

The committee substitute requires staggered terms of the members of the Friends of Florida Citrus Advisory Council and makes reference to s. 112.24, F.S., relating to the intergovernmental interchange of public employees.

- B. **Amendments:**

None.



560238

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 96

and insert:

s. 20.052 and members shall be appointed by the commission.

Initially, the commission shall appoint two members to a term of 4 years, one member to a term of 3 years, one member to a term of 2 years, and one member to a term of 1 year. Thereafter, members shall be appointed for 4-year terms. The council shall consist of the following members:



560238

- 11 (a) One member of the commission.
- 12 (b) One member recommended by the Florida Citrus Processors
13 Association.
- 14 (c) One member recommended by the statewide voluntary
15 Florida citrus growers association with the highest membership.
- 16 (d) Two at-large members, at the discretion of the
17 commission.
- 18 Section 2. Subsection (3) of section 601.10, Florida
19 Statutes, is amended to read:
- 20 601.10 Powers of the Department of Citrus.—The department
21 shall have and shall exercise such general and specific powers
22 as are delegated to it by this chapter and other statutes of the
23 state, which powers shall include, but are not limited to, the
24 following:
- 25 (3)~~(a)~~ To pay, or participate in the payment of, premiums
26 for health, accident, and life insurance for its full-time
27 employees, pursuant to such rules as the department may adopt,
28 in addition to the regular salaries of such full-time employees.
- 29 (a) The payment of such or similar benefits to its
30 employees in foreign countries, including, but not limited to,
31 social security, retirement, and other similar fringe benefit
32 costs, may be in accordance with laws in effect in the country
33 of employment, except that no benefits will be payable to
34 employees not authorized for other state employees, as provided
35 in the Career Service System.
- 36 (b) The department may loan department employees to or
37 share department employees with other state and federal
38 agencies, state universities, or the Department of Agriculture
39 and Consumer Services for marketing and promotion orders



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40 authorized under the authority of the Department of Agriculture
41 and Consumer Services or its direct support organizations or for
42 orders adopted under the authority of the United States
43 Secretary of Agriculture. The department may enter into
44 agreements with such entity or entities under such terms and
45 conditions as will benefit the State of Florida, if the agency
46 or entity with which the employee is loaned or shared reimburses
47 the State of Florida for all pay and benefits of the employee,
48 not including a service fee for administration. If the entity
49 directly pays the loaned or shared employee his or her salary
50 and benefits, as applicable, an agreement with the department is
51 not necessary and the employee may work part time with the
52 department under terms and conditions mutually agreed to by the
53 department and the employee. All arrangements made pursuant to
54 this paragraph are subject to prior approval by the department.
55 Except as otherwise provided, loans and agreements must comply
56 with s. 112.24

57
58 ===== T I T L E A M E N D M E N T =====

59 And the title is amended as follows:

60 Delete line 17

61 and insert:

62 prior approval by the department; requiring the loans
63 and agreements to comply with certain provisions
64 governing the intergovernmental interchange of public
65 employees; deleting provisions

By Senator Albritton

26-00995A-20

20201276__

A bill to be entitled

An act relating to the Department of Citrus; creating s. 601.041, F.S.; establishing the Friends of Florida Citrus Program within the Department of Citrus; providing a purpose of the program; providing duties of the department; authorizing the program to receive certain funds; requiring funds to be deposited into the Florida Citrus Advertising Trust Fund; creating the Friends of Florida Citrus Advisory Council adjunct to the department; providing for the membership and duties of the advisory council; amending s. 601.10, F.S.; authorizing the Department of Citrus to loan department employees to or share department employees with specified state and federal entities; authorizing the department to enter into agreements with such entities; providing that agreements are subject to prior approval by the department; deleting provisions setting out the required work schedule for the department; providing an effective date.

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

Section 1. Section 601.041, Florida Statutes, is created to read:

601.041 The Friends of Florida Citrus Program; advisory council.—

(1) The Friends of Florida Citrus Program is established within the department to provide support and assistance for existing and future programs within the department.

Page 1 of 4

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

26-00995A-20

20201276__

(a) Through the program, the department shall:

1. Conduct programs and activities related to the protection and enhancement of the quality and reputation of Florida citrus fruit and the canned and concentrated products thereof in domestic and foreign markets.

2. Identify and pursue methods to provide resources and materials for the programs.

3. Research methods to integrate the resources and materials identified pursuant to subparagraph 2.

(b) The department may receive donations from private corporations to support the program. The department shall deposit donations to the program into the Florida Citrus Advertising Trust Fund, as established in s. 601.15(7), and such donations shall be exempt from s. 601.15(7)(a).

(2) The Friends of Florida Citrus Advisory Council, an advisory council as defined in s. 20.03(7), is established adjunct to the department. The advisory council shall advise and provide recommendations to the commission regarding the use of any funds received for the Friends of Florida Citrus Program. The advisory council shall operate in a manner consistent with s. 20.052 and shall consist of the following members, appointed by the chair of the commission annually upon the concurrence of the commission:

(a) One member of the commission.

(b) One member recommended by a consortium of citrus processors in this state.

(c) One member recommended by the statewide voluntary Florida citrus growers association with the highest membership.

(d) Two at-large members, at the discretion of the

Page 2 of 4

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

26-00995A-20

20201276__

59 commission.

60 Section 2. Subsection (3) of section 601.10, Florida
61 Statutes, is amended to read:

62 601.10 Powers of the Department of Citrus.—The department
63 shall have and shall exercise such general and specific powers
64 as are delegated to it by this chapter and other statutes of the
65 state, which powers shall include, but are not limited to, the
66 following:

67 (3)~~(a)~~ To pay, or participate in the payment of, premiums
68 for health, accident, and life insurance for its full-time
69 employees, pursuant to such rules as the department may adopt,
70 in addition to the regular salaries of such full-time employees.

71 (a) The payment of such or similar benefits to its
72 employees in foreign countries, including, but not limited to,
73 social security, retirement, and other similar fringe benefit
74 costs, may be in accordance with laws in effect in the country
75 of employment, except that no benefits will be payable to
76 employees not authorized for other state employees, as provided
77 in the Career Service System.

78 (b) The department may loan department employees to or
79 share department employees with other state and federal
80 agencies, state universities, or the Department of Agriculture
81 and Consumer Services for marketing and promotion orders
82 authorized under the authority of the Department of Agriculture
83 and Consumer Services or its direct support organizations or for
84 orders adopted under the authority of the United States
85 Secretary of Agriculture. The department may enter into
86 agreements with such entity or entities under such terms and
87 conditions as will benefit the state, if the agency or entity

26-00995A-20

20201276__

88 with which the employee is loaned or shared reimburses the state
89 for all pay and benefits of the employee, not including a
90 service fee for administration. If the entity directly pays the
91 loaned or shared employee his or her salary and benefits, if
92 applicable, an agreement with the department is not necessary
93 and the employee may work part-time with the department under
94 terms and conditions mutually agreed to between the department
95 and the employee. All arrangements made pursuant to this
96 paragraph are subject to prior approval by the department
97 ~~Subject to all applicable rules adopted by the Department of~~
98 ~~Management Services, the department shall be staffed 5 days per~~
99 ~~week, 40 hours per week, as necessary to accommodate industry~~
100 ~~inquiries. However, the executive director, with the~~
101 ~~commission's approval, may establish alternative schedules for~~
102 ~~individual department employees to ensure maximum efficiencies.~~

103 Section 3. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 29, 2020

I respectfully request that **1276**, relating to Department of Citrus, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Senator Ben Albritton
Florida Senate, District 26

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 Appropriations

BILL: CS/SB 1296

INTRODUCER: Health Policy Committee; and Senators Berman and Rodriguez

SUBJECT: Health Access Dental Licenses

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|-----------------------------|
| 1. | Rossitto-Van Winkle | Brown | HP | Fav/CS |
| 2. | Howard | Kidd | AHS | Recommend: Favorable |
| 3. | Howard | Kynoch | AP | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1296 revives, reenacts, and amends sections 466.0067 and 466.00671, Florida Statutes, and revives and reenacts section 466.00672, Florida Statutes., relating to health access dental licenses, notwithstanding their repeal on January 1, 2020. This gives the Department of Health (department) and the Board of Dentistry the statutory authority to resume issuing and renewing such licenses.

The bill has an insignificant fiscal impact on the department that can be absorbed within existing resources.

The bill takes effect upon becoming a law.

II. Present Situation:

Dentistry

Section 466.004, F.S., establishes the Board of Dentistry (BOD) within the Department of Health (department) to regulate the practice of dentistry. The requirements for dental licensure by examination are found in s. 466.006, F.S. A person desiring to be licensed as a dentist must apply to the department to take the examinations. To take the examination, an applicant must be 18 years of age or older and be:

- A graduate from a dental school accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA), or any other dental accrediting entity recognized by the U.S. Department of Education (DOE); or
- A dental student in the final year of a program at such an ADA CODA accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations.

Dental school graduates from a school not accredited by the ADA CODA, a U.S. DOE-recognized dental accrediting entity, or approved by the BOD, desiring to take the Florida dental licensure examinations, are not entitled to take the examinations until the applicant:

- Demonstrates completion of a program of study defined by BOD rule, at an accredited American dental school and receipt of a D.D.S. or D.M.D. from the school; or
- Submits proof of successful completion of at least two consecutive years at a full-time supplemental general dentistry program accredited by the ADA CODA.¹

The Legislature has authorized the BOD to use the American Dental Licensing Examination (ADLEX), developed by the American Board of Dental Examiners, Inc., in lieu of an independent state-developed practical or clinical examination.

Health Access Dental Licenses

In 2008, the Legislature established the health access dental license² in order to attract out-of-state dentists to practice in Florida's underserved health access settings.³ On January 1, 2020, ss. 466.0067 through 466.00673, F.S., were repealed when the Legislature failed to reenact those statutes, as provided under s. 466.00673, F.S. However, health access dental licenses issued before January 1, 2020, are not affected by the repeal and remain valid under the provisions of the former ss. 466.0067-466.00673, F.S.⁴

With a health access dental license, a dentist actively licensed and in good standing in another state, the District of Columbia, or a U.S. territory, is authorized to practice dentistry in Florida in a health access setting if the dentist:

- Submits proof he or she graduated from a dental school accredited by the Commission on Dental Accreditation of the ADA or its successor agency;

¹ Florida Dept. of Health, *Senate Bill 188 Analysis* (2019) (on file with the Senate Committee on Health Policy), p. 3. According to the DOH, it is unclear whether the two years of a full time supplemental general dentistry program includes specialty or advanced education programs.

² See ss. 466.0067, 466.00671, 466.00672, and 466.00673, F.S.

³ A "health access setting" is defined in s. 466.003(14), F.S., as a program or institution of the Department of Children and Families, the Department of Health, or the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center (FQHC) or FQHC look-alike as defined by federal law, a school-based prevention program, or a clinic operated by an accredited college of dentistry or an accredited dental hygiene program in this state if such community service programs and institutions immediately report to the Board of Dentistry practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such settings.

⁴ Section 466.00673, F.S., prior to January 1, 2020, provided that "Effective January 1, 2020, ss. 466.0067-466.00673, F.S., are repealed unless reenacted by the Legislature. Any health access dental license issued before January 1, 2020, shall remain valid according to ss. 466.0067-466.00673, F.S., without effect from repeal."

- Submits proof he or she has successfully completed parts I and II of the National Board of Dental Examiners (NBDE) examination and a state or regional clinical dental licensing examination that the BOD has determined effectively measures the applicant's ability to practice safely;
- Submits ADLEX examination scores mailed to the BOD directly from the American Dental Association;
- Submits a final official transcript from a dental school sent to the BOD by the registrar's office;
- Submits a certification of licensure from each state in which he or she currently holds or has held a dental or dental hygiene license;
- Submits proof of training in cardiopulmonary resuscitation (CPR) at the basic support level;
- Files a BOD-approved application and pays the applicable fees;
- Has not been convicted of, nor pled *nolo contendere* to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Currently holds a valid, active dental license in good standing which has not been revoked, suspended, restricted, or otherwise disciplined from another state, the District of Columbia, or a U.S. territory;
- Has never had a license revoked from another state, the District of Columbia, or a U.S. territory;
- Has never failed an exam under s. 466.006, F.S., unless the applicant was reexamined and received a license to practice in Florida;
- Has not been reported to the NBDE, unless the applicant successfully appealed to have his or her name removed from the data bank;
- Submits proof that he or she has been engaged in the active, clinical practice of dentistry and has provided direct patient care for five years immediately preceding the date of application, or proof of continuous clinical practice, and has provided direct patient care since graduation if the applicant graduated less than five years from his or her application date;
- Submits documentation that she or he has completed, or will complete prior to licensure, continuing education equivalent to this state's requirement for dentists licensed under s. 466.006, F.S., for the last full reporting biennium before applying for a health access dental license;⁵ and
- Successfully completes the examination covering the laws and rules of the practice of dentistry in this state.^{6,7}

A health access dental license is subject to biennial renewal. The BOD will renew a health access dental license if the applicant:

- Submits a renewal application and has paid a renewal fee;
- Submits documentation, as approved by the board, from the employer in the health access setting that the licensee has at all times pertinent remained an employee;
- Has not been convicted of, nor pled *nolo contendere* to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;

⁵ See ch. 64B5-12.013, Fla. Admin. Code R. (2019), for continuing education requirements.

⁶ Section 466.006(4)(a), F.S.

⁷ Department of Health, Board of Dentistry, *Health Access Dentist*, available at <https://floridasdentistry.gov/licensing/health-access-dentist/> (last visited Jan. 8, 2020).

- Has not failed the examination specified in s. 466.006, F.S., since initially receiving a health access dental license or since the last renewal; and
- Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank.

The BOD may undertake measures to independently verify the health access dental licensee's ongoing employment status in the health access setting.

The BOD may revoke a health access dental license if the licensee is terminated from employment in the health access setting or practices outside of the health access setting, fails the Florida dental licensure examination, or is found by the BOD to have committed a violation of ch. 466, F.S., (the Dental Practice Act), other than a violation that is a citation offense or a minor violation.

Currently, the department has issued 60 health access dental licenses. Of those, 39 are in-state active, one is in-state delinquent, 11 are out-of-state active, two are out-of-state delinquent, and seven are retired.⁸ As of January 1, 2020, the department is no longer authorized to issue initial health access dental licenses. Current health access dental licenses expire at midnight EST, February 28, 2020. The department is renewing current health access dental licenses and taking requests to reactivate such a license in inactive or retired status with the payment of additional fees and proof of compliance with specific continuing education requirements.⁹

III. Effect of Proposed Changes:

The bill revives, reenacts, and amends ss. 466.0067, 466.00671, and revives and reenacts 466.00672, F.S., notwithstanding the January 1, 2020, repeal of those sections. The bill's amendments to those sections are for the purpose of grammatical corrections only.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁸ Florida Dept. of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan FY 2018-2019*, p. 13, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html> (last visited Jan. 8, 2020). "In-State Active" means the licensed practitioner has a Florida mailing address and is authorized to practice. "In-State Delinquent" means the licensed practitioner has a Florida mailing address and is not authorized to practice in the state because of failure to renew the license by the expiration date. "Out-of-State Active" means the licensed practitioner has an out-of-state mailing address and is authorized to practice. "Out-of-State Inactive" means the licensed practitioner has an out-of-state mailing address and is not authorized to practice. "Retired" means the licensed practitioner is not authorized to practice. The practitioner is not obligated to update licensure data. Section 456.036, F.S.

⁹ Florida Dept. of Health, Board of Dentistry, *Health Access Dentist*, available at <https://floridasdentistry.gov/renewals/health-access-dentist/> (last visited Jan. 8, 2020).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1296 would require the department to incur non-recurring costs for rulemaking that can be absorbed within existing resources. The department will have a minimal reduction in workload, costs, and revenues associated with the interruption period in issuing health access dental licenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill revives, reenacts, and amends the following sections of the Florida Statutes: 466.0067 and 466.00671,

This bill revives and reenacts section 466.00672 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 the Health Policy Committee on January 14, 2020:

The CS changes the effective date of the bill from July 1, 2020, to upon becoming a law.

- B. **Amendments:**

None.

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

By the Committee on Health Policy; and Senator Berman

588-02263-20

20201296c1

1 A bill to be entitled
 2 An act relating to health access dental licenses;
 3 reviving, reenacting, and amending s. 466.0067, F.S.,
 4 relating to the application for a health access dental
 5 license; reviving, reenacting, and amending s.
 6 466.00671, F.S., relating to the renewal of such
 7 license; reviving and reenacting s. 466.00672, F.S.,
 8 relating to the revocation of such license; providing
 9 an effective date.

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

11 Section 1. Notwithstanding the January 1, 2020, repeal of
 12 section 466.0067, Florida Statutes, that section is revived,
 13 reenacted, and amended to read:

14 466.0067 Application for health access dental license.—The
 15 Legislature finds that there is an important state interest in
 16 attracting dentists to practice in underserved health access
 17 settings in this state and further, that allowing out-of-state
 18 dentists who meet certain criteria to practice in health access
 19 settings without the supervision of a dentist licensed in this
 20 state is substantially related to achieving this important state
 21 interest. Therefore, notwithstanding the requirements of s.
 22 466.006, the board shall grant a health access dental license to
 23 practice dentistry in this state in health access settings as
 24 defined in s. 466.003 to an applicant who ~~that~~:

- 25 (1) Files an appropriate application approved by the board;
 26 (2) Pays an application license fee for a health access
 27 dental license, laws-and-rule exam fee, and an initial licensure
 28
 29

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30 fee. The fees specified in this subsection may not differ from
 31 an applicant seeking licensure pursuant to s. 466.006;
 32 (3) Has not been convicted of or pled nolo contendere to,
 33 regardless of adjudication, any felony or misdemeanor related to
 34 the practice of a health care profession;
 35 (4) Submits proof of graduation from a dental school
 36 accredited by the Commission on Dental Accreditation of the
 37 American Dental Association or its successor agency;
 38 (5) Submits documentation that she or he has completed, or
 39 will obtain before ~~prior to~~ licensure, continuing education
 40 equivalent to this state's requirement for dentists licensed
 41 under s. 466.006 for the last full reporting biennium before
 42 applying for a health access dental license;
 43 (6) Submits proof of her or his successful completion of
 44 parts I and II of the dental examination by the National Board
 45 of Dental Examiners and a state or regional clinical dental
 46 licensing examination that the board has determined effectively
 47 measures the applicant's ability to practice safely;
 48 (7) Currently holds a valid, active, ~~denial~~ dental license in good
 49 standing from another of the United States, the District of
 50 Columbia, or a United States territory which has not been
 51 ~~revoked, suspended, restricted, or otherwise disciplined from~~
 52 ~~another of the United States, the District of Columbia, or a~~
 53 ~~United States territory~~;
 54 (8) Has never had a license revoked from another of the
 55 United States, the District of Columbia, or a United States
 56 territory;
 57 (9) Has never failed the examination specified in s.
 58 466.006, unless the applicant was reexamined pursuant to s.

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

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59 466.006 and received a license to practice dentistry in this
60 state;

61 (10) Has not been reported to the National Practitioner
62 Data Bank, unless the applicant successfully appealed to have
63 his or her name removed from the data bank;

64 (11) Submits proof that he or she has been engaged in the
65 active, clinical practice of dentistry providing direct patient
66 care for 5 years immediately preceding the date of application,
67 or in instances when the applicant has graduated from an
68 accredited dental school within the preceding 5 years, submits
69 proof of continuous clinical practice providing direct patient
70 care since graduation; and

71 (12) Has passed an examination covering the laws and rules
72 of the practice of dentistry in this state as described in s.
73 466.006(4) (a).

74 Section 2. Notwithstanding the January 1, 2020, repeal of
75 section 466.00671, Florida Statutes, that section is revived,
76 reenacted, and amended to read:

77 466.00671 Renewal of the health access dental license.—

78 (1) A health access dental licensee shall apply for renewal
79 each biennium. At the time of renewal, the licensee shall sign a
80 statement that she or he has complied with all continuing
81 education requirements of an active dentist licensee. The board
82 shall renew a health access dental license for an applicant who
83 ~~that~~:

84 (a) Submits documentation, as approved by the board, from
85 the employer in the health access setting that the licensee has
86 at all times pertinent remained an employee;

87 (b) Has not been convicted of or pled nolo contendere to,

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88 regardless of adjudication, any felony or misdemeanor related to
89 the practice of a health care profession;

90 (c) Has paid a renewal fee set by the board. The fee
91 specified herein may not differ from the renewal fee adopted by
92 the board pursuant to s. 466.013. The department may provide
93 payment for these fees through the dentist's salary, benefits,
94 or other department funds;

95 (d) Has not failed the examination specified in s. 466.006
96 since initially receiving a health access dental license or
97 since the last renewal; and

98 (e) Has not been reported to the National Practitioner Data
99 Bank, unless the applicant successfully appealed to have his or
100 her name removed from the data bank.

101 (2) The board may undertake measures to independently
102 verify the health access dental licensee's ongoing employment
103 status in the health access setting.

104 Section 3. Notwithstanding the January 1, 2020, repeal of
105 section 466.00672, Florida Statutes, that section is revived and
106 reenacted to read:

107 466.00672 Revocation of health access dental license.—

108 (1) The board shall revoke a health access dental license
109 upon:

110 (a) The licensee's termination from employment from a
111 qualifying health access setting;

112 (b) Final agency action determining that the licensee has
113 violated any provision of s. 466.027 or s. 466.028, other than
114 infractions constituting citation offenses or minor violations;
115 or

116 (c) Failure of the Florida dental licensure examination.

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117 (2) Failure of an individual licensed pursuant to s.
118 466.0067 to limit the practice of dentistry to health access
119 settings as defined in s. 466.003 constitutes the unlicensed
120 practice of dentistry.

121 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 21, 2020

I respectfully request that **Senate Bill #1296**, relating to Health Access Dental Licenses, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Lori Berman

Senator Lori Berman
Florida Senate, District 31

cc: Cynthia Kynoch, Staff Director

Chair,

If there is any way you can put this bill on your agenda Thursday, I would greatly appreciate it. The bill is being heard in AHS on Tuesday. The House version has been heard & has passed the House floor.

Thank you!



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 25, 2020

I respectfully request that **Senate Bill #1296**, relating to Health Access Dental Licenses, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, appearing to read "Lori Berman", written over a horizontal line.

Senator Lori Berman
Florida Senate, District 31

cc: Cindy Kynoch, Staff Director

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

SB 1296

Bill Number (if applicable)

Topic Health Access Dental License

Amendment Barcode (if applicable)

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Speaking: For Against Information

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

Representing Florida Dental 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.

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 Appropriations

BILL: PCS/CS/SB 1308 (695928)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senators Brandes, Bracy, Powell, and others

SUBJECT: Criminal Justice

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------------|
| 1. | Cox | Jones | CJ | Fav/CS |
| 2. | Forbes | Jameson | ACJ | Recommend: Fav/CS |
| 3. | Forbes | Jameson | AP | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1308 makes a number of changes to the criminal justice system, including:

- Providing for the retroactive application of the changes made by CS/HB 7125 (2019) to section 322.34, Florida Statutes, related to the offense of driving while license suspended or revoked (DWLSR).
- Requiring offenders convicted of DWLSR who have not been sentenced as of October 1, 2020, to be sentenced in accordance with the new penalties outlined in CS/HB 7125 (2019).
- Authorizing offenders convicted of DWLSR who have been sentenced and are still serving such sentence to be resentenced in accordance with the penalties in CS/HB 7125 (2019).
- Providing procedures for the resentencing of eligible persons previously convicted of DWLSR and requires the court of original jurisdiction, upon receiving an application for sentence review from the eligible person, to hold a sentence review hearing to determine if the eligible person meets the criteria for resentencing.
- Providing that a person is eligible to expunge a criminal history record of a conviction that resulted from former section 322.34, Florida Statutes, in specified circumstances.
- Renaming of the Criminal Punishment Code to the “Public Safety Code” and changing the primary purpose from punishing the offender to public safety.
- Removing various mandatory minimum terms of imprisonment for specified offenses.

- Reducing the mandatory minimum penalties imposed upon a prison releasee reoffender (PRR), a category of repeat offenders, under section 775.082(9), Florida Statutes, and expressly applying such changes retroactively.
- Providing a process for resentencing certain prison releasee reoffenders and removing a provision of law that prohibits a prison releasee reoffender from any form of early release.
- Authorizing a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met.
- Clarifying that a court is only required to modify or continue an offender's probationary term if *all* of the enumerated specified factors apply.
- Modifying the list of prior offenses that exclude juvenile offenders convicted of capital murder from a sentence review hearing in accordance with section 921.1402, Florida Statutes, enacted subsequent to the *Graham v. Florida* and *Miller v. Alabama* cases, to only murder and applying this modification retroactively.
- Providing that juvenile offenders who are no longer barred from a sentence review hearing due to the modified list of enumerated prior offenses and who have served 25 years of the imprisonment imposed on the effective date of the bill must have a sentence review hearing conducted immediately.
- Providing all other juvenile offenders who are no longer barred from a sentence review hearing due to the modified list of enumerated prior offenses must be given a sentence review hearing when 25 years of the imprisonment imposed have been served.
- Establishing a sentence review process similar to that created for juvenile offenders pursuant to section 921.1402, Florida Statutes, for "young adult offenders."
- Defining the term "young adult offender."
- Allowing certain young adult offenders to request a sentence review hearing with the original sentencing court if specified conditions are met, specifically:
 - A young adult offender convicted of a life felony offense, or an offense reclassified as such, who was sentenced to 20 years imprisonment may request a sentence review after 20 years; and
 - A young adult offender convicted of a first degree felony offense, or an offense reclassified as such, who was sentenced to 15 years imprisonment may request a sentence review after 15 years.
- Expanding the types of forensic analysis available to a petitioner beyond DNA testing.
- Requiring a petitioner to show that forensic analysis may result in evidence material to the identity of the perpetrator of, or an accomplice to, the crime that resulted in the person's conviction, rather than having to show the evidence would exonerate the person or mitigate his or her sentence.
- Authorizing a private laboratory to perform forensic analysis under specified circumstances at the petitioner's expense.
- Requiring the Florida Department of Law Enforcement (FDLE) to conduct a search of the statewide DNA database and request the National DNA Index System (NDIS) to search the federal database if forensic analysis produces a DNA profile.
- Authorizing a court to order a governmental entity that is in possession of physical evidence claimed to be lost or destroyed to search for the physical evidence and produce a report to the court, the petitioner, and the prosecuting authority regarding such lost evidence.
- Repealing section 947.149, Florida Statutes, which establishes the conditional medical release (CMR) program within the Florida Commission on Offender Review (FCOR) and

creates section 945.0911, Florida Statutes, to establish a CMR program within the Department of Corrections (DOC).

- Providing definitions and eligibility criteria for the CMR program.
- Providing a process for the referral, determination of release, and revocation of release for the CMR program.
- Establishing a conditional aging inmate release (CAIR) program within the DOC.
- Providing eligibility criteria for the CAIR program.
- Providing a process for the referral, determination of release, and revocation of release for the CAIR program.
- Deleting and modifying terms related to the “Victims of Wrongful Incarceration Compensation Act.”
- Eliminating specified factors barring from consideration for certain persons from compensation for wrongful incarceration.
- Extending the time for a person who was wrongfully incarcerated to file a petition with the court to determine eligibility for compensation from 90 days to two years.
- Authorizing certain persons who were previously barred from filing a petition for wrongful compensation to file a petition with the court by July 1, 2021.
- Requiring the DOC and county detention facilities to provide documentation to inmates upon release specifying the total length of the term of imprisonment at the time of release.
- Allowing the time spent incarcerated in a county detention facility or state correctional facility to apply towards satisfaction of residing for a specified amount of time in Florida for designation as a resident for tuition purposes.
- Requiring the time spent incarcerated in a county detention facility or state correctional facility to be credited toward the residency requirement, with any combination of documented time living in Florida before or after incarceration.
- Requiring the Office of Program Policy and Governmental Accountability (OPPAGA) to conduct a study to evaluate the various opportunities available to persons returning to the community from imprisonment and submit a report by November 1, 2020.

The bill will likely have a fiscal impact to various agencies and a prison bed impact to the DOC. See Section V.

Unless otherwise expressly stated, the bill is effective October 1, 2020.

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:

Retroactive Application of Certain Offenses Related to Driver Licenses (Sections 1 and 15)

Driver Licenses - Generally

Florida law requires a person to hold a driver license¹ or be exempted from licensure to operate a motor vehicle on the state's roadways.² Exemptions to the licensure requirement include nonresidents who possess a valid driver license issued by their home states, federal government, employees operating a government vehicle for official business, and people operating a road machine, tractor, or golf cart.³

The Department of Highway Safety and Motor Vehicles (DHSMV) can suspend or revoke a driver license or driving privilege for both driving-related and non-driving related reasons. Suspension means the temporary withdrawal of the privilege to drive⁴ and revocation means a termination of the privilege to drive.⁵

Among the driving-related reasons that a person may have had his or her license suspended or revoked are convictions for fleeing or attempting to elude a law enforcement officer,⁶ driving under the influence (DUI),⁷ and refusal to submit to a lawful breath, blood, or urine test in a DUI investigation.⁸ Alternatively, some of the non-driving related convictions a person may have his or her license suspended or revoked for are graffiti by a minor⁹ and certain drug offenses.¹⁰

Additionally, the clerk of the court can direct the DHSMV to suspend a license for several reasons, including failure to comply with civil penalties.¹¹ Such a suspension lasts until the individual is compliant with the court's requirements for reinstatement¹² or if the court grants relief from the suspension.¹³ A person with a suspended or revoked license cannot drive, which can inhibit his or her ability to work and can further impede the process of resolving outstanding financial obligations.¹⁴

¹ "Driver license" is a certificate that, subject to all other requirements of law, authorizes an individual to drive a motor vehicle and denotes an operator's license as defined in 49 U.S.C. s. 30301. Section 322.01(17), F.S.

² Section 322.03(1), F.S.

³ Section 322.04, F.S.

⁴ Section 322.01(40), F.S.

⁵ Section 322.01(36), F.S.

⁶ Section 316.1935(5), F.S.

⁷ See ss. 316.193, 322.26, 322.271, and 322.28, F.S.

⁸ See ss. 316.193 and 322.2615(1)(b), F.S.

⁹ Section 806.13, F.S.

¹⁰ Section 322.055, F.S.

¹¹ Section 322.245, F.S.

¹² See ss. 318.15(2) and 322.245(5), F.S.

¹³ Section 322.245(5), F.S.

¹⁴ Section 322.271, F.S., allows a person to have his or her driving privilege reinstated on a restricted basis solely for business or employment purposes under certain circumstances.

Section 322.34, F.S. (2018)

Prior to October 1, 2019, a person committed the offense of DWLSR if his or her driver license or driving privilege had been canceled, suspended, or revoked and he or she, knowing of such cancellation, suspension, revocation, or suspension,¹⁵ drove any motor vehicle. The penalties for DWLSR ranged from a moving traffic violation to a third degree felony.¹⁶

Under the former provisions, a person could be charged with a third-degree felony¹⁷ for the offense of DWLSR if:

- He or she knew of the suspension or revocation and had at least two prior convictions for DWLSR;
- He or she qualified as a habitual traffic offender;¹⁸ or
- His or her license had been permanently revoked.¹⁹

Section 322.34, F.S. (2019) and CS/HB 7125 (2019)

The 2019 Legislature passed and the Governor signed into law CS/HB 7125, which, in part, amended the provisions related to DWLSR.²⁰ Subsequent to the effective date of CS/HB 7125 (2019), the offense of DWLSR is classified as a:

- Misdemeanor of the second degree, upon a first conviction.²¹
- Misdemeanor of the first degree, upon a second or subsequent conviction, unless the suspension is related to an enumerated offense discussed below.²²
- A felony of the third degree, upon a third or subsequent conviction if the current violation of DWLSR or the most recent prior violation of DWLSR is resulting from a violation of:
 - DUI;
 - Refusal to submit to a urine, breath-alcohol, or blood alcohol test;
 - A traffic offense causing death or serious bodily injury; or
 - Fleeting or eluding.²³

CS/HB 7125 (2019) also added the term “suspension or revocation equivalent status” to ch. 322, F.S., and defined it to mean a designation for a person who does not have a driver license or

¹⁵ The element of knowledge is satisfied in several ways, including: if the person has been previously cited, as provided in s. 322.34(1), F.S., the person admits to knowledge of the cancellation, suspension, or revocation or the person received notice of such status. There is a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order appears in the DHSMV’s records for any case except for one involving a suspension by the DHSMV for failure to pay a traffic fine or for a financial responsibility violation. *See* s. 322.34(2), F.S.

¹⁶ *See* s. 322.34(2), F.S.

¹⁷ A third degree felony is punishable by up to 5 years’ imprisonment and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

¹⁸ *See* s. 322.264, F.S.

¹⁹ *See* ss. 322.34 and 322.341, F.S. (2018).

²⁰ Chapter 2019-167, L.O.F.

²¹ Section 322.34(2)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

²² Additionally, a person convicted under this paragraph for a third or subsequent conviction must serve a minimum of ten days in jail. Section 322.34(2)(b), F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

²³ The penalties amended in CS/HB 7125 (2019) do not apply to all persons who commit the offense of DWLSR. Section 322.34(5)-(7) and (10), F.S., provide different penalties for certain offenders who violate these provisions.

driving privilege but would qualify for suspension or revocation of his or her driver license or driving privilege if licensed.²⁴ This term was added to s. 322.34(2), F.S., therefore expanding the criminal penalties for DWLSR to apply to a person who does not have a driver license or driving privilege, but is under suspension or revocation equivalent status.

Collateral Consequences of Felony Convictions

A collateral consequence is any adverse legal effect of a conviction that is not a part of a sentence.²⁵ If the consequence does not affect the range of punishment, it is said to be collateral to the plea.²⁶ Such consequences are legal and regulatory restrictions that limit or prohibit people convicted of crimes from accessing employment, business and occupational licensing, housing, voting, education, and other rights, benefits, and opportunities.²⁷ Some examples of collateral consequences that occur upon any felony conviction in Florida include the loss of the right to vote,²⁸ hold public office,²⁹ serve on a jury,³⁰ obtain certain professional licenses,³¹ and owning or possessing a firearm.³² There are additional collateral consequences that can occur as a result of a felony conviction of specified offenses, such as the loss of driving privileges related to drug and theft offenses.³³ Conviction of a crime may also result in disqualification to hold a government job and other limits on employment opportunities or even loss of employment.³⁴

Constitutional and Statutory Savings Clauses

Until recently, Art. X, s. 9 of the State Constitution (Florida's constitutional savings clause) expressly prohibited any repeal or amendment of a criminal statute that affected prosecution or punishment for any crime previously committed, and therefore, the Florida Legislature was "powerless to lessen penalties for past transgressions; to do so would require constitutional revision."³⁵

In 2018, Florida voters adopted the following amendment to Art. X, s. 9 of the State Constitution:

²⁴ The DHSMV is authorized to designate a person as having suspension or revocation equivalent status in the same manner as it is authorized to suspend or revoke a driver license or driving privilege by law. *See* s. 322.34(41), F.S.

²⁵ The Miami-Dade Florida Public Defender's Office, *What You Don't Know Can Hurt You: The Collateral Consequences of a Conviction in Florida*, Updated April 2019, p. 7, available at <http://www.pdmiami.com/ConsequencesManual.pdf> (last visited February 21/January 29, 2020).

²⁶ *See Bolware v. State*, 995 So.2d 268 (Fla. 2008).

²⁷ U.S. Commission on Civil Rights, *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*, Executive Summary, June 2019, p. 1, available at <https://www.usccr.gov/pubs/2019/06-13-Collateral-Consequences.pdf> (last visited February 21/January 29, 2020).

²⁸ Art. VI, s. 4, FLA. CONST.; s. 97.041, F.S.

²⁹ *Id.*

³⁰ Section 40.013(1), F.S.

³¹ For example, *see* chs. 455, 489, and 626, F.S.

³² Section 790.23, F.S.

³³ *See* ss. 322.055 and 812.0155, F.S.

³⁴ 16 Fla. Prac., Sentencing, s. 6:120 (2019-2020 ed.).

³⁵ Comment, *Today's Law and Yesterday's Crime: Retroactive Application of Ameliorative Criminal Legislation*, 121 U. Pa. L. Rev. 120, 129 (1972).

~~Repeal or amendment~~ of a criminal statute shall not affect prosecution or ~~punishment~~ for any crime ~~previously~~ committed before such repeal.

Revised Art. X, s. 9 of the State Constitution only prohibits applying the repeal of a criminal statute to any crime committed before such repeal if this retroactive application “affects prosecution.” The revised constitutional savings clause does not expressly prohibit retroactive application of a repeal that does not affect prosecution, a repeal that affects punishment, or an amendment of a criminal statute that affects prosecution or punishment.

The elimination of the expressed prohibition on certain retroactive applications is not a directive to the Legislature to retroactively apply what was formerly prohibited. As the Florida Supreme Court recently stated: “... [T]here will no longer be any provision in the Florida Constitution that would prohibit the Legislature from applying an amended criminal statute retroactively to pending prosecutions or sentences. However, nothing in our constitution does or will require the Legislature to do so, and the repeal of the prohibition will not require that they do so.”³⁶

In 2019, the Legislature created s. 775.022, F.S., a general savings statute for criminal statutes. The statute defines a “criminal statute” as a statute, whether substantive or procedural, dealing in any way with a crime or its punishment, defining a crime or a defense to a crime, or providing for the punishment of a crime.³⁷

The statute specifies legislative intent to preclude:

- Application of the common law doctrine of abatement to a reenactment or an amendment of a criminal statute; and
- Construction of a reenactment or amendment as a repeal or an implied repeal³⁸ of a criminal statute for purposes of Art. X, s. 9 of the State Constitution (Florida’s constitutional savings clause).³⁹

The statute also states that, except as expressly provided in an act of the Legislature or as provided in two specified exceptions, the reenactment or amendment of a criminal statute operates prospectively and does not affect or abate any of the following:

- The prior operation of the statute or a prosecution or enforcement under the criminal statute;
- A violation of the criminal statute based on any act or omission occurring before the effective date of the act; and
- A prior penalty, prior forfeiture, or prior punishment incurred or imposed under the statute.⁴⁰

The first exception is a retroactive amelioration exception that provides that if a penalty, forfeiture, or punishment for a violation of a criminal statute is reduced by a reenactment or an amendment of a criminal statute, the penalty, forfeiture, or punishment, if not already imposed,

³⁶ *Jimenez v. Jones*, 261 So.3d 502, 504 (Fla. 2018).

³⁷ Section 775.022(2), F.S.

³⁸ The Florida Supreme Court previously indicated that the “standard [is] that implied repeals are disfavored and should only be found in cases where there is a ‘positive repugnancy’ between the two statutes or ‘clear legislative intent’ indicating that the Legislature intended the repeal[.]” *Flo-Sun, Inc. v. Kirk*, 783 So.2d 1029, 1036 (Fla. 2001).

³⁹ Section 775.022(1), F.S.

⁴⁰ Section 775.022(3), F.S.

must be imposed according to the statute as amended.⁴¹ This means the penalty, forfeiture, or punishment reduction must be imposed retroactively *if the sentence has not been imposed*, including the situation in which the sentence is imposed after the effective date of the amendment. However, nothing in the general savings statute precludes the Legislature from providing for a more extensive retroactive application either to legislation in the future or legislation that was enacted prior to the effective date of the general savings statute. This is because the general savings statute specifically provides for a legislative exception to the default position of prospectivity. The Legislature only has to “expressly provide” for this retroactive application.⁴²

Expunction of Criminal History Records

Overview

Another consequence of a felony conviction in Florida is the prohibition of obtaining a court-ordered expunction. Florida law makes adult criminal history records accessible to the public unless the record has been sealed or expunged.⁴³ Criminal history records related to certain offenses are barred from being expunged through the court-order process.⁴⁴ Section 943.0585, F.S., sets forth procedures for expunging criminal history records through court-order.

Persons who have had their criminal history records expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain types of employment,⁴⁵ petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.⁴⁶

Process for Obtaining a Court-Ordered Expunction

To qualify for a court-ordered expunction, a person must first obtain a certificate of eligibility (COE) from the FDLE.⁴⁷ To obtain the COE from the FDLE, a person must comply with a number of requirements, including, in part, that he or she has never been adjudicated guilty or delinquent of a:

- Criminal offense;
- Comparable ordinance violation; or
- Specified felony or misdemeanor prior to the COE application date.⁴⁸

⁴¹ Section 775.022(4), F.S.

⁴² Section 775.022(3), F.S.

⁴³ Florida Department of Law Enforcement, *Seal and Expunge Process*, available at <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx> (last visited February 21, 2020). *See also* s. 943.053, F.S.

⁴⁴ *See* 943.0584, F.S., for a complete list of offenses that are ineligible for court-ordered expunction.

⁴⁵ These include candidates for employment with a criminal justice agency; applicants for admission to the Florida Bar; those seeking a sensitive position involving direct contact with children, the developmentally disabled, or the elderly with the Department of Children and Family Services, Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice; persons seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities; or a Florida seaport.

⁴⁶ Section 943.0585(6)(a), F.S.

⁴⁷ *See* s. 943.0585(2), F.S.

⁴⁸ *See* s. 943.0585(1) and (2), F.S., for full requirements for obtaining a COE.

Further, a person may seek a court-ordered expunction immediately, provided the person is no longer subject to court supervision, if none of the charges related to the arrest or alleged criminal activity resulted in a trial or relate to an offense enumerated in s. 943.0584, F.S., and:

- An indictment, information, or other charging document was not filed or issued in the case (no-information); or
- An indictment, information, or other charging document was filed or issued in the case, but it was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction (dismissal).⁴⁹

Upon receipt of a COE, the person must then petition the court to expunge the criminal history record. The petition must include the COE and a sworn statement from the petitioner that he or she is eligible for expunction to the best of his or her knowledge.⁵⁰ A copy of the completed petition is then served upon the appropriate state attorney or statewide prosecutor and the arresting agency, any of which may respond to the court regarding the petition.⁵¹

There is no statutory right to a court-ordered expunction and any request for such an expunction of a criminal history record may be denied at the sole discretion of the court.⁵² The court is only authorized to order the expunction of a record that pertains to one arrest or one incident of alleged criminal activity.⁵³ However, the court may order the expunction of a record pertaining to more than one arrest if such additional arrests directly relate to the original arrest.⁵⁴

Effect of an Expunction

Any record that the court grants the expunction of must be physically destroyed or obliterated by any criminal justice agency having such record. The FDLE, however, is required to maintain the record. Records that have been expunged are confidential and exempt⁵⁵ from the public records law.⁵⁶ Only a court order would make the record available to a person or entity that is otherwise excluded.⁵⁷

⁴⁹ See s. 943.0585(1), F.S.

⁵⁰ See s. 943.0585(3)(b), F.S.

⁵¹ Section 943.0585(5)(a), F.S.

⁵² Section 943.0585(4)(e), F.S.

⁵³ Section 943.0585(4)(c), F.S.

⁵⁴ *Id.* The court must articulate in writing its intention to expunge or seal a record pertaining to multiple arrests and a criminal justice agency may not expunge or seal multiple records without such written documentation. The court is also permitted to expunge or seal only a portion of a record.

⁵⁵ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See 85-62 Fla. Op. Att’y Gen. (1985).

⁵⁶ Section 943.0585(6)(d), F.S.

⁵⁷ See s. 943.0585(6), F.S.

Effect of the Bill

Retroactive Application of the New DWLSR Offense

The bill creates s. 322.3401, F.S., expressly providing for the retroactive application of the changes made by CS/HB 7125 (2019) to s. 322.34, F.S., related to the offense of DWLSR.

The bill provides legislative intent language, which states:

It is the intent of the Legislature to retroactively apply section 12 of chapter 2019-167, Laws of Florida, only as provided in this section, to persons who committed the offense of driving while license suspended, revoked, canceled, or disqualified before October 1, 2019, the effective date of section 12 of chapter 2019-167, Laws of Florida, which amended s. 322.34 to modify criminal penalties and collateral consequences for offenses under that section.

The bill defines two terms for purposes of s. 322.3401, F.S.:

- “Former s. 322.34”, which means a reference to s. 322.34, F.S., as it existed at any time before its amendment by ch. 2019-167, L.O.F.
- “New s. 322.34”, which means a reference to s. 322.34, F.S., as it exists after the amendments made by ch. 2019-167, L.O.F., became effective.

The bill requires a person who committed the offense of DWLSR before October 1, 2019, but who was not sentenced under former s. 322.34, F.S., before October 1, 2020, to be sentenced for the degree of offense as provided for in the new s. 322.34, F.S.

Further, the bill authorizes a person who committed the offense of DWLSR before October 1, 2019, who was sentenced before October 1, 2019, to a term of imprisonment or supervision pursuant to former s. 322.34, F.S., and who is serving such penalty on or after October 1, 2020, to be resentenced to the degree of offense that is consistent with the degree provided for in the new s. 322.34, F.S.

The bill provides procedures for the resentencing of eligible persons. Specifically:

- A person who is eligible for resentencing must be given notification of such eligibility by the facility in which the person is imprisoned or the entity who is supervising the person.
- A person seeking a sentence review must submit an application to the court of original jurisdiction requesting that a sentence review hearing be conducted. This request serves to initiate the review procedures provided for under the bill.
- The sentencing court must retain original jurisdiction for the duration of the sentence for the purpose of conducting sentence review hearings.
- A person who is eligible for a sentence review hearing may be represented by counsel and the court is required to appoint a public defender to represent the person if he or she cannot afford an attorney.

Upon receiving an application for sentence review from the eligible person, the court must hold a sentence review hearing to determine if the person meets the criteria for resentencing.

If the court determines at the sentence review hearing that the person meets the criteria for resentencing, the court may resentence the person for the degree of offense that is consistent with the degree provided for in the new s. 322.34, F.S. If the court does not resentence the person, the court must provide written findings why resentencing is not appropriate.

In addition to the retroactive application of sentencing provisions of the new s. 322.34, F.S., the bill provides that a person who has been convicted of a felony under former s. 322.34, F.S., and whose offense would not be classified as a felony under the new s. 322.34, F.S., must have all outstanding fines, fees, and costs related to such felony conviction waived.

Further, he or she must be treated as if he or she had been convicted of a misdemeanor for purposes of any right, privilege, benefit, remedy, or collateral consequence that the person might be entitled to but for such felony conviction. However, the bill provides that this provision does not serve to remove the designation of the person as a convicted felon, but the statutory consequences of such felony conviction no longer apply.

Because the bill expressly provides for retroactive application of the changes the bill makes, the bill has provided a legislative exception to the default position of prospectively.

Expunction Related to DWLSR Offenses

The bill also creates s. 943.0587, F.S., authorizing a person to petition a court to expunge a criminal history record for a conviction under former s. 322.34, F.S., if the person:

- Received a withholding of adjudication or adjudication of guilt for a violation of DWLSR under former s. 322.34, F.S., and whose conviction would not be classified as a felony under the new s. 322.34, F.S.; and
- Only has felony convictions for the offense of DWLSR pursuant to the former s. 322.34, F.S.

The bill defines the terms of “former s. 322.34” and “new s. 322.34” in the same manner as described above.

Unlike other expunctions, an expunction granted in accordance with the bill does not prevent the person who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0583, 943.0585, and 943.059, F.S., if the person is otherwise eligible under those sections.

The bill provides that a person seeking to expunge a criminal history record must apply to the FDLE for a COE prior to petitioning a court to expunge a criminal history record for eligible DWLSR offenses. The FDLE is required to adopt rules to establish procedures for applying for and issuing a COE for expunction. The FDLE is required to issue the COE to a person who is the subject of a criminal history record eligible under the bill if that person satisfies the eligibility criteria listed below:

- Has submitted to the FDLE a written certified statement from the appropriate state attorney or statewide prosecutor which confirms the criminal history record complies with the criteria;
- Has submitted to the FDLE a certified copy of the disposition of the charge or charges to which the petition to expunge pertains; and

- Remits a \$75 processing fee to the FDLE for placement in the Department of Law Enforcement Operating Trust Fund, unless the executive director waives such fee.

As with COE certificates for other court-ordered expunctions, the bill provides that the COE is valid for 12 months after the date stamped on the certificate when issued by the FDLE. After that time, the petitioner must reapply for a new COE. The petitioner's status and the law in effect at the time of the renewal application determine the petitioner's eligibility.

The bill provides that a petition to expunge a criminal history record must be accompanied by:

- A valid COE issued by the FDLE.
- The petitioner's sworn statement that he or she:
 - Satisfies the eligibility requirements for expunction; and
 - Is eligible for expunction to the best of his or her knowledge.

Further, the bill provides that it is a third degree felony for a person to knowingly provide false information on a sworn statement for expunction pursuant to the bill.

The bill requires a copy of the completed petition to expunge to be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency, which entity is then able to respond to the court regarding the completed petition to expunge.

If relief is granted by the court, the following actions must be taken:

- The clerk of the court must certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency.
- The arresting agency is required to forward the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains.
- The FDLE must forward the order to expunge to the Federal Bureau of Investigation.
- The clerk of the court must certify a copy of the order to any other agency that the records of the court reflect has received the criminal history record from the court.

The FDLE or any other criminal justice agency is not required to act on an order to expunge entered by a court when such order does not comply with the requirements of the bill. Upon receipt of such an order, the FDLE must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor must take action within 60 days to correct the record and petition the court to void the order. The bill provides that a cause of action, including contempt of court, does not arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the COE as required or when the order does not otherwise comply with the requirements.

The bill provides that the effect of the expunction order is identical to the effect of court-ordered expunction orders that have been issued pursuant to s. 943.0585, F.S. The bill provides:

- The person who is the subject of a criminal history record that is expunged may lawfully deny or fail to acknowledge the arrests and convictions covered by the expunged record, except when the subject of the record:
 - Is a candidate for employment with a criminal justice agency;
 - Is a defendant in a criminal prosecution;
 - Concurrently or subsequently petitions for relief under this section, s. 943.0583, F.S., s. 943.059, F.S., or s. 943.0585, F.S.;
 - Is a candidate for admission to The Florida Bar;
 - Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation of the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly;
 - Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities;
 - Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services; or
 - Is seeking to be appointed as a guardian pursuant to s. 744.3125, F.S.
- Except as mentioned above, a person who has been granted an expunction may not be held to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

Section 1 of the bill, which relates to the retroactive application of the changes to the DWLSR offense, is effective October 1, 2020. Section 15, which relates to the expunction of certain DWLSR offenses, is effective on the same date as SB 1506 or similar legislation, which is tied to this bill, goes into effect if such legislation is adopted during this session.

Criminal Punishment Code (Sections 6, 9, 33, 34, 38, 40-51, and 56-62)

In 1997, the Legislature enacted the Criminal Punishment Code⁵⁸ (Code) as Florida's "primary sentencing policy."⁵⁹ The primary purpose of the Code is to "punish the offender."⁶⁰ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁶¹ 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

⁵⁸ Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

⁵⁹ See chs. 97-194 and 98-204, L.O.F.

⁶⁰ Section 921.002(1)(b), F.S.

⁶¹ 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.

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.⁶²

Absent mitigation,⁶³ 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.⁶⁴

Effect of the Bill

The bill amends s. 921.002, F.S., to revise the name and primary purpose of the Criminal Punishment Code, Florida's primary sentencing policy for noncapital felonies. Under current law, the primary purpose of the Criminal Punishment Code is to punish the offender. The bill renames the Criminal Punishment Code as the Public Safety Code and provides that the primary purpose of the Public Safety Code is public safety.

Conforming changes are made to numerous other statutes consistent with these changes.

These provisions of the bill are effective October 1, 2020.

Mandatory Minimum Sentencing (Sections 2-5, 7, 8, and 39)

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence."⁶⁵ As previously noted, the sentencing range under the Code is generally the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the scored lowest permissible sentence, the sentencing range is narrowed to the mandatory minimum sentence up to and including the statutory maximum penalty.

⁶² Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁶³ 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.

⁶⁴ See s. 775.082, F.S.

⁶⁵ Fla. R. Crim. P. 3.704(d)(26).

Prosecutors have “complete discretion” in the charging decision.⁶⁶ The exercise of this discretion may determine whether a defendant is subject to a mandatory minimum term or a reduced mandatory minimum term. Further, a prosecutor could move the court to reduce or suspend a sentence if the defendant renders substantial assistance.

There are few circumstances in which a court of its own accord can depart from a mandatory minimum term. A court may depart from a mandatory minimum term if the defendant is a youthful offender.⁶⁷ A court may also depart from a mandatory minimum term for a violation of s. 316.027(2)(c), F.S., (driver involved in a fatal crash fails to stop and remain at the scene of a crash), if the court “finds that a factor, consideration or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice.”⁶⁸

Possession of Certain Spiny Lobsters and Saltwater Products

Section 379.407(5), F.S., prohibits a person, firm, or corporation to be in possession of spiny lobster during the closed season or, while on the water, to be in possession of spiny lobster tails that have been wrung or separated from the body, unless such possession is allowed by commission rule.⁶⁹ Certain repeat violations of this provision are punishable by mandatory minimum terms of imprisonment, including:

- A third violation is a first degree misdemeanor with, in part, a mandatory minimum term of imprisonment of 6 months.⁷⁰
- A third violation within 1 year after a second violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.
- A fourth or subsequent violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.

Additionally, s. 379.407(7), F.S., prohibits any unlicensed person, firm, or corporation who is required to be licensed under ch. 379, F.S., as a commercial harvester or a wholesale or retail dealer to sell or purchase any saltwater product or to harvest or attempt to harvest any saltwater product with intent to sell the saltwater product. Certain repeat violations of this provision are punishable by mandatory minimum terms of imprisonment, including:

- A third violation is a first degree misdemeanor with, in part, a mandatory minimum term of imprisonment of 6 months.
- A third violation within 1 year after a second violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.

⁶⁶ “Under Florida’s constitution, the decision to charge and prosecute is an executive responsibility, and the state attorney has complete discretion in deciding whether and how to prosecute.” *State v. Bloom*, 497 So.2d 2, 3 (Fla. 1986).

⁶⁷ Section 958.04, F.S.

⁶⁸ Section 316.027(2)(g), F.S.

⁶⁹ See the Florida Fish and Wildlife Conservation Commission, *Spiny Lobster*, available at <https://myfwc.com/fishing/saltwater/recreational/lobster/> (last visited February 12, 2020).

⁷⁰ A second degree misdemeanor is punishable by up to 60 days in county jail and up to a \$500 fine and a first degree misdemeanor is punishable by up to one year in jail and up to a \$1,000 fine. Sections 775.082 and 775.083, F.S.

- A fourth or subsequent violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.⁷¹

It is also a third degree felony for any person whose license privileges have been permanently revoked to thereafter sell or purchase, or attempt to sell or purchase, any saltwater product. This violation is punishable with a mandatory minimum term of imprisonment of 1 year.⁷²

Any commercial harvester or wholesale or retail dealer whose license privileges are under suspension is also prohibited from selling or purchasing during such period of suspension, or attempting to sell or purchase, any saltwater product. Certain violations of such provision includes mandatory minimum penalties, including:

- A second violation occurring within 12 months of a first violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.
- A third violation within 24 months of the second violation or subsequent violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.⁷³

Any commercial harvester is prohibited from harvesting or attempting to harvest any saltwater product with intent to sell the saltwater product without having purchased a saltwater products license with the requisite endorsements. Certain violations of such provision includes mandatory minimum penalties, including:

- A third violation is a first degree misdemeanor with, in part, a mandatory minimum term of imprisonment of 6 months.
- A third violation within 1 year after a second violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.
- A fourth or subsequent violation is a third degree felony with, in part, a mandatory minimum term of imprisonment of 1 year.⁷⁴

Effect of the Bill

The bill amends s. 379.407(5) and (7), F.S., removing any mandatory minimum terms of imprisonment from the sentencing provisions for these offenses.

This provision of the bill is effective October 1, 2020.

Phosphogypsum Stack Offenses

According to the Florida Department of Environmental Protection (DEP) Geospatial Open Data, Phosphogypsum is calcium sulfate (gypsum) that is formed as a byproduct from the chemical reaction of sulfuric acid with phosphate rock in the production of phosphoric acid. The Phosphogypsum Stack System layer contains the approximate boundaries of the phosphogypsum stacks in Florida and phosphogypsum stacks are formed as a means to store the phosphogypsum and associated process water resulting from the chemical manufacturing of phosphoric acid and

⁷¹ Section 379.401(7)(a), F.S.

⁷² Section 379.401(7)(b), F.S.

⁷³ Section 379.407(7)(c), F.S.

⁷⁴ Section 379.407(7)(d), F.S.

related fertilizer products. Phosphogypsum stacks are located in Polk, Hillsborough, Manatee, and Hamilton counties. This layer was designed to provide the Bureau of Mining and Mineral Regulation and other interested parties with a graphical representation of the phosphogypsum stack systems and their relative locations in the state. The layer is maintained by the Bureau of Mining and Mineral Regulation in the Division of Water Resource Management at the DEP.⁷⁵

Section 403.4154, F.S., creates a regulatory program for the management of such stacks and imposes criminal penalties, including mandatory minimum terms of imprisonment, for certain actions related to the management of such stacks. Specifically, it is a third degree felony for a person to willfully, knowingly, or with reckless indifference or gross carelessness:

- Misstate or misrepresent the financial condition or closure costs of an entity engaged in managing, owning, or operating a phosphogypsum stack or stack system.
- Make a distribution that would be prohibited under s. 607.06401(3), F.S., after failing to comply with the DEP rules requiring demonstration of closure financial responsibility, until the noncompliance is corrected.

Both of these provisions are punishable by, in part, imprisonment for 5 years for each offense.

Effect of the Bill

The bill amends s. 403.4154(2), F.S., removing the specific language related to imprisonment of five years for each offense.

This provision of the bill is effective October 1, 2020.

Health Care Practitioners Operating Without a Valid License

Section 456.065, F.S., prohibits the unlicensed practice of a health care profession or the performance or delivery of medical or health care services to patients in this state without a valid, active license to practice that profession, regardless of the means of the performance or delivery of such services. Further, the unlicensed practice of a health care profession is a:

- Third degree felony, with, in part, a minimum mandatory period of incarceration of one year, to:
 - Practice, attempt to practice, or offer to practice a health care profession without an active, valid Florida license to practice that profession, which includes practicing on a suspended, revoked, or void license, but does not include practicing, etc., with an inactive or delinquent license for a period of up to 12 months.
 - Apply for employment for a position that requires a license without notifying the employer that the person does not currently possess a valid, active license to practice that profession.
 - Hold oneself out, regardless of the means of communication, as able to practice a health care profession or as able to provide services that require a health care license.

⁷⁵ The FDEP, *Florida Gypsumstacks*, available at https://geodata.dep.state.fl.us/datasets/6277c3b1eeae4a818f8683fc29e6b35b_0 (last visited February 12, 2020). *See also* ch. 62-673.200, F.A.C.

- Second degree felony, with in part, a minimum mandatory period of incarceration of one year, to:
 - Practice a health care profession without an active, valid Florida license to practice that profession when such practice results in serious bodily injury.⁷⁶
- First degree misdemeanor with, in part, a term of imprisonment of 30 days, to:
 - Practice, attempt to practice, or offer to practice a health care profession with an inactive or delinquent license for any period of time up to 12 months.⁷⁷

Effect of the Bill

The bill amends s. 456.065(2)(d), F.S., removing the requirement that the person must serve a minimum term of imprisonment as described above. Further, the bill amends s. 456.065(2)(d)2., F.S., requiring that a person must *knowingly* apply for employment for a position that requires a license without notifying the employer that the person does not currently possess a valid, active license to practice that profession to violate this provision.

This provision of the bill is effective October 1, 2020.

Insurers Operating Without a Certificate of Authority

Section 624.401, F.S., prohibits a person to act as an insurer, transact insurance, or otherwise engage in insurance activities in Florida without a certificate of authority. The degree of offense and specific penalties applicable for the violation are determined by the amount of any insurance premium collected with respect to any violation, including when the premium:

- Is less than \$20,000, the offender commits a third degree felony and must be sentenced to a minimum term of imprisonment of 1 year.
- Is \$20,000 or more, but less than \$100,000, the offender commits a second degree felony and must be sentenced to a minimum term of imprisonment of 18 months.
- Is \$100,000 or more, the offender commits a first degree felony and the offender must be sentenced to a minimum term of imprisonment of two years.⁷⁸

Effect of the Bill

The bill amends s. 624.401(4)(b), F.S., to remove the mandatory minimum terms of imprisonment mentioned above for specified violations of engaging in insurance activities.

This provision of the bill is effective October 1, 2020.

False and Fraudulent Insurance Claims

In part, s. 817.234, F.S., provides it is a second degree felony for any person to intend to defraud any other person to solicit or cause to be solicited any business from a person involved in a motor vehicle accident for the purpose of making, adjusting, or settling motor vehicle tort claims

⁷⁶ Section 465.065(2)(d)2., F.S., defines “serious bodily injury” to mean death; brain or spinal damage; disfigurement; fracture or dislocation of bones or joints; limitation of neurological, physical, or sensory function; or any condition that required subsequent surgical repair.

⁷⁷ However, practicing, attempting to practice, or offering to practice a health care profession when that person’s license has been inactive or delinquent for a period of time of 12 months or more is a third degree felony.

⁷⁸ Section 624.401(4), F.S.

or claims for personal injury protection benefits required by s. 627.736, F.S., related to the requirement to carry personal injury protection benefits.

Any person convicted of a violation of s. 817.234(8), F.S., must be sentenced to a minimum term of imprisonment of two years.

Effect of the Bill

The bill amends s. 817.234(8)(a), F.S., deleting the mandatory minimum term of imprisonment required in this provision.

This provision of the bill is effective October 1, 2020.

Drug Trafficking

Section 893.135, F.S., requires mandatory minimum prison sentences for certain drug trafficking offenses. That section provides that possession of more than certain specified amounts of cannabis, cocaine, certain narcotic opioids, sedatives, stimulants, hallucinogens, and other illicit substances constitutes “trafficking,” with increasing mandatory prison terms and fines for possession of amounts beyond certain thresholds.

Effect of the Bill

This bill allows a sentencing court to impose a sentence other than the mandatory minimum on drug trafficking offenders if the court finds on the record that the offender did not:

- Engage in a continuing criminal enterprise as defined in s. 893.20, F.S.;⁷⁹
- Use or threaten violence or use a weapon during the commission of the offense; and
- Cause a death or serious bodily injury.

The bill authorizes a sentencing court to impose a sentence other than the mandatory minimum on an offender convicted of trafficking in the following substances:

- Cannabis or cannabis plants;⁸⁰
- Cocaine;⁸¹
- Morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin;⁸²
- Hydrocodone, Oxycodone, Alfentanil, Carfentanil, Fentanyl, Sufentanil, or a fentanyl derivative;⁸³

⁷⁹ Under s. 893.20, F.S., a person is guilty of engaging in a continuing criminal enterprise if he or she “commits three or more felonies under [chapter 893] in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts”

⁸⁰ Section 893.135(1)(a), F.S.

⁸¹ Section 893.135(1)(b), F.S.

⁸² Section 893.135(1)(c), F.S.

⁸³ *Id.*

- Phencyclidine;⁸⁴
- Methaqualone;⁸⁵
- Amphetamine or methamphetamine;⁸⁶
- Flunitrazepam;⁸⁷
- Gamma-butyrolactone (GBL);⁸⁸
- 1,4-Butanediol;⁸⁹
- Substituted phenycyclohexylamine, substituted cathinone, substituted phenethylamine⁹⁰
- Lysergic acid diethylamide (LSD);⁹¹
- Synthetic cannabinoids;⁹² and
- N-benzyl phenethylamines.⁹³

Because the lowest permissible sentence under the Code Scoresheet is distinct from a “mandatory minimum sentence,”⁹⁴ the bill does not grant a court any additional authority to deviate from the lowest permissible Code Scoresheet sentence.⁹⁵

Section 775.084, F.S., which is not amended by the bill, requires “mandatory minimum” prison terms for “habitual felony offenders.”⁹⁶ An offender convicted of drug trafficking in violation of s. 893.135, F.S., would still be subject to certain mandatory minimum sentences if he or she meets the definition of a “habitual felony offender.”

This provision of the bill is effective October 1, 2020.

⁸⁴ Section 893.135(1)(d), F.S.; Phencyclidine is a “hallucinogen formerly used as a veterinary anesthetic, and briefly as a general anesthetic for humans.” Phencyclidine, PubChem, U.S. National Library of Medicine, available at <https://pubchem.ncbi.nlm.nih.gov/compound/Phencyclidine> (last visited February 21, 2020).

⁸⁵ Section 893.135(1)(e), F.S.; “Methaqualone is a sedative, hypnotic agent that was used for insomnia, but was taken off of the market, in the U.S., in 1983 due to its high risk of abuse.” Methaqualone, PubChem, U.S. National Library of Medicine, available at <https://pubchem.ncbi.nlm.nih.gov/compound/6292> (last visited February 21, 2020).

⁸⁶ Section 893.135(1)(f), F.S.

⁸⁷ Section 893.135(1)(g), F.S.; “Some reports indicate that it is used as a date rape drug and suggest that it may precipitate violent behavior. The United States Government has banned the importation of this drug.” Flunitrazepam, PubChem, U.S. National Library of Medicine, available at <https://pubchem.ncbi.nlm.nih.gov/compound/3380> (last visited February 21, 2020).

⁸⁸ Section 893.135(1)(h), F.S.; GBL is commercial solvent.

⁸⁹ Section 893.135(1)(j), F.S.

⁹⁰ Section 893.135(1)(k)1., F.S.

⁹¹ Section 893.135(1)(l)1., F.S.

⁹² Section 893.135(1)(m), F.S., synthetic cannabinoids do not derive their psychoactive effects through THC, but rather are “cannabinoid receptor agonists” that act on various brain receptors in a similar manner to cannabinoids.

⁹³ Section 893.135(1)(n), F.S.

⁹⁴ See Fla. R. Crim. P. 3.704(d)(26) (differentiating between a mandatory minimum sentence and the lowest permissible sentence under the Code).

⁹⁵ Section 921.0026, F.S., authorizes a court to depart downward from the lowest permissible sentence under the Code Scoresheet based on a non-exhaustive list of mitigating factors described in that section.

⁹⁶ Habitual felony offenders are defendants who have been convicted of two or more prior felonies, or whose conduct meets certain criteria: the offense was committed while the offender was serving a prison sentence or within 5 years after release from a prison sentence, the felony is not simple possession under s. 893.13, F.S., and any of the qualifying felonies were not pardoned or set aside in a postconviction proceeding. Section 775.084(1)(a), F.S.

Prison Releasee Reoffenders (Section 6)

A prison releasee reoffender is a person who is being sentenced for committing or attempting to commit a qualifying offense, such as murder, manslaughter, sexual battery, or robbery,⁹⁷ within three years of being released from a:

- State correctional facility operated by the DOC or a private vendor;
- Correctional institution of another jurisdiction following incarceration for which the sentence is punishable by more than one year in Florida; or
- County detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence,⁹⁸ if the person is otherwise eligible.⁹⁹

A prison releasee reoffender also includes a person who commits or attempts to commit a qualifying offense while serving a prison sentence or while on escape status from a state correctional facility operated by the DOC or a private vendor or from a correctional institution of another jurisdiction.¹⁰⁰

A judge must also sentence a defendant as a prison releasee reoffender if the defendant committed or attempted to commit any of the previously-described offenses while the defendant was serving a prison sentence or on escape status from a Florida state or private correctional facility or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.¹⁰¹

A person who qualifies as a prison releasee reoffender is subject to a mandatory minimum sentence. Specifically, a court must sentence a prison releasee reoffender to:

- A 5-year mandatory minimum term for a third degree felony;
- A 15-year mandatory minimum term for a second degree felony;
- A 30-year mandatory minimum term for a first degree felony; and
- Life imprisonment for a first degree felony punishable by life or a life felony.¹⁰²

A person sentenced as a prison releasee reoffender can be released only by expiration of sentence and is not eligible for parole, control release, or any form of early release. A prison releasee reoffender must also serve 100 percent of the court-imposed sentence.¹⁰³

⁹⁷ See s. 775.082(9)(a)3., F.S., for a complete list of qualifying offenses.

⁹⁸ In December of 2018, the Florida Supreme Court held that a defendant released from a county jail after having been committed to the legal custody of the DOC was not a prison releasee reoffender within the current meaning of that term as provided in s. 775.082, F.S. CS/HB 7125 (2019), codified in ch. 2019-167, L.O.F., amended s. 775.082(9), F.S., to include language to cure this issue. See *State v. Lewars*, 259 So.3d 793 (Fla. 2018).

⁹⁹ Section 775.082(9)(a)1., F.S.

¹⁰⁰ Section 775.082(9)(a)2., F.S.

¹⁰¹ Section 775.082(9)(a)2., F.S.

¹⁰² Section 775.082(9)(a)3., F.S.

¹⁰³ Section 775.082(9)(b), F.S. Section 775.082(9), F.S., does not prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084, F.S., or any other provision of law. Section 775.082(9)(c), F.S.

The prison releasee reoffender provisions provide legislative intent that prison releasee reoffenders “be punished to the fullest extent of the law” unless the prosecuting attorney does not have sufficient evidence to prove the highest charge available, the testimony of material witness cannot be obtained, the victim provides a written statement that he or she does not want the offender to receive a mandatory sentence, or other extenuating circumstances exist which preclude the just prosecution of the offender.¹⁰⁴

For every case in which the offender meets the prison releasee reoffender criteria and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.¹⁰⁵

Effect of the Bill

The bill amends s. 775.082(9), F.S., to reduce mandatory minimum penalties applicable to a prison releasee reoffender. A prison releasee reoffender must be sentenced to a term of imprisonment of at least:

- 25 years for a felony punishable by life (current law requires life imprisonment);
- 20 years for a first degree felony (current law requires 30 years);
- 10 years for a second degree felony (current law requires 15 years); and
- 3 years for a third degree felony (current law requires 5 years).

The bill provides for retroactive application of the previously-described penalty changes to:

- A person who qualified as a prison releasee reoffender before July 1, 2020 (referred to in the bill as “former 775.082(9)”), and who was not sentenced as a prison releasee reoffender before July 1, 2020; and
- A person who qualified as a prison releasee reoffender before July 1, 2020, who was sentenced as such before July 1, 2020, to a mandatory minimum term of imprisonment pursuant to former s. 775.082(9), F.S., and who is serving such mandatory minimum term of imprisonment on or after July 1, 2020.

A person who qualified as a prison releasee reoffender before July 1, 2020, and who was not sentenced as a prison releasee reoffender before July 1, 2020, must be sentenced as provided in the bill (see previous description of changes to penalties).

A person who qualified as a prison releasee reoffender before July 1, 2020, who was sentenced as such before July 1, 2020, to a mandatory minimum term of imprisonment pursuant to former s. 775.082(9), F.S., and who is serving such mandatory minimum term of imprisonment on or after July 1, 2020, may be resentenced in the following manner:

- The DOC must notify this person of his or her eligibility to request a sentence review hearing.
- The person seeking sentence review must submit an application to the court of original jurisdiction requesting that a sentence review hearing be held. The sentencing court retains original jurisdiction for the duration of the sentence for this purpose.

¹⁰⁴ Section 775.082(9)(d)1., F.S.

¹⁰⁵ Section 775.082(9)(d)2., F.S.

- A person who is eligible for this sentence review hearing is entitled to representation by counsel and the court may appoint a public defender to represent the person if he or she cannot afford an attorney.
- Upon receiving an application from an eligible person, the court of original jurisdiction must hold a sentence review hearing to determine if the eligible person meets the criteria for resentencing. If the court determines at the sentence review hearing that the eligible person meets such criteria, the court may resentence the person as provided in the bill (see previous description of changes to penalties); however, the new sentence may not exceed the person's original sentence with credit for time served. If the court does not resentence the person, the court must provide written findings why resentencing is not appropriate.
- A person resented as previously described is eligible to receive any gain-time pursuant to s. 944.275, F.S., he or she was previously ineligible to receive under former s. 775.082(9), F.S.

Because the bill expressly provides for retroactive application of the changes the bill makes, the bill has provided a legislative exception to the default position of prospectivity.

The bill modifies s. 775.082(9)(a)3., F.S., which currently provides that “upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced” under the penalties specified in s. 775.082(9), F.S. The bill removes reference to the “preponderance of evidence” standard of proof and ineligibility for sentencing under the sentencing guidelines. Neither of these changes appear to be substantive. Whether stated in the statute or not “preponderance of the evidence” would likely be the standard of proof because s. 775.082(9), F.S., does not increase the penalty beyond the statutory maximum.¹⁰⁶ Further, it does not need to be in the statute that a prison releasee reoffender is ineligible to be sentenced under the sentencing guidelines because s. 775.082(9), F.S., specifies that a prison releasee reoffender must be sentenced under that subsection.

The bill also removes language from s. 775.082(9), F.S., that:

- Indicates legislative intent that offenders previously released from prison or a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence who meet the prison releasee reoffender criteria be punished to the fullest extent of the law.
- Requires a state attorney to explain in writing why he or she seeks prison releasee reoffender sanctions for an offender who meets prison releasee reoffender criteria.
- Prohibits a prison releasee reoffender from any form of early release.

This provision of the bill is effective October 1, 2020.

¹⁰⁶ “In [*Apprendi v. New Jersey*, 530 U.S. 466 (2000)], the United States Supreme Court held that other than the fact of a prior conviction, any fact that increases the punishment for a crime beyond the prescribed statutory maximum must be submitted to a jury and proved beyond a reasonable doubt. *Apprendi* is inapplicable to the Prison Releasee Reoffender Act, because the Act merely limits the court’s discretion in sentencing. It does not increase the penalty beyond the statutory maximum.” *Stabile v. State*, 790 So.2d 1235, 238 (Fla. 5th DCA 2001) (citations omitted), approved, 838 So.2d 557 (Fla. 2003).

Probation Supervision through the Department of Corrections (Section 22)

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.¹⁰⁷ The DOC supervises more than 164,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including probation, drug offender probation, sex offender probation, and community control.¹⁰⁸

Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose to ensure the offender's compliance with the terms of the sentence and the safety to the community.¹⁰⁹ Section 948.03, F.S., provides that a court must determine the terms and conditions of probation. Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record, but the court must orally pronounce, and provide in writing, any special conditions of probation.

Violations of Probation

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.¹¹⁰ A violation of probation (VOP) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable grounds exist to believe that an offender has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate's supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.¹¹¹

The offender must be returned to the court granting such probation.¹¹² Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.¹¹³

Upon a finding through a VOP hearing, a court may revoke, modify, or continue the supervision. If the court chooses to revoke the supervision, it may impose any sentence originally permissible before placing the offender on supervision.¹¹⁴ In addition, if an offender qualifies as a violent felony offender of special concern (VFOOSC), the court must revoke supervision, unless it makes

¹⁰⁷ Section 948.01, F.S.

¹⁰⁸ The DOC, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited February 21 January 29, 2020).

¹⁰⁹ Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

¹¹⁰ Section 948.10(3), F.S.

¹¹¹ Section 948.06(1)(a), F.S.

¹¹² *Id.*

¹¹³ Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the probationer or controlee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

¹¹⁴ Section 948.06(2)(b), F.S.

written findings that the VFOSC does not pose a danger to the community.¹¹⁵ The VFOSC status also accrues sentence points under the Code, which affects the scoring of the lowest permissible sentence.¹¹⁶

Prior to October 1, 2019, the effective date for section 63 of CS/HB 7125 (2019), the sentencing court had the complete discretion to determine whether to continue, modify, or revoke an offender's probation subsequent to a violation of probation.¹¹⁷ However, in part, CS/HB 7125 (2019) amended s. 948.06, F.S., providing that the court must modify or continue a probationary term upon finding a probationer in violation when *any* of the following applies:

- The term of supervision is probation.
- The probationer does not qualify as a VFOSC.
- The violation is a low-risk technical violation, as defined in s. 948.06(9)(b), F.S.¹¹⁸
- The court has not previously found the probationer in violation of his or her probation pursuant to a filed violation of probation affidavit during the current term of supervision. A probationer who has successfully completed sanctions through the alternative sanctioning program is eligible for mandatory modification or continuation of his or her probation.

Further, if the court is required to modify or continue the probationary term, the court may include in the sentence a maximum of 90 days in county jail as a special condition of probation.

CS/HB 7125 (2019) also provided that if a probationer has less than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification or continuation, the court may revoke probation and sentence the probationer to a maximum of 90 days in county jail.

Effect of the Bill

The bill amends s. 948.06(2)(f), F.S., clarifying that the court is only required to modify or continue an offender's probationary term if *all*, rather than *any*, of the enumerated factors applies.

This provision of the bill is effective upon becoming law.

¹¹⁵ See s. 948.06(8)(a), F.S., for all VFOSC qualifications and enumerated list of felonies that are considered qualifying offenses. See also ch. 2007-2, L.O.F.

¹¹⁶ Section 921.0024, F.S.

¹¹⁷ See s. 948.06, F.S. (2018).

¹¹⁸ Section 948.06(9)(b), F.S., defines a "low-risk violation" to mean any of the following: a positive drug or alcohol test result; failure to report to the probation office; failure to report a change in address or other required information; failure to attend a required class, treatment or counseling session, or meeting; failure to submit to a drug or alcohol test; a violation of curfew; failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, paying court costs, or completing community service hours; leaving the county without permission; failure to report a change in employment; associating with a person engaged in criminal activity; or any other violation as determined by administrative order of the chief judge of the circuit.

Sentence Review Hearings for Specified Offenders (Sections 10-12)

Juvenile Offenders Convicted of Offenses Punishable by Life without Parole

In recent years, the U.S. Supreme Court issued several decisions addressing the application of the Eighth Amendment's prohibition against cruel and unusual punishment as it relates to the punishment of juvenile offenders.¹¹⁹ The first of these was *Roper v. Simmons*,¹²⁰ in which the Court held that juvenile offenders cannot be subject to the death penalty for any offense. More recently, the Court expanded juvenile sentencing doctrine in *Graham v. Florida*¹²¹ and *Miller v. Alabama*.¹²²

Graham v. Florida

In *Graham*, the U.S. Supreme Court held that a juvenile offender may not be sentenced to life in prison without the possibility of parole for a non-homicide offense. More specifically, the Court found that if a non-homicide juvenile offender is sentenced to life in prison, the state must "provide him or her with some realistic opportunity to obtain release before the end of that term."¹²³ Because Florida abolished parole¹²⁴ and the possibility of executive clemency was deemed to be remote,¹²⁵ the Court held that a juvenile offender in Florida could not be given a life sentence for a non-homicide offense without a meaningful opportunity to obtain release.¹²⁶

Graham applies retroactively to previously sentenced offenders because it established a fundamental constitutional right.¹²⁷ Therefore, a juvenile offender who is serving a life sentence for a non-homicide offense that was committed after parole eligibility was eliminated is entitled to be resentenced to a term less than life.

The U.S. Supreme Court did not give any guidance as to the maximum permissible sentence for a non-homicide juvenile offender other than to exclude the possibility of life without parole. This led to different results among the District Courts in reviewing sentences for a lengthy term of years. Prior to the 2014 Legislative Session, there were conflicts in the case law regarding whether a term of years could be deemed to equate to a life without parole sentence. The Florida

¹¹⁹ The term "juvenile offender" refers to an offender who was less than 18 years of age at the time the offense was committed for which he or she was sentenced. Most crimes committed by juveniles are dealt with through delinquency proceedings as set forth in ch. 985, F.S. However, the law provides a mechanism for juveniles to be tried and handled as adults. A juvenile who commits a crime while 13 years old or younger may only be tried as an adult if a grand jury indictment is returned. A juvenile who is older than 13 years may be tried as an adult for certain felony offenses if a grand jury indictment is returned, if juvenile court jurisdiction is waived and the case is transferred for prosecution as an adult pursuant to s. 985.556, F.S., or if the state attorney direct files an information in adult court pursuant to s. 985.557, F.S. Regardless of age, s. 985.58, F.S., requires a grand jury indictment to try a juvenile as an adult for an offense that is punishable by death or life imprisonment.

¹²⁰ 125 S.Ct. 1183 (2005).

¹²¹ 130 S.Ct. 2011 (2010).

¹²² 132 S.Ct. 2455 (2012).

¹²³ *Graham* at 82.

¹²⁴ Parole was abolished in 1983 for all non-capital felonies committed on or after October 1, 1983, and was completely abolished in 1995 for any offense committed on or after October 1, 1995.

¹²⁵ *Graham* at 70.

¹²⁶ *Graham* at 75.

¹²⁷ See, e.g., *St. Val v. State*, 107 So.3d 553 (Fla. 4th DCA 2013); *Manuel v. State*, 48 So.3d 94 (Fla. 2d DCA 2010).

First District Court of Appeal held that a lengthy term of years is a *de facto* life sentence if it exceeds the juvenile offender's life expectancy.¹²⁸ On the other hand, the Florida Fourth and Fifth District Courts of Appeal strictly construed *Graham* to apply only to life sentences and not to affect sentences for a lengthy term of years.¹²⁹

On March 19, 2015, the Florida Supreme Court issued opinions on two cases that had been certified for it to resolve, *Gridine v. State*, 89 So.3d 909 (Fla. 1st DCA 2011) and *Henry v. State*, 82 So.3d 1084 (Fla. 5th DCA 2012). The Court held that a sentence proscribing a lengthy term of years imprisonment, such as a 70-year sentence as was pronounced in *Gridine* or the 90-year sentence pronounced in *Henry* that does not provide a meaningful opportunity for release is a *de facto* life sentence that violates the Eighth Amendment to the U.S. Constitution and the holding in *Graham*.¹³⁰

Miller v. Alabama

In *Miller*, the U.S. Supreme Court held that juvenile offenders who commit homicide may not be sentenced to life in prison without the possibility of parole as the result of a mandatory sentencing scheme. The Court did not find that the Eighth Amendment prohibits sentencing a juvenile murderer to life without parole, but rather that individualized factors related to the offender's age must be considered before a life without parole sentence may be imposed. The Court also indicated that it expects few juvenile offenders will be found to merit life without parole sentences.

The majority opinion in *Miller* noted mandatory life without parole sentences “preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it.”¹³¹ Although the Court did not require consideration of specific factors, it highlighted the following concerns:

Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or

¹²⁸ *Adams v. State*, 2012 WL 3193932 (Fla. 1st DCA 2012). The First District Court of Appeal has struck down sentences of 60 years (*Adams*) and 80 years (*Floyd v. State*, 87 So.3d 45 (Fla. 1st DCA 2012)), while approving sentences of 50 years (*Thomas v. State*, 78 So.3d 644 (Fla. 1st DCA 2011)) and 70 years (*Gridine v. State*, 89 So. 3d 909 (Fla. 1st DCA 2011)).

¹²⁹ See *Guzman v. State*, 110 So.3d 480 (Fla. 4th DCA 2013); *Henry v. State*, 82 So.3d 1084 (Fla. 5th DCA 2012). It also appears that the Second District Court of Appeal may agree with this line of reasoning: see *Young v. State*, 110 So.3d 931 (Fla. 2d DCA 2013).

¹³⁰ *Gridine v. State*, 175 So.3d 672 (Fla. 2015) and *Henry v. State*, 175 So.3d 675 (Fla. 2015).

¹³¹ *Miller* at 2467.

his incapacity to assist his own attorneys....[A]nd finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.¹³²

CS/HB 7035 (2014)

In response to the above-mentioned cases, the 2014 Legislature passed and the Governor signed into law CS/HB 7035 (2014)¹³³, ensuring Florida had a constitutional sentencing scheme for juvenile offenders who are convicted of offenses punishable by a sentence of life without parole.

CS/HB 7035 (2014) amended s. 775.082, F.S., *requiring* a court to sentence a juvenile offender who is convicted of a homicide offense¹³⁴ that is a capital felony or an offense that was reclassified as a capital felony (capital felony homicide) and where the person actually killed, intended to kill, or attempted to kill the victim to:

- Life imprisonment, if, after conducting a sentencing hearing in accordance with the newly created s. 921.1401, F.S., the court concluded that life imprisonment is an appropriate sentence; or
- A term of imprisonment of not less than 40 years, if the judge concluded at the sentencing hearing that life imprisonment is not an appropriate sentence.¹³⁵

The court *may* sentence a juvenile offender to life imprisonment or a term of years equal to life imprisonment, if, after conducting a sentencing hearing in accordance with s. 921.1401, F.S., the court finds such sentence appropriate and the juvenile offender is convicted of a:

- Life or first degree felony homicide where the person actually killed, intended to kill, or attempted to kill the victim;¹³⁶
- Capital, life, or first degree felony homicide offense where the person did not actually kill, intend to kill, or attempt to kill the victim;¹³⁷ or
- Nonhomicide offense.¹³⁸

Section 775.082(1)(b)1., F.S., requires the court to impose a minimum sentence (40 years) only in instances where the court determines that life imprisonment is not appropriate for a juvenile offender convicted of a capital felony homicide where the person actually killed, intended to kill, or attempted to kill the victim.¹³⁹

Section 775.082(1) and (3), F.S., also provides that all juvenile offenders are entitled to have their sentence reviewed by the court of original jurisdiction after specified periods of imprisonment. However, a juvenile offender convicted of a capital felony homicide, where the person actually killed, intended to kill, or attempted to kill the victim, is not entitled to review if

¹³² *Miller* at 2468.

¹³³ Chapter 201-220, L.O.F.

¹³⁴ Section 782.04, F.S., establishes homicide offenses.

¹³⁵ Section 775.082(1)(b)1., F.S.

¹³⁶ Section 775.082(3)(a)5. and (b), F.S.

¹³⁷ Section 775.082(1)(b)2., F.S.

¹³⁸ Section 775.082(3)(c), F.S.

¹³⁹ Section 775.082(1)(b)1., F.S.

he or she has previously been convicted of a list of enumerated offenses, or conspiracy to commit one of the enumerated offenses, if the offense for which the person was previously convicted was part of a separate criminal transaction or episode than that which resulted in the sentence for the capital felony homicide.¹⁴⁰

Sentencing Proceedings for Juvenile Offenders Sentenced to Life Imprisonment

CS/HB 7035 (2014) created s. 921.1401, F.S., which authorized the court to conduct a separate sentencing hearing to determine whether life imprisonment or a term of years equal to life imprisonment is an appropriate sentence for a juvenile offender convicted of one of the above-described homicide or nonhomicide offenses that was committed on or after July 1, 2014.¹⁴¹ When determining whether such sentence is appropriate, the court is required to consider factors relevant to the offense and to the juvenile offender's youth and attendant circumstances, including, but not limited to the:

- Nature and circumstances of offense committed by the juvenile offender;
- Effect of crime on the victim's family and on the community;
- Juvenile offender's age, maturity, intellectual capacity, and mental and emotional health at time of offense;
- Juvenile offender's background, including his or her family, home, and community environment;
- Effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the juvenile offender's participation in the offense;
- Extent of the juvenile offender's participation in the offense;
- Effect, if any, of familial pressure or peer pressure on the juvenile offender's actions;
- Nature and extent of the juvenile offender's prior criminal history;
- Effect, if any, of characteristics attributable to the juvenile offender's youth on the juvenile offender's judgment; and
- Possibility of rehabilitating the juvenile offender.¹⁴²

This sentencing hearing is mandatory when sentencing any juvenile offender for a capital felony homicide offense where the offender actually killed, intended to kill, or attempted to kill the victim. The hearing is not required in any of the other above-described offenses, but must be conducted before the court can impose a sentence of life imprisonment or a term of years equal to life imprisonment.

Sentence Review Proceedings

CS/HB 7035 (2014) also created s. 921.1402, F.S., which entitles certain juvenile offenders to a review of the sentence by the court of original jurisdiction after specified periods of time. The sentence review hearing is to determine whether the juvenile offender has been rehabilitated and is deemed fit to re-enter society.

¹⁴⁰ See s. 775.082(1) and (3), F.S., providing that reviews of sentences will be conducted in accordance with s. 921.1402, F.S.

¹⁴¹ Section 921.1401(1), F.S.

¹⁴² Section 921.1401(2), F.S.

Section 921.1402(1), F.S., defines “juvenile offender” to mean a person sentenced to imprisonment in the custody of the DOC for an offense committed on or after July 1, 2014, and committed *before* he or she was 18 years of age.

A juvenile offender convicted of a capital felony homicide offense where the person actually killed, intended to kill, or attempted to kill the victim is entitled to a sentence review hearing after 25 years.¹⁴³ However, a juvenile offender is not entitled to review if he or she has previously been convicted of one of the following offenses, or conspiracy to commit one of the following offenses, if the offense for which the person was previously convicted was part of a separate criminal transaction or episode than that which resulted in the sentence for which he or she was sentenced to life:

- Murder;
- Manslaughter;
- Sexual battery;
- Armed burglary;
- Armed robbery;
- Armed carjacking;
- Home-invasion robbery;
- Human trafficking for commercial sexual activity with a child under 18 years of age;
- False imprisonment under s. 787.02(3)(a), F.S.; or
- Kidnapping.¹⁴⁴

A juvenile offender convicted of a life felony or first degree felony homicide offense where the person actually killed, intended to kill, or attempted to kill the victim, is entitled to a sentence review hearing after 25 years, if he or she is sentenced to a term of imprisonment for more than 25 years.¹⁴⁵

A juvenile offender convicted of a capital felony, life felony, or first degree felony homicide offense where the person did not actually kill, intend to kill, or attempt to kill the victim is entitled to have the court review the sentence after 15 years, if he or she is sentenced to a term of imprisonment of more than 15 years.¹⁴⁶

A juvenile offender convicted of a nonhomicide offense is entitled to have the court review the sentence after 20 years if the juvenile is sentenced to a term of imprisonment of more than 20 years. The juvenile offender is eligible for one subsequent review hearing 10 years after the initial review hearing.¹⁴⁷

The juvenile offender must submit an application to the court of original jurisdiction requesting that a sentence review hearing be held. The DOC must notify a juvenile offender of his or her eligibility to request a sentencing review hearing 18 months before the juvenile offender

¹⁴³ Section 775.082(1)(b)1., F.S.

¹⁴⁴ Section 921.1402(2)(a), F.S.

¹⁴⁵ Section 921.1402(2)(b), F.S.

¹⁴⁶ Section 921.1402(2)(c), F.S.

¹⁴⁷ Section 921.1402(2)(d), F.S.

becomes entitled to such review. Additionally, an eligible juvenile offender is entitled to be represented by counsel at the sentence review hearing, including a court appointed public defender, if the juvenile offender cannot afford an attorney.¹⁴⁸

Section 921.1402(6), F.S., requires the original sentencing court to consider any factor it deems appropriate during the sentence review hearing, including all of the following:

- Whether the offender demonstrates maturity and rehabilitation;
- Whether the offender remains at the same level of risk to society as he or she did at the time of the initial sentencing;
- The opinion of the victim or the victim's next of kin;¹⁴⁹
- Whether the offender was a relatively minor participant in the criminal offense or acted under extreme duress or the domination of another person;
- Whether the offender has shown sincere and sustained remorse for the criminal offense;
- Whether the offender's age, maturity, and psychological development at the time of the offense affected his or her behavior;
- Whether the offender has successfully obtained a general educational development certificate or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available;
- Whether the offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense; and
- The results of any mental health assessment, risk assessment, or evaluation of the offender as to rehabilitation.¹⁵⁰

If a court, after conducting a sentence review hearing, finds that the juvenile offender has been rehabilitated and is reasonably fit to reenter society, the court must modify the offender's sentence and impose a term of probation of at least five years. If the court determines that the juvenile offender has not demonstrated rehabilitation or is not fit to reenter society, the court must issue an order in writing stating the reasons why the sentence is not being modified.¹⁵¹

These sentencing provisions are limited to the juvenile offenders that fall under the strict findings in *Graham* and *Miller*.¹⁵² Thus, the sentence review hearings do not currently apply to persons who were convicted and sentenced to very similar offenses and who are close in age to the juvenile offenders who have received sentence review hearings because of *Graham* and *Miller*.

¹⁴⁸ Section 921.1402(3)-(5), F.S.

¹⁴⁹ Section 921.1402(6)(c), F.S., further states that the absence of the victim or the victim's next of kin from the resentencing hearing may not be a factor in the court's determination. The victim or victim's next of kin is authorized to appear in person, in writing, or by electronic means. Additionally, if the victim or the victim's next of kin chooses not to participate in the hearing, the court may consider previous statements made by the victim or the victim's next of kin during the trial, initial sentencing phase, or subsequent sentence review hearings.

¹⁵⁰ Section 921.1402(6), F.S.

¹⁵¹ Section 921.1402(7), F.S.

¹⁵² See *Graham v. Florida*, 130 S.Ct. 2011 (2010) and *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

Case Law Subsequent to CS/HB 7035 (2014)

Valid Sentence Options for *Miller* Offenders

Subsequent to the U.S. Supreme Court's holdings in *Roper* and *Miller*, the options for permissible sentences under Florida law for juveniles who were convicted of such capital and life offenses punishable by life imprisonment without the possibility of parole became unclear. The Florida Fifth District Court of Appeal in *Horsley v. State*,¹⁵³ held that the principal of statutory revival should be applied mandating that the last constitutional sentence, life with the possibility of parole after 25 years, should be imposed for convictions of such juveniles. However, in 2015, the Florida Supreme Court heard and overturned this decision in *Horsley*,¹⁵⁴ holding that the proper remedy for such juveniles convicted of offenses classified as capital offenses is to apply the sentencing provisions enacted by CS/HB 7035 (2014), which codified the above-mentioned ss. 775.082, 921.1401, and 921.1402, F.S., rather than utilize statutory revival principles and impose a sentence of life with the possibility of parole after 25 years.¹⁵⁵

Retroactive Application of *Miller*

Another outstanding question at the time CS/HB 7035 (2014) was implemented was whether *Miller* applied retroactively in the same manner that *Graham* did. Other state and federal courts had issued differing opinions as to whether *Miller* applies retroactively. The question has turned on whether *Miller* is considered to be a procedural change in the law that does not apply retroactively to sentences that were final before the opinion was issued or an opinion of fundamental significance, similar to *Graham*.

The Florida Supreme Court decided this issue in *Falcon v. State*.¹⁵⁶ The Court held that *Miller* applied retroactively because the ruling is a development of fundamental significance. The Court held that given that *Miller* invalidated the only statutory means for imposing a sentence of life without the possibility of parole on juveniles convicted of a capital felony it dramatically impacted the ability of Florida to impose a nondiscretionary sentence of life without parole on a juvenile convicted of a capital felony. Therefore, *Falcon* ensured that juvenile offenders whose convictions and sentences were final prior to the *Miller* decision could seek collateral relief based on it.¹⁵⁷

Impact of Parole or Conditional Release Options for Juvenile Offenders

The U.S. Supreme Court further distinguished the *Graham* and *Miller* progeny of cases with *Virginia v. LeBlanc*, which denied habeas corpus relief for the juvenile offender holding that release programs for prisoners that consider factors in a similar manner as parole, such as Virginia's geriatric release program, did not violate *Graham* or *Miller* because it provides a juvenile offender a meaningful opportunity for release. In *LeBlanc*, the Court reasoned that Virginia's geriatric release program considered individualized factors of the offender, such as the

¹⁵³ 121 So.3d 1130 (Fla. 5th DCA 2013).

¹⁵⁴ 160 So.3d 393 (Fla. 2015).

¹⁵⁵ Life with the possibility of parole after 25 years is the penalty for capital murder under the 1993 version of s. 775.082(1), F.S., the most recent capital murder penalty statute that was constitutional under *Miller* when applied to a juvenile offender.

¹⁵⁶ 162 So.3d 954 (Fla. 2015).

¹⁵⁷ *Falcon v. State*, 162 So.3d 954, 961 (Fla. 2015).

individual's rehabilitation and maturity, history and conduct before and during incarceration, his or her inter-personal relationships with staff and inmates, and development and growth in attitude toward himself, herself, and others.¹⁵⁸

The Florida Supreme Court has held that the *Graham* and *Miller* rules do not apply to juvenile offenders sentenced to life or lengthy terms of years equal to life, but who are eligible for parole.¹⁵⁹

Victim Input

In 2018, the Florida voters approved Amendment 6 on the ballot, which provided certain rights to victims in the Florida Constitution. In part, Article I, s. 16 of the Florida Constitution, provides that a victim must have the following rights upon request:

- Reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary.
- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.¹⁶⁰

Effect of the Bill

Juvenile Offenders

As discussed above, a juvenile offender sentenced to a sentence of life without parole for a capital felony¹⁶¹ where a finding was made that he or she actually killed, intended to kill, or attempted to kill the victim is entitled to a review of his or her sentence after 25 years if he or she has never previously been convicted of a specified enumerated felony.¹⁶² The bill amends the list of enumerated offenses that bar such juvenile offenders from having a sentence review hearing to only include murder. Therefore, the bill provides such a juvenile offender is only prohibited from having a sentence review hearing if he or she has previously been convicted of committing or conspiracy to commit murder, if the murder for which the person was previously convicted was part of a separate criminal transaction or episode than the murder that resulted in the sentence.

¹⁵⁸ *Virginia v. LeBlanc*, 137 S.Ct. 1726 (2017).

¹⁵⁹ See *Franklin v. State*, 258 So.3d 1329 (Fla. 2018); *Carter v. State*, 283 So.3d 409 (Fla. 3d DCA 2019); *Brown v. State*, 283 So.3d 424 (Fla. 3d DCA 2019).

¹⁶⁰ Art. 1, s. 16(b)(6)a., b., f., and g., FLA. CONST.

¹⁶¹ In violation of s. 782.04, F.S.

¹⁶² See ss. 775.082(1)(b)1. and 921.1402, F.S.

The bill also creates s. 921.14021, F.S., providing for the retroactive application of the above mentioned amendment to remove certain prior convictions as a prohibition for a juvenile offender to have a sentence review hearing in accordance with s. 921.1402(2)(a), F.S. The bill requires that a juvenile offender is entitled to a review of his or her sentence after 25 years or, if 25 years on the term of imprisonment has already been served by October 1, 2020, the sentence review hearing must be conducted immediately. The bill provides legislative findings related to the retroactive application of such provisions.

Because the bill expressly provides for retroactive application of the changes the bill makes, the bill has provided a legislative exception to the default position of prospectively.

Young Adult Offenders

The bill creates s. 921.1403, F.S., expanding the sentence review hearing process created by CS/HB 7035 (2014) for juveniles in response to the *Graham* and *Miller* cases to persons convicted of similar offenses, but who were not entitled to a sentence review hearing.

The bill defines the term “young adult offender” to mean a person who committed an offense before he or she reached 25 years of age and for which he or she is sentenced to a term of years in the custody of the DOC, regardless of the date of sentencing. The bill also provides that the provisions allowing sentence review hearings of young adult offenders applies retroactively.

The sentence review procedures and hearing process are substantively identical to those in place for juvenile offenders in accordance with s. 921.1402, F.S., and discussed above. However, the eligibility criteria for a young adult offender to have a sentence review hearing is different.

Eligibility

The bill prohibits a young adult offender convicted of a violation of s. 782.04, F.S., related to homicide, which is punishable by death from being eligible for a sentence review hearing. The bill only permits young adult offenders convicted of offenses that are life or first degree felony offenses to be eligible for a sentence review hearing in accordance with s. 921.1403, F.S.

The bill excludes a young adult offender convicted and sentenced for certain life felony or first degree felony¹⁶³ offenses from a sentence review hearing if he or she has previously been convicted of committing, or of conspiring to commit murder, if such prior offense was part of a separate criminal transaction or episode than the offense that resulted in the sentence.

The bill provides that a young adult offender who is convicted of an offense that is a:

- Life felony or that was reclassified as a life felony, and who is sentenced to a term of more than 20 years¹⁶⁴ is entitled to a review of his or her sentence after 20 years.¹⁶⁵

¹⁶³ See s. 775.082(3)(a)1., 2., 3., 4., or 6., or (b)1., F.S., which are the citations included in the bill. Each of these citations includes different sentence terms based upon the degree of offense or the date of commission of the offense.

¹⁶⁴ Pursuant to s. 775.082(3)(a)1., 2., 3., 4., or 6., F.S.

¹⁶⁵ The bill provides that this does not apply to a person who is eligible for sentencing under s. 775.082(3)(a)5., or s. 775.082(3)(c), F.S., which only applies to an offender who committed certain life offenses before attaining the age of 18.

- Felony of the first degree or that was reclassified as a felony of the first degree and who is sentenced to a term of more than 15 years¹⁶⁶ is entitled to a review of his or her sentence after 15 years.

Procedures for Initiating the Sentence Review Hearing Process

Similar to the process developed in s. 921.1402(3), F.S., applicable to a juvenile offender, the bill provides that the DOC must notify a young adult offender in writing of his or her eligibility to request a sentence review hearing:

- 18 months before the young adult offender is entitled to a sentence review hearing if such offender is not eligible when the bill becomes effective; or
- Immediately if the offender is eligible as of October 1, 2020.

A young adult offender seeking a sentence review must submit an application to the original sentencing court requesting that the court hold a sentence review hearing. The bill provides that such court retains jurisdiction for the duration of the sentence for this purpose. The bill also provides that a young adult offender who is eligible for a sentence review hearing may be represented by an attorney, who must be appointed by the court if the young adult offender cannot afford an attorney.

Sentence Review Hearing

The bill requires the court to hold a sentence review hearing to determine whether to modify the young adult offender's sentence upon receiving an application for such hearing. The court is required to consider any factor it deems appropriate to determine the appropriateness of modifying the young adult offender's sentence, including, but not limited to, the following:

- Whether the young adult offender demonstrates maturity and rehabilitation.
- Whether the young adult offender remains at the same level of risk to society as he or she did at the time of the initial sentencing.
- The opinion of the victim or the victim's next of kin.¹⁶⁷
- Whether the young adult offender was a relatively minor participant in the criminal offense or whether he or she acted under extreme duress or under the domination of another person.
- Whether the young adult offender has shown sincere and sustained remorse for the criminal offense.
- Whether the young adult offender's age, maturity, or psychological development at the time of the offense affected his or her behavior.
- Whether the young adult offender has successfully obtained a high school equivalency diploma or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available.

¹⁶⁶ Pursuant to s. 775.082(3)(b)1., F.S.

¹⁶⁷ The bill states that the absence of the victim or the victim's next of kin from the hearing may not be a factor in the determination of the court. The court must allow the victim or victim's next of kin to be heard in person, in writing, or by electronic means. Finally, if the victim or the victim's next of kin chooses not to participate in the hearing, the court may consider previous statements made by the victim or the victim's next of kin during the trial, initial sentencing phase, or previous sentencing review hearings.

- Whether the young adult offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense.
- The results of any mental health assessment, risk assessment, or evaluation of the young adult offender as to rehabilitation.¹⁶⁸

Terms of Release for Young Adult Offenders Resentenced Pursuant to s. 921.1403, F.S.

The terms that a young adult offender must comply with if he or she is resentenced under the bill are similar to those that a juvenile offender must comply with if resentenced in accordance with s. 921.1402, F.S.

Upon conducting the sentence review hearing, the court may modify the young adult offender's sentence if the court makes a determination that the young adult offender is rehabilitated and is reasonably believed to be fit to reenter society. The court must modify the sentence to a term of probation for at least:

- Five years, if the young adult offender was originally sentenced for a life felony, or an offense reclassified as a life felony; or
- Three years, if the young adult offender was originally sentenced for a first degree felony or an offense reclassified as a first degree felony.

However, the bill prohibits the court from resentencing a young adult offender if the court determines that he or she has not demonstrated rehabilitation or is not fit to reenter society and requires the court to issue a written order stating the reasons why the sentence is not being modified.

Subsequent Reviews

The bill allows a young adult offender to have one subsequent sentence review hearing after five years if he or she is not resentenced at the initial sentence review hearing. The bill requires the young adult offender seeking a subsequent sentence review hearing to submit a new application to the original sentencing court to request a subsequent sentence review hearing.

These provisions of the bill are effective October 1, 2020.

Postconviction Forensic Analysis (Sections 13, 14, 16, and 17)

Deoxyribonucleic acid (DNA) is hereditary material existing in the cells of all living organisms. A DNA profile may be created by testing the DNA in a person's cells.¹⁶⁹ Similar to fingerprints, a person's DNA profile is a unique identifier, except for identical twins, who have the exact same DNA profile.¹⁷⁰ DNA is frequently collected at a crime scene and analyzed to assist in convicting or exonerating a suspect. DNA evidence may be collected from any biological material, such as hair, teeth, bones, skin cells, blood, semen, saliva, urine, feces, and other bodily

¹⁶⁸ These enumerated factors mirror the criteria used for the sentence review hearings conducted for juvenile offenders in accordance with s. 921.1402(6), F.S.

¹⁶⁹ FindLaw, *How DNA Evidence works*, available at <https://criminal.findlaw.com/criminal-procedure/how-dna-evidence-works.html> (last visited February 13, 2020).

¹⁷⁰ *Id.*

substances.¹⁷¹ A DNA sample may be used to solve a current crime or a crime that occurred before DNA-testing technology.¹⁷²

According to the National Registry of Exonerations (Registry), which tracks both DNA and non-DNA based exonerations, the misapplication of forensic science has contributed to 45 percent of wrongful convictions in the United States that later resulted in an exoneration by DNA evidence.¹⁷³ Additionally, false or misleading forensic evidence was a contributing factor in 24 percent of all wrongful convictions nationally.¹⁷⁴ Data compiled through 2019 shows there have been 73 exonerations in Florida, and that false or misleading forensic evidence was a contributing factor to the person's wrongful conviction in 18 of those cases.¹⁷⁵ In some cases, science that was generally accepted at the time it was used in a criminal case has since been undermined by subsequent scientific advancements. Examples of scientific disciplines that have been discredited in recent years include:

- Microscopic hair analysis;¹⁷⁶
- Arson investigation techniques;
- Comparative bullet lead analysis;¹⁷⁷ and
- Bite mark matching.¹⁷⁸

DNA Databases

Combined DNA Index System (CODIS) and National DNA Index System (NDIS)

The most common form of DNA analysis used to match samples and test for identification in forensic laboratories analyzes only certain parts of DNA, known as short tandem repeats or satellite tandem repeats (STRs).¹⁷⁹ In the early 1990s, the Federal Bureau of Investigation (FBI) chose 13 STRs as the basis for a DNA identification profile, and the 13 STRs became known as the Combined DNA Index System (CODIS).¹⁸⁰ The CODIS is now the general term used to

¹⁷¹ *Id.*

¹⁷² *Id.*; Dr. Alec Jeffreys developed the DNA profiling technique in 1984.

¹⁷³ Innocence Project, *Overturing Wrongful Convictions Involving Misapplied Forensics*, available at <https://www.innocenceproject.org/overturing-wrongful-convictions-involving-flawed-forensics/> (last visited February 13, 2020).

¹⁷⁴ *Id.*

¹⁷⁵ The National Registry of Exonerations, available at <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View=%7bB8342AE7-6520-4A32-8A06-4B326208BAF8%7d&FilterField1=State&FilterValue1=Florida> (last visited February 13, 2020).

¹⁷⁶ Microscopic hair comparison involves comparing hair found at a crime scene with the hair of a defendant. *Id.*

¹⁷⁷ Comparative bullet lead analysis linked bullets found at a crime scene to bullets possessed by a suspect based on the belief that the bullet's lead composition was unique and limited to the originating batch. *Id.*

¹⁷⁸ Bite mark matching is the process of determining that a patterned injury left on a victim was made by human dentition and attempting to match the injury impression with the bite mark of the suspect. Liliana Segura and Jordan Smith, *Bad Evidence, Ten Years After a Landmark Study Blew the Whistle on Junk Science, the Fight Over Forensics Rages On*, *The Intercept* (May 5, 2019), available at <https://theintercept.com/2019/05/05/forensic-evidence-aafs-junk-science/> (last visited February 13, 2020).

¹⁷⁹ Kelly Lowenberg, *Applying the Fourth Amendment when DNA Collected for One Purpose is Tested for Another*, 79 U. Cin. L. Rev. 1289, 1293 (2011), available at <https://law.stanford.edu/wp-content/uploads/2011/11/APPLYING-THE-FOURTH-AMENDMENT-WHEN-DNA-COLLECTED-FOR-ONE-PURPOSE.pdf> (last visited February 13, 2020).

¹⁸⁰ *Id.*

describe the software maintained by the FBI and used to compare an existing DNA profile to a DNA sample found at a crime scene to identify the source of the crime scene sample.¹⁸¹

The DNA Identification Act of 1994 (DNA Act)¹⁸² authorized the government to establish a National DNA Index, and in 1998 the National DNA Index System (NDIS) was established. The NDIS contains DNA profiles contributed by federal, state, and local participating forensic laboratories,¹⁸³ enabling law enforcement to exchange and compare DNA profiles electronically, thereby linking a crime or a series of crimes to each other or to a known offender. A state seeking to participate in the NDIS must sign a memorandum of understanding with the FBI agreeing to the DNA Act's requirements, including record-keeping requirements and other procedures. To submit a DNA record to the NDIS, a participating laboratory must adhere to federal law regarding expungement¹⁸⁴ procedures, and the DNA sample must:

- Be generated in compliance with the FBI Director's Quality Assurance Standards;
- Be generated by an accredited and approved laboratory;
- Be generated by a laboratory that undergoes an external audit every two years to demonstrate compliance with the FBI Director's Quality Assurance Standards;
- Be from an acceptable data category, such as:
 - Convicted offender;
 - Arrestee;
 - Detainee;
 - Forensic case;
 - Unidentified human remains;
 - Missing person; or
 - Relative of a missing person.
- Meet minimum the CODIS requirements for the specimen category; and
- Be generated using an approved kit.

Statewide DNA Database

In 1989, the Legislature established the Statewide DNA database (statewide database) to be administered by the FDLE, capable of classifying, matching, and storing analyses of DNA and other biological material and related data.¹⁸⁵ The statewide database contains DNA samples, including those:

- Submitted by persons convicted of or arrested for felony offenses and specified misdemeanor offenses; and
- Necessary for identifying missing persons and unidentified human remains, including samples voluntarily contributed by relatives of missing persons.¹⁸⁶

¹⁸¹ *Id.* at 1294.

¹⁸² 42 U.S.C. s. 14132.

¹⁸³ All 50 states, the District of Columbia, the federal government, the U.S. Army Criminal Investigation Laboratory, and Puerto Rico participate in NDIS. FBI Services, *Laboratory Services, Frequently Asked Questions on CODIS and NDIS*, available at <https://www.fbi.gov/services/laboratory/biometric-analysis/codis/codis-and-ndis-fact-sheet> (last visited February 13, 2020).

¹⁸⁴ *See* 42 U.S.C. s. 14132(d)(2)(A)(ii) (requiring states to expunge a DNA record when a charge is dismissed, results in an acquittal, or when no charge is filed).

¹⁸⁵ Chapter 89-335, L.O.F.

¹⁸⁶ Section 943.325(1), F.S.

All accredited local government crime laboratories in Florida have access to the statewide database in accordance with rules and agreements established by the FDLE.¹⁸⁷ Local laboratories can access the statewide database through the CODIS, allowing for the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories.¹⁸⁸

The statewide database may contain DNA data obtained from the following types of biological samples:

- Crime scene samples.
- Samples required by law to be obtained from qualifying offenders.¹⁸⁹
- Samples lawfully obtained during the course of a criminal investigation, including those from deceased victims or deceased suspects.
- Samples from unidentified human remains.
- Samples from persons reported missing.
- Samples voluntarily contributed by relatives of missing persons.
- Other samples approved by the FDLE.¹⁹⁰

A qualifying offender is required to submit a DNA sample for inclusion in the statewide database if he or she is:

- Arrested or incarcerated in Florida; or
- On probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision.¹⁹¹

An arrested offender must submit a DNA sample at the time he or she is booked into a jail, correctional facility, or juvenile facility. An incarcerated person and a juvenile in the custody of the Department of Juvenile Justice must submit a DNA sample at least 45 days before his or her presumptive release date.¹⁹² The FDLE must retain all DNA samples submitted to the statewide database and such samples may be used for any lawful purpose.¹⁹³

The FDLE specifies database procedures to maintain compliance with national quality assurance standards to ensure that DNA records will be accepted into the NDIS. Results of any DNA analysis must be entered into the statewide database and may only be released to criminal justice agencies. Otherwise, the information is confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a), of the Florida Constitution.¹⁹⁴

¹⁸⁷ Section 943.325(4), F.S.

¹⁸⁸ Section 943.325(2), F.S.

¹⁸⁹ A “qualifying offender” is any person, convicted of a felony or attempted felony in Florida or a similar offense in another jurisdiction, or specified misdemeanors, who is: committed to a county jail; committed to or under the supervision of the ODC, including a private correctional institution; committed to or under the supervision of the Department of Juvenile Justice; transferred to Florida under the Interstate Compact on Juveniles or the Interstate Corrections Compact. Section 943.325(2)(g), F.S.

¹⁹⁰ Section 943.325(6), F.S.

¹⁹¹ Section 943.325(7), F.S.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ Section 943.325(14), F.S.

Postsentencing DNA Testing

Defendants Sentenced After Trial

Florida law authorizes a person, who has been tried and found guilty of committing a felony, to petition a court to examine physical evidence collected during the investigation of the crime for which he or she has been sentenced that may contain DNA which would exonerate the person or mitigate the sentence that he or she received.¹⁹⁵ A sentenced defendant can file a petition for postsentencing DNA testing any time after the judgment and sentence becomes final.¹⁹⁶

A petition for postsentencing DNA testing must be made under oath, and include the following:

- A statement of the facts supporting the petition, including a description of the physical evidence containing DNA to be tested and, if known, the present location or last known location of the evidence and how it was originally obtained;
- A statement that the evidence was not previously tested for DNA or that the results of any previous DNA testing were inconclusive and that subsequent scientific developments in DNA testing techniques would likely produce a definitive result establishing that the petitioner is not the person who committed the crime;
- A statement that the sentenced defendant is innocent and how the DNA testing requested by the petition will exonerate the defendant of the crime for which he or she was sentenced or will mitigate the sentence he or she received;
- A statement that identification is a genuinely disputed issue in the case, and why it is an issue;
- Any other facts relevant to the petition; and
- A certification that a copy of the petition has been served on the prosecuting authority.¹⁹⁷

A court must review the petition and deny it if it is insufficient. If the petition is sufficient, the prosecuting authority must respond within 30 days.¹⁹⁸ After reviewing the prosecuting authority's response, the court must either issue an order on the merits or set the petition for a hearing. If the court sets the petition for a hearing, it may appoint counsel to assist an indigent defendant, upon finding such assistance necessary.¹⁹⁹

The court must make the following findings when ruling²⁰⁰ on the petition:

- Whether the sentenced defendant has shown that the physical evidence that may contain DNA still exists;
- Whether the results of DNA testing of that physical evidence would be admissible at trial and whether there exists reliable proof to establish that the evidence has not been materially altered and would be admissible at a future hearing; and

¹⁹⁵ Section 925.11(1)(a)1., F.S.

¹⁹⁶ Section 925.11(1)(a)2., F.S.

¹⁹⁷ Section 925.11(2)(a), F.S.

¹⁹⁸ Section 925.11(2)(c), F.S.

¹⁹⁹ Section 925.11(2)(e), F.S.

²⁰⁰ Any party adversely affected by the court's ruling on a petition for postsentencing DNA testing has the right to appeal. Section 925.11(3), F.S.

- Whether there is a reasonable probability that the sentenced defendant would have been acquitted or would have received a lesser sentence if the DNA evidence had been admitted at trial.²⁰¹

Defendants Sentenced After Entering a Plea

A defendant who entered a plea of guilty or nolo contendere to a felony offense before July 1, 2006, are eligible to petition for DNA testing based on the general eligibility requirements under s. 925.11, F.S. However, a defendant who entered a plea of guilty or nolo contendere to a felony offense on or after July 1, 2006, may only petition for postsentencing DNA testing when:

- The facts on which the petition is based were unknown to the petitioner or his or her attorney at the time the plea was entered and could not have been ascertained through the exercise of due diligence; or
- The physical evidence for which DNA testing is sought was not disclosed to the defense prior to the entry of the petitioner's plea.²⁰²

Since July 1, 2006,²⁰³ prior to the entry of a felony plea, the court must inquire of the defendant, the defense counsel, and the state regarding:

- The existence of known physical evidence that may contain DNA that could exonerate the defendant;
- Whether discovery in the case disclosed or described the existence of such physical evidence; and
- Whether the defense has reviewed the discovery.²⁰⁴

If no such evidence is known to exist, the court may accept the defendant's plea. If physical evidence containing DNA that could exonerate the defendant exists, the court may postpone the plea and order DNA testing to be conducted.²⁰⁵

Laboratory Testing

To preserve access to evidence, a governmental entity²⁰⁶ must maintain any physical evidence collected in a case for which postsentencing DNA testing may be requested. In a death penalty case, the evidence must be maintained for 60 days after execution of the sentence. In any other case, a governmental entity can dispose of the evidence if the term of the sentence imposed in the case has expired and the physical evidence is not otherwise required to be preserved by any other law or rule.²⁰⁷

²⁰¹ Section 925.11(2)(f), F.S.

²⁰² Section 925.12(1), F.S.

²⁰³ Chapter 2006-292, L.O.F.

²⁰⁴ Section 925.11(2) and (3), F.S.

²⁰⁵ Section 925.11, F.S. Any postponement is attributable to the defendant for the purposes of speedy trial.

²⁰⁶ A "governmental entity" includes, but is not limited to, any investigating law enforcement agency, the clerk of the court, the prosecuting authority, or the FDLE. Section 925.11(4)(a), F.S.

²⁰⁷ Section 925.11(4), F.S.

The FDLE or its designee must perform any DNA testing ordered under s. 925.11, F.S.²⁰⁸ The sentenced defendant is responsible for the cost of testing, unless he or she is indigent, in which case, the state bears the cost. The FDLE must provide the results of DNA testing to the court, the sentenced defendant, and the prosecuting authority. Fla. R. Crim. P. Rule 3.853 authorizes a court to order DNA testing by a private laboratory upon a petitioner's showing of good cause, when he or she can bear the cost of testing.²⁰⁹

Effect of the Bill

The bill amends s. 925.11, F.S., to expand access to postsentencing testing of physical evidence. The bill expands the scope of current law to authorize postsentencing testing to include other scientific techniques, in addition to DNA testing. Under the bill, a petitioner found guilty of committing a felony after trial or by entering a plea of guilty or nolo contendere before July 1, 2020, may petition for forensic analysis of physical evidence, rather than only DNA testing. "Forensic analysis" is defined as the process by which a forensic or scientific technique is applied to evidence or biological material to identify the perpetrator of, or an accomplice to, a crime and includes, but is not limited to, DNA testing.

The bill lowers the initial standard a petitioner must meet to gain access to forensic analysis. Under the bill, the petitioner must show that forensic analysis may result in evidence material to the identity of the perpetrator of, or an accomplice to, the crime that resulted in the person's conviction, rather than having to show the evidence would exonerate the person or mitigate his or her sentence.

Additionally, the bill amends the relevant petition requirements under s. 925.11, F.S., to reflect the new standards a petitioner must meet including all the following:

- A statement that the evidence was not previously subjected to forensic analysis or that the results of any previous forensic analysis were inconclusive and that subsequent scientific developments in forensic analysis would likely produce evidence material to the identity of the perpetrator of, or an accomplice to, the crime;
- A statement that the petitioner is innocent and how the forensic analysis requested by the petitioner may result in evidence that is material to the identity of the perpetrator of, or an accomplice to, the crime; and
- A statement that the petitioner will comply with any court order to provide a biological sample for the purpose of conducting requested forensic analysis and acknowledging such analysis could produce exculpatory evidence or evidence confirming the petitioner's identity as the perpetrator of, or an accomplice to, the crime or a separate crime.

The bill specifies postsentencing forensic analysis eligibility criteria for defendants who entered a plea of guilty or nolo contendere to a felony, depending on the date the plea was entered. Defendants who entered a plea on or after July 1, 2006, but before July 1, 2020, may petition for DNA testing under the same standards currently required under s. 925.11, F.S. The bill maintains current criteria for these sentenced defendants because each had the benefit of the plea colloquy concerning the potential existence of exculpatory DNA evidence administered by the court since 2006.

²⁰⁸ Section 943.3251(1), F.S.

²⁰⁹ Fla. R. Crim. P. Rule 3.853(4)(a), F.S.

Beginning July 1, 2020, the bill requires a court, prior to accepting a plea of guilty or nolo contendere to a felony, to perform a plea colloquy inquiring whether the defendant, defense counsel, or the state is aware of any physical evidence that, if subjected to forensic analysis, could produce evidence material to the identification of the perpetrator of, or an accomplice to, the crime. As such, beginning July 1, 2020, a defendant entering a plea of guilty or nolo contendere to a felony will only be authorized to petition for postsentencing forensic analysis when either:

- The facts on which the petition is predicated were unknown to the petitioner or the petitioner's attorney at the time the plea was entered and could not have been ascertained through the exercise of due diligence; or
- The physical evidence for which forensic analysis is sought was not disclosed to the defense by the state prior to the petitioner's plea.

When ruling on a petition for postsentencing forensic analysis the court must make all the following findings:

- Whether the petitioner has shown that the physical evidence, which may be subjected to forensic analysis, still exists;
- Whether the results of forensic analysis would be admissible at trial and whether reliable proof exists to establish that the evidence has not been materially altered and would be admissible at a future hearing; and
- Whether there is a reasonable probability the forensic analysis may result in evidence that is material to the identity of the perpetrator of, or an accomplice to, the crime.

The bill authorizes a court to order a private laboratory, certified by the petitioner to meet specified accreditation requirements, to perform forensic analysis when:

- The prosecuting authority and the petitioner mutually select a private laboratory to perform the testing; or
- The petitioner makes a sufficient showing that the forensic analysis:
 - Ordered by the court is of such a nature that the FDLE or its designee cannot perform the testing; or
 - Will be significantly delayed because of state laboratory backlog.

If the forensic analysis ordered by the court includes DNA testing, and the resulting DNA sample meets statewide database submission requirements, the FDLE must perform a DNA database search. A private laboratory ordered to conduct testing must cooperate with the prosecuting authority and the FDLE to carry out the database search. The FDLE must compare the submitted DNA profile to:

- DNA profiles of known offenders;
- DNA profiles from unsolved crimes; and
- Any local DNA databases maintained by a law enforcement agency in the judicial circuit where the petitioner was convicted.

The bill authorizes the FDLE to maintain DNA samples obtained from testing ordered under ss. 925.11 or 925.12, F.S., in the statewide database. If the testing conducted complies with FBI requirements and the data meets NDIS criteria, the FDLE must request NDIS to search its

database of DNA profiles using any profiles obtained from the court ordered testing. The FDLE must provide the results of the forensic analysis and the results of any search of the national, statewide, and local DNA databases to the court, the petitioner, and the prosecuting authority. The petitioner and the state are authorized to use the information for any lawful purpose.

The bill authorizes a court to order a governmental entity, last known to possess evidence reported to be lost or destroyed in violation of law, to conduct a search and produce a report detailing:

- The nature of the search conducted;
- The date the search was conducted;
- The results of the search;
- Any records showing the physical evidence was lost or destroyed; and
- The signature of the person supervising the search, attesting to the report's accuracy.

The report must be provided to the court, the petitioner, and the prosecuting authority in the case.

These provisions of the bill are effective July 1, 2020.

Conditional Release for Specified Inmate Populations (Sections 8, 19, 20, 31-33, 35-37, 45, and 52-55)

Aging Population Statistics

In 2016, 49 million adults in the United States, or 15 percent of the population, were 65 or older.²¹⁰ It is estimated that the number will rise to approximately 98 million by 2060, which corresponds to approximately 25 percent of residents of the United States. The “baby boomers” generation²¹¹ and post baby-boom generations will all be of advanced age by 2029, which is often defined as 55 years of age or older. A report published by the Institutes of Medicine in 2012 asserted that, by 2030, the population of adults over the age of 65 will reach 72.1 million. The report also estimated that approximately one in five persons in the elder population has a mental health or substance abuse disorder, such as depression, dementia, or related psychiatric and behavioral symptoms. Incarcerated men and women typically have physiological and mental health conditions that are associated with people at least a decade older, a phenomenon known as “accelerated aging.” Therefore, an incarcerated person who is 50 or 55 years of age would exhibit health conditions comparable to a person who is 60 or 65 in the community. The occurrence of accelerated aging in the prison system is a result of many factors, including inadequate access to medical care before incarceration, substance abuse, the stress of incarceration, and a lack of appropriate health care during incarceration.²¹²

²¹⁰ The Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, *Promoting Health for Older Adults*, September 13, 2019, available at <https://www.cdc.gov/chronicdisease/resources/publications/factsheets/promoting-health-for-older-adults.htm> (last visited February 21, 2020).

²¹¹ The “baby boomer” generation is generally defined as persons born from 1946 through 1964. See Senior Living, *The Baby Boomer Generation*, available at <https://www.seniorliving.org/life/baby-boomers/> (last visited February 21, 2020).

²¹² Yarnell, S., MD, PhD, Kirwin, P. MD, and Zonana, H. MD, *Geriatrics and the Legal System*, Journal of the American Academy of Psychiatry and the Law, November 2, 2017, p. 208-209, available at <http://jaapl.org/content/jaapl/45/2/208.full.pdf> (last visited February 21, 2020).

Special Health Considerations for Inmates

Similarly to aging persons in the community, aging inmates are more likely to experience certain medical and health conditions, including, in part, dementia, impaired mobility, loss of hearing and vision, cardiovascular disease, cancer, osteoporosis, and other chronic conditions.²¹³

However, such ailments present special challenges within a prison environment and may result in the need for increased staffing levels and enhanced officer training.²¹⁴ Such aging or ill inmates can also require structural accessibility adaptations, such as special housing and wheelchair ramps. For example, in Florida, four facilities serve relatively large populations of older or ill inmates, which help meet special needs such as palliative and long-term care.²¹⁵

Aging Inmate Statistics in Florida

The DOC reports that the elderly inmate²¹⁶ population has increased by 353 inmates or 1.5 percent from June 30, 2017 to June 30, 2018 and that this trend has been steadily increasing over the last five years for an overall increase of 2,585 inmates or 12.5 percent.²¹⁷

The DOC further reports that during FY 2017-18, there were 3,594 aging inmates admitted to Florida prisons, which was a 2.8 percent decrease from FY 2017-18. The majority of such inmates were admitted for violent offenses, property crimes, and drug offenses. The oldest male inmate admitted was 92 years of age with a conviction of manslaughter and the oldest female inmate admitted was 77 years of age with a conviction of drug trafficking.²¹⁸

As the population of aging inmates continues to increase, the cost to house and treat such inmates also substantially increases. The DOC reports that the episodes of outside care for aging inmates increased from 10,553 in FY 2008-09 to 21,469 in FY 2017-18 and further provided that outside care is generally more expensive than treatment provided within a prison facility.²¹⁹ The DOC reports that the cost of health care for the aging inmate population is very high compared to other inmates for many reasons, including, in part that aging inmates:

- Account for a majority of inpatient hospital days; and

²¹³ McKillop, M. and McGaffey, F., The PEW Charitable Trusts, *Number of Older Prisoners Grows Rapidly, Threatening to Drive Up Prison Health Costs*, October 7, 2015, available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/10/07/number-of-older-prisoners-grows-rapidly-threatening-to-drive-up-prison-health-costs> (hereinafter cited as “PEW Trusts Older Prisoners Report”); See also Jaul, E. and Barron, J., *Frontiers in Public Health, Age-Related Diseases and Clinical and Public Health Implications for the 85 Years Old and Over Population*, December 11, 2017, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5732407/>; HealthinAging.org, *A Guide to Geriatric Syndromes: Common and Often Related Medical Conditions in Older Adults*, available at <https://www.healthinaging.org/tools-and-tips/guide-geriatric-syndromes-common-and-often-related-medical-conditions-older-adults> (all sites last visited February 21, 2020).

²¹⁴ The PEW Charitable Trusts Older Prisoners Report.

²¹⁵ *Id.*

²¹⁶ Section 944.02(4), F.S., defines “elderly offender” to mean prisoners age 50 or older in a state correctional institution or facility operated by the DOC or the Department of Management Services.

²¹⁷ The DOC, *2017-18 Annual Report*, p. 19, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited February 21, 2020).

²¹⁸ *Id.* at p. 20.

²¹⁹ *Id.* at p. 21.

- Have a longer length for an inpatient hospital stay than seen with younger inmate patients.²²⁰

Aging Inmate Discretionary Release

Many states, the District of Columbia, and the federal government authorize discretionary release programs for certain inmates that are based on an inmate's age without regard to the medical condition of the inmate.²²¹ The National Conference of State Legislatures (NCSL) reports such discretionary release based on age has been legislatively authorized in 17 states.²²² The NCSL also reports that such statutes typically require an inmate to be of a certain age and to have served either a specified number of years or a specified percentage of his or her sentence. The NCSL reports that Alabama has the lowest age for aging inmate discretionary release, which is 55 years of age, whereas most other states set the limit somewhere between 60 and 65. Additionally, some states do not set a specific age.²²³

Most states require a minimum of 10 years of an inmate's sentence to be served before being eligible for consideration for aging inmate discretionary release, but some states, such as California, set the minimum length of time served at 25 years.²²⁴ Other states, such as Mississippi and Oklahoma, provide a term of years or a certain percentage of the sentence to be served.²²⁵

Inmates who are sentenced to death or serving a life sentence are typically ineligible for release. Some states specify that inmates must be sentenced for a non-violent offense or specify offenses that are not eligible for release consideration.

Florida does not currently address discretionary release based on an inmate's age alone, but as discussed below Florida has discretionary release based on an inmate's medical condition.

Conditional Medical Release

Conditional Medical Release (CMR), outlined in s. 947.149, F.S., was created by the Florida Legislature in 1992,²²⁶ as a discretionary release of inmates who are "terminally ill" or "permanently incapacitated" and who are not a danger to themselves or others.²²⁷ The Florida

²²⁰ *Id.*

²²¹ The National Conference of State Legislatures (NCSL), *State Medical and Geriatric Parole Laws*, August 27, 2018, available at <http://www.ncsl.org/research/civil-and-criminal-justice/state-medical-and-geriatric-parole-laws.aspx> (hereinafter cited as "The NCSL Aging Inmate Statistics"); Code of the District of Columbia, *Section 24-465 Conditions for Geriatric Release*, available at <https://code.dccouncil.us/dc/council/code/sections/24-465.html>; Section 603(b) of the First Step Act, codified at 18 USC s. 3582. See also U.S. Department of Justice, Federal Bureau of Prisons, *Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. Section 3582 and 4205(g)*, January 17, 2019, p. 6-7, available at https://www.bop.gov/policy/progstat/5050_050_EN.pdf (all sites last visited February 21, 2020).

²²² The NCSL Aging Inmate Statistics. In addition, the NCSL states that at least 16 states have established both medical and aging inmate discretionary release programs legislatively and that Virginia is the only state that has aging inmate discretionary release but not medical discretionary release.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ The NCSL Aging Inmate Statistics.

²²⁶ Chapter 92-310, L.O.F.

²²⁷ The FCOR, *Release Types, Post Release*, available at <https://www.fcior.state.fl.us/postrelease.shtml#conditionalMedicalRelease> (last visited February 21, 2020).

Commission on Offender Review (FCOR), which consists of three members, reviews eligible inmates for release under the CMR program pursuant to the powers established in s. 947.13, F.S.²²⁸ In part, s. 947.149, F.S., authorizes the FCOR to determine what persons will be released on CMR, establish the conditions of CMR, and determine whether a person has violated the conditions of CMR and take actions with respect to such a violation.

Eligibility Criteria

Eligible inmates include inmates designated by the DOC as a:

- “Permanently incapacitated inmate,” which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others; or
- “Terminally ill inmate,” which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.²²⁹

Inmates sentenced to death are ineligible for CMR.²³⁰

Referral Process for Eligible Inmates

The DOC is required to identify inmates who may be eligible for CMR in accordance with the above-mentioned designations. The DOC uses available medical information as a basis for identifying eligible inmates and refers such inmates to the FCOR for consideration. In considering an inmate, the FCOR may require that additional medical evidence be produced or that additional medical examinations be conducted and may require other investigations to be made as it deems necessary.²³¹

An inmate does not have a right to CMR or to a medical evaluation to determine eligibility for such release.²³² Additionally, the authority and whether or not to grant CMR and establish additional conditions of release rests solely within the discretion of the FCOR, together with the authority to approve the release plan to include necessary medical care and attention.²³³

Certain information must be provided to the FCOR from the DOC to be considered a referral, including:

- Clinical Report, including complete medical information justifying classification of the inmate as “permanently incapacitated” or “terminally ill”; and
- Verifiable release plan, to include necessary medical care and attention.²³⁴

²²⁸ Section 947.149(3), F.S. Section 947.01, F.S., provides that the membership of the FCOR is three-members.

²²⁹ Section 947.149(1), F.S.

²³⁰ Section 947.149(2), F.S.

²³¹ Section 947.149(3), F.S.

²³² Section 947.149(2), F.S.

²³³ Section 947.149(3), F.S.

²³⁴ Rule 23-24.020(1), F.A.C.

The referral must be directed to the Office of the Commission Clerk who may docket the case before the FCOR. A decision will be made by a majority of the quorum present and voting.²³⁵ The FCOR is required to approve or disapprove CMR based upon information submitted in support of the recommendation and review of the DOC file. If additional information is needed, the FCOR must continue the case for verification of the release plan, additional medical examinations, and other investigations as directed. The FCOR is required to instruct staff to conduct the appropriate investigation, which must include a written statement setting forth the specific information being requested.²³⁶

Victim Input for CMR

If a victim or his or her personal representative requests to be notified, the FCOR must provide victim notification of any hearing where the release of the inmate on CMR is considered prior to the inmate's release.²³⁷ As discussed above, Art. I, s. 16 of the Florida Constitution, which was adopted in 2018 by the Florida voters, provides certain rights to victims in the Florida Constitution. In part, Art. I, s. 16 of the Florida Constitution provides that a victim has the following rights upon request:

- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.²³⁸

The requirement to notify victims was in place prior to the constitutional amendment passage through administrative rule. Rule 23-24.025, F.A.C., provides that a victim, relative of a minor who is a victim, relative of a homicide victim, or victim representative or victim advocate must receive advance notification any time a CMR case is placed on the docket for determination by the FCOR. Notification must be made to the address found in the police report or other criminal report or at a more current address if such has been provided to the FCOR.²³⁹

A victim of the crime committed by the inmate, or a victim's representative, must be permitted a reasonable time to make an oral statement or submit a written statement regarding whether the victim supports the granting, denying, or revoking of CMR.²⁴⁰ Additionally, other interested

²³⁵ Rule 23-24.020(2), F.A.C.

²³⁶ Rule 23-24.020(3), F.A.C.

²³⁷ Rule 23-24.020(4), F.A.C., further qualifies that this notification occurs when the name and address of such victim or representative of the victim is known by the FCOR.

²³⁸ Art. 1, s. 16(b)(6)b., f., and g., FLA. CONST.

²³⁹ Rule 23-24.025(1), F.A.C.

²⁴⁰ Rule 23-24.025(2) and (3), F.A.C. See Rule 23-24.025(4), F.A.C., regarding specifics about what is allowed to be submitted or utilized during oral testimony. Rule 23-24.025(7), F.A.C., provides that victims who appear and speak must be advised that any information submitted at FCOR meetings becomes public record.

parties may also speak on behalf of victims since the FCOR meetings are public meetings.²⁴¹ A victim can also request that the FCOR provide notification of the action taken if he or she does not choose to appear at meetings or make a written statement.²⁴²

Release Conditions

The release of an inmate on CMR is for the remainder of the inmate's sentence and requires periodic medical evaluations at intervals determined by the FCOR at the time of release.²⁴³ An inmate who has been approved for release on CMR is considered a medical releasee when released.

Each medical releasee must be placed on CMR supervision and is subject to the standard conditions of CMR, which include:

- Promptly proceeding to the residence upon being released and immediately reporting by mail, telephone, or personal visit as instructed by the CMR officer or within 72 hours of release if no specific report date and time are given.
- Securing the permission of the CMR officer before:
 - Changing residences;
 - Leaving the county or the state; and
 - Posting bail or accepting pretrial release if arrested for a felony.
- Submitting a full and truthful report to the CMR officer each month in writing and as directed by the CMR supervisor.
- Refraining from:
 - Owning, carrying, possessing, or having in his or her constructive possession a firearm or ammunition;
 - Using or possessing alcohol or intoxicants of any kind;
 - Using or possessing narcotics, drugs, or marijuana unless prescribed by a physician;
 - Entering any business establishment whose primary purpose is the sale or consumption of alcoholic beverages; and
 - Knowingly associating with any person engaging in criminal activity, a criminal gang member, or person associated with criminal gang members.
- Securing the permission of the CMR officer before owning, carrying, or having in his or her constructive possession a knife or any other weapon.
- Obeying all laws, ordinances, and statutory conditions of CMR.
- Submitting to a reasonable search of the medical releasee's person, residence, or automobile by a CMR officer.
- Waiving extradition back to Florida if the medical releasee is alleged to have violated CMR.
- Permitting the CMR officer to visit the medical releasee's residence, employment, or elsewhere.
- Promptly and truthfully answering all questions and following all instructions asked or given by the CMR officer or the FCOR.
- Remaining on CMR for the remainder of the sentence without diminution of such sentence for good behavior.

²⁴¹ Rule 23-24.025(3), F.A.C.

²⁴² Rule 23-24.025(5), F.A.C.

²⁴³ Section 947.149(4), F.S.

- Agreeing to submit to random drug or alcohol testing, to be paid for and submitted by the medical releasee, as directed by the CMR officer or the professional staff of any treatment center where treatment is being received.
- Executing and providing authorizations to release records to the CMR supervisor and the FCOR for the purpose of monitoring and documenting the medical releasee's progress.
- Agreeing that, in the event there is an improvement in the medical releasee's medical condition to the extent that he or she is no longer "permanently incapacitated," or "terminally ill," that he or she will, if directed to do so, report for a CMR revocation hearing.²⁴⁴

Additionally, the FCOR can impose special conditions of CMR.²⁴⁵

Revocation and Recommitment

In part, s. 947.141, F.S., provides for the revocation and recommitment of a medical releasee who appears to be subject to CMR revocation proceedings, including establishing a hearing process and determining whether a medical releasee must be recommitted to the DOC. CMR supervision can be revoked and the offender returned to prison if the FCOR determines:

- That a violation of any condition of the release has occurred; or
- His or her medical or physical condition improves to the point that the offender no longer meets the CMR criteria.²⁴⁶

Revocation Due to Improved Medical or Physical Condition

If it is discovered during the CMR release that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for such release, the FCOR may order that the medical releasee be returned to the custody of the DOC for a revocation hearing, in accordance with s. 947.141, F.S. A medical releasee who has his or her CMR revoked due to improvement in medical or physical condition must serve the balance of the sentence with credit for the time served on CMR, but does not forfeit any gain-time accrued prior to release on CMR.²⁴⁷

Revocation Due to Violation of CMR Conditions

When there are reasonable grounds to believe that a medical releasee who is on CMR has violated the conditions of the release in a material respect the FCOR is authorized to have a warrant issued for the arrest of the medical releasee. A warrant must be issued if the medical releasee was found to be a sexual predator.²⁴⁸ Further, if a law enforcement officer has probable cause to believe that a medical releasee who is on CMR supervision has violated the terms and conditions of his or her release by committing a felony offense then the officer must arrest the medical releasee without a warrant and a warrant need not be issued in the case.²⁴⁹

²⁴⁴ Rule 23-24.030(1), F.A.C.

²⁴⁵ Rule 23-24.030(2), F.A.C.

²⁴⁶ Section 947.149(5), F.S.

²⁴⁷ Section 947.149(5)(a), F.S. Additionally, if the person whose CMR is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, the person may be considered for such release program pursuant to law.

²⁴⁸ Section 947.141(1), F.S.

²⁴⁹ Section 947.141(7), F.S.

A medical releasee who is arrested for a felony must be detained without bond until the initial appearance of the medical releasee at which a judicial determination of probable cause is made. The medical releasee may be released if the trial court judge does not find probable cause existed for the arrest. However, if the court makes a finding of probable cause, such determination also constitutes reasonable grounds to believe that the medical releasee violated the conditions of the CMR release and the chief county correctional officer must notify the FCOR and the DOC of the finding within 24 hours.²⁵⁰ The medical releasee must continue to be detained without bond for a period not more than 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the FCOR whether to issue a warrant charging the medical releasee with violation of the conditions of CMR. If the FCOR issues such warrant, the medical releasee must continue to be held in custody pending a revocation hearing.²⁵¹

Revocation Hearing

The medical releasee must be afforded a hearing that is conducted by a commissioner or a duly authorized representative within 45 days after notice to the FCOR of the arrest of a medical releasee charged with a violation of the terms and conditions of CMR. If the medical releasee elects to proceed with a hearing, the medical releasee must be informed orally and in writing of certain rights, including the medical releasee's:

- Alleged violation; and
- Right to:
 - Be represented by counsel.
 - Be heard in person.
 - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
 - Produce documents on his or her own behalf.
 - Access all evidence used against the releasee and confront and cross-examine adverse witnesses.
 - Waive the hearing.²⁵²

The commissioner, who conducts the hearing, is required to make findings of fact in regard to the alleged violation within a reasonable time following the hearing and at least two commissioners must enter an order determining whether the charge of violation of CMR has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. The panel may: revoke CMR, thereby returning the medical releasee to prison to serve the sentence imposed; reinstate the original order granting the release; or enter such other order, as it considers proper.²⁵³

If CMR is revoked and the medical releasee is ordered to be returned to prison, the medical releasee is deemed to have forfeited all gain-time or commutation of time for good conduct

²⁵⁰ Section 947.141(2), F.S., further states that the chief county detention officer must transmit to the FCOR and the DOC a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge's probable cause determination is based.

²⁵¹ *Id.*

²⁵² Section 947.141(3), F.S.

²⁵³ Section 947.141(4), F.S.

earned up to the date of release. However, if CMR is revoked due to the improved medical or physical condition of the medical releasee, the medical releasee does not forfeit gain-time accrued before the date of CMR.²⁵⁴ Gain-time or commutation of time for good conduct may be earned from the date of return to prison.

Statistics

The FCOR has approved and released 73 inmates for CMR in the last three fiscal years:

- 38 in FY 2018-19;
- 21 in FY 2017-2018; and
- 14 in FY 2016-2017.²⁵⁵

The DOC has recommended 149 inmates for release in the past three fiscal years:

- 76 in FY 2018-19;
- 39 in FY 2017-2018; and
- 34 in FY 2016-2017.²⁵⁶

Currently, the DOC's role in the CMR process is making the initial designation of medical eligibility, referring the inmate's case to the FCOR for an investigation and final decision, and supervising inmates who are granted CMR.²⁵⁷

Constitutional Requirement to Provide Healthcare to Inmates

The United States Supreme Court has established that prisoners have a constitutional right to adequate medical care. The Court determined that it is a violation of the Eighth Amendment prohibition against cruel and unusual punishment for the state to deny a prisoner necessary medical care, or to display "deliberate indifference" to an inmate's serious medical needs.²⁵⁸

Before the 1970s, prison health care operated without "standards of decency" and was frequently delivered by unqualified or overwhelmed providers, resulting in negligence and poor quality.²⁵⁹ By January 1996, only three states had never been involved in major litigation challenging conditions in their prisons. A majority were under court order or consent decree to make improvements in some or all facilities.²⁶⁰ The development of the correctional health care in

²⁵⁴ Section 947.141(6), F.S.

²⁵⁵ Emails from Alexander Yarger, Legislative Affairs Director, FCOR, RE: Conditional Medical Release Data and RE: Updated Conditional Medical Release Numbers (attachments on file with the Appropriations Subcommittee on Criminal and Civil Justice) (December 15, 2017 and November 1, 2019, respectively). *See also* FCOR Annual Report FY 2017-18, p. 8, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last visited February 21, 2020).

²⁵⁶ *Id.*

²⁵⁷ The FCOR, *Draft Agency Analysis for SB 556*, October 24, 2019, p. 2 (on file with the Appropriations Subcommittee on Civil and Criminal Justice).

²⁵⁸ *Estelle v. Gamble*, 429 U.S. 97, 104 (1976).

²⁵⁹ The PEW Charitable Trusts, Urahn, S. and Thompson, M., *Prison Health Care: Costs and Quality*, October 2017, p. 4, available at https://www.pewtrusts.org/-/media/assets/2017/10/sfh_prison_health_care_costs_and_quality_final.pdf (last visited February 21, 2020) (hereinafter cited as "The PEW Trusts Prison Health Care Cost Report").

²⁶⁰ *Id.* *See also* McDonald, D., *Medical Care in Prisons*, Crime and Justice, Vol. 26, 1999, p. 431, available at <https://www.journals.uchicago.edu/doi/abs/10.1086/449301> (last visited February 21, 2020); *See also*

Florida has been influenced by a class action lawsuit filed by inmates in 1972. The plaintiffs in *Costello v. Wainwright*²⁶¹ alleged that prison overcrowding and inadequate medical care were so severe that the resulting conditions amounted to cruel and unusual punishment. The overcrowding aspect of the case was settled in 1979, but the medical care issue continued to be litigated for years.²⁶²

The legal standard today for inmate medical care must be at “a level reasonably commensurate with modern medical science and of a quality acceptable within prudent professional standards” and “designed to meet routine and emergency medical, dental, and psychological or psychiatric care.”²⁶³ Prisoners are entitled to access to care for diagnosis and treatment, a professional medical opinion, and administration of the prescribed treatment and such obligation persists even if some or all of the medical services are provided through the use of contractors. This is also the standard for state prisoners who are under the custody of private prisons or local jails. Recent cases have reinforced states’ constitutional obligations.²⁶⁴

The DOC’s Duty to Provide Health Care

The DOC is responsible for the inmates of the state correctional system and has supervisory and protective care, custody, and control of the inmates within its facilities.²⁶⁵ The DOC has the constitutional and statutory imperative to provide adequate health services to state prison inmates directly related to this responsibility.²⁶⁶ This medical care includes comprehensive medical, mental health, and dental services, and all associated ancillary services.²⁶⁷ The DOC’s Office of Health Service (OHS) oversees the delivery of health care services and handles statewide functions for such delivery. The OHS is led by the Director of Health Services, who reports to the Secretary.²⁶⁸

The DOC contracts with the Centurion of Florida, LLC (Centurion) to provide comprehensive statewide medical, mental health, dental services, and operates the DOC’s reception medical center. The care provided is under a cost plus model. All inmates are screened at a DOC reception center upon arrival from the county jail. The purpose of this intake process is to determine the inmate’s current medical, dental, and mental health care needs, which is achieved through assessments, in part, for auditory, mobility and vision disabilities, and the need for specialized mental health treatment.²⁶⁹

Newman et al. v. Alabama et al., 349 F. Supp. 278 (M.D. Ala. 1972).

²⁶¹ 430 U.S. 325 (1977).

²⁶² *Id.* The Correctional Medical Authority, FY 2017-18 Annual Report and Update on the Status of Elderly Offender’s in Florida’s Prisons, p. 1 (on file with the Appropriations Subcommittee on Criminal and Civil Justice). The Correctional Medical Authority was created in response to such federal litigation.

²⁶³ The PEW Trusts Prison Health Care Cost Report, p. 4.

²⁶⁴ *Id.*

²⁶⁵ Sections 945.04(1) and 945.025(1), F.S.

²⁶⁶ *Crews v. Florida Public Employers Council 79, AFSCME*, 113 So. 3d 1063 (Fla. 1st DCA 2013); *See also* s. 945.025(2), F.S.

²⁶⁷ The DOC, Office of Health Services, available at <http://www.dc.state.fl.us/org/health.html> (last visited February 21, 2020).

²⁶⁸ *Id.*

²⁶⁹ *Id.* *See also* the DOC Annual Report, p. 19.

After the intake process is completed, inmates are assigned to an institution based on their medical and mental health needs and security requirements. The Centurion provides primary care using a staff of clinicians, nurses, mental health, and dental professionals and administrators within each major correctional institution. The health services team provides health care services in the dorms for inmates who are in confinement.²⁷⁰

Gain-time

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.²⁷¹ An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.²⁷²

Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.²⁷³ The only forms of gain-time that can currently be earned are:

- Incentive gain-time;²⁷⁴
- Meritorious gain-time;²⁷⁵ and
- Educational achievement gain-time.²⁷⁶

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.²⁷⁷ The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.²⁷⁸

²⁷⁰ *Id.*

²⁷¹ Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

²⁷² Section 944.275(4)(f), F.S.

²⁷³ Chapter 93-406, L.O.F.

²⁷⁴ Section 944.275(4)(b), F.S., provides that incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.

²⁷⁵ Section 944.275(4)(c), F.S., provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.

²⁷⁶ Section 944.275(4)(d), F.S., provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.

²⁷⁷ Section 944.275(3)(c), F.S.

²⁷⁸ Section 944.275(2)(a), F.S.

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.²⁷⁹ Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.²⁸⁰

The DOC is authorized in certain circumstances, including when a medical releasee has his or her CMR revoked, to declare all gain-time earned by an inmate forfeited.²⁸¹

Federal First Step Act

In December 2018, the United States Congress passed, and President Trump signed into law, the "Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act" or the "FIRST STEP Act" (First Step Act).²⁸² The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons (BOP), including, in part, modifying provisions related to compassionate release to:

- Require inmates be informed of reduction in sentence availability and process;
- Modify the definition of "terminally ill;"
- Require notice and assistance for terminally ill offenders;
- Require requests from terminally ill offenders to be processed within 14 days.²⁸³

Specifically, in the case of a diagnosis of a terminal illness, the BOP is required to, subject to confidentiality requirements:

- Notify the defendant's attorney, partner, and family members, not later than 72 hours after the diagnosis, of the defendant's diagnosis of a terminal condition and inform the defendant's attorney, partner, and family members that they may prepare and submit on the defendant's behalf a request for a sentence reduction;
- Provide the defendant's partner and family members, including extended family, with an opportunity to visit the defendant in person not later than 7 days after the date of the diagnosis;
- Upon request from the defendant or his attorney, partner, or a family member, ensure that BOP employees assist the defendant in the preparation, drafting, and submission of a request for a sentence reduction; and
- Process a request for sentence reduction submitted on the defendant's behalf by the defendant or the defendant's attorney, partner, or family member not later than 14 days from receipt of a request.²⁸⁴

²⁷⁹ Section 944.275(3)(a), F.S.

²⁸⁰ *Id.* See also s. 944.275(4)(b), F.S.

²⁸¹ Section 944.28(1), F.S.

²⁸² The First Step Act of 2018, Pub. L. No. 115-391 (2018).

²⁸³ Section 603(b) of the First Step Act, codified at 18 USC s. 3582. See also U.S. Department of Justice, Federal Bureau of Prisons, *Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. Section 3582 and 4205(g)*, January 17, 2019, p. 3-4, available at https://www.bop.gov/policy/progstat/5050_050_EN.pdf (last visited February 21, 2020).

²⁸⁴ *Id.*

The statutory time frames mentioned above begin once the Clinical Director of an institution makes a terminal diagnosis. Once the diagnosis is made, the Clinical Director will inform the Warden and the appropriate Unit Manager as soon as possible to ensure requirements are met.²⁸⁵

Sovereign Immunity

Sovereign immunity is a principle under which a government cannot be sued without its consent.²⁸⁶ Article X, s. 13 of the Florida Constitution allows the Legislature to waive this immunity. Further, s. 768.28(1), F.S., allows for suits in tort against Florida and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28, F.S., applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment”²⁸⁷

Section 768.28(5), F.S., limits tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident.²⁸⁸ This limitation does not prevent a judgement in excess of such amounts from being entered, but a claimant is unable to collect above the statutory limit unless a claim bill is passed by the Legislature.²⁸⁹

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.^{290, 291} Thus, the immunity may be pierced only if state employees or agents either act outside the scope of their employment, or act “in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.”²⁹²

Courts that have construed the bad faith prong of s. 768.28, F.S., to mean the actual malice standard, which means the conduct must be committed with “ill will, hatred, spite, [or] an evil intent.”²⁹³ Conduct meeting the wanton and willful standard is defined as “worse than gross negligence,”²⁹⁴ and “more reprehensible and unacceptable than mere intentional conduct.”^{295, 296}

²⁸⁵ *Id.*

²⁸⁶ The Legal Information Institute, *Sovereign immunity*, available at https://www.law.cornell.edu/wex/sovereign_immunity (last visited February 21, 2020).

²⁸⁷ *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

²⁸⁸ Section 768.28(5), F.S.

²⁸⁹ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

²⁹⁰ *See Peterson v. Pollack*, 2019 WL 6884887 (Fla. 4th DCA December 18, 2019).

²⁹¹ Section 768.28(9)(a), F.S.

²⁹² *Eiras v. Fla.*, 239 F. Supp. 3d 1331, 1343 (M.D. Fla. 2017).

²⁹³ *See Parker v. State Bd. of Regents ex rel. Fla. State Univ.*, 724 So.2d 163, 167 (Fla. 1st DCA 1998); *Reed v. State*, 837 So.2d 366, 368–69 (Fla. 2002); and *Eiras v. Fla.*, 239 F. Supp. 3d 1331, 1343 (M.D. Fla. 2017).

²⁹⁴ *Eiras v. Fla.*, 239, *supra* at 50; *Sierra v. Associated Marine Insts., Inc.*, 850 So.2d 582, 593 (Fla. 2d DCA 2003).

²⁹⁵ *Eiras v. Fla.*, *supra* at 50; *Richardson v. City of Pompano Beach*, 511 So.2d 1121, 1123 (Fla. 4th DCA 1987).

²⁹⁶ *See also Kastritis v. City of Daytona Beach Shores*, 835 F.Supp.2d 1200, 1225 (M.D. Fla. 2011) (defining these standards).

Effect of the Bill

The bill creates two programs for conditional release within the DOC, CMR and conditional aging inmate release (CAIR). The bill repeals s. 947.149, F.S., which establishes the CMR program within the FCOR and creates s. 945.0911, F.S., to establish a CMR program within the DOC. The bill also creates s. 945.0912, F.S., which establishes a CAIR program within the DOC. Both programs have the same stated purpose, which is to:

- Determine whether release is appropriate for eligible inmates;
- Supervise the released inmates; and
- Conduct revocation hearings.

The CMR program established within the DOC retains similarities to the program currently in existence within the FCOR, including that the CMR program must include a panel of at least three people. The members of the panel are appointed by the secretary or his or her designee for the purpose of determining the appropriateness of CMR and conducting revocation hearings on the inmate releases.

The CAIR program also must include a panel of at least three people appointed by the Secretary for the purpose of determining the appropriateness of CAIR and conducting revocation hearings on the inmate releases.

The eligibility criteria for each program differs, but both programs have very similar structures and will be discussed together below when possible.

Eligibility Criteria

The bill provides a specific exception to the 85 percent rule that allows an inmate who meets the eligibility criteria for CMR or CAIR to be released from the custody of the DOC pursuant to the applicable program prior to satisfying 85 percent of his or her term of imprisonment. The specific eligibility criteria for each program are discussed below.

CMR

The bill provides that an inmate is eligible for consideration for release under the CMR program when the inmate, because of an existing medical or physical condition, is determined by the DOC to be an inmate with a debilitating illness, a permanently incapacitated inmate, or a terminally ill inmate. The bill provides definitions for such terms, including:

- “Inmate with a debilitating illness,” which means an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or to others.
- “Permanently incapacitated inmate,” which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or to others.
- “Terminally ill inmate,” which means an inmate who has a condition caused by injury, disease, or illness that, to a reasonable degree of medical certainty, renders the inmate

terminally ill to the extent that there can be no recovery, death is expected within 12 months, and the inmate does not constitute a danger to herself or himself or to others.

CAIR

An inmate is eligible for consideration for release under the CAIR program when the inmate has reached 65 years of age and has served at least 10 years on his or her term of imprisonment.

An inmate may not be considered for release through the CAIR program if he or she has ever been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent for committing:

- Any offense classified as a capital felony, life felony, or first degree felony punishable by a term of years not exceeding life imprisonment;
- Any violation of law that results in the killing of a human being;
- An offense that requires registration as a sexual offender on the sexual offender registry in accordance with s. 943.0435, F.S; or
- Any similar offense committed in another jurisdiction which would be an offense included in this list if it had been committed in violation of the laws of Florida.

The bill also prohibits an inmate who has previously been released on any form of conditional or discretionary release and who was recommitted to the DOC as a result of a finding that he or she subsequently violated the terms of such conditional or discretionary release to be considered for release through the CAIR program.

Referral Process

The bill requires that any inmate in the custody of the DOC who meets one or more of the above-mentioned eligibility requirements must be considered for CMR or CAIR, respectively. However, the authority to grant CMR or CAIR rests solely with the DOC. In addition, the bill provides that an inmate does not have a right to release or to a medical evaluation to determine eligibility for release on CMR pursuant to s. 945.0911, F.S., or a right to release on CAIR pursuant to s. 945.0912, F.S., respectively.

The bill requires the DOC to identify inmates who may be eligible for CMR based upon available medical information and authorizes the DOC to require additional medical evidence, including examinations of the inmate, or any other additional investigations it deems necessary for determining the appropriateness of the eligible inmate's release. Further, the DOC must identify inmates who may be eligible for CAIR. In considering an inmate for the CAIR program, the DOC may require the production of additional evidence or any other additional investigations that the DOC deems necessary for determining the appropriateness of the eligible inmate's release.

Upon an inmate's identification as potentially eligible for release on CMR or CAIR, the DOC must refer such inmate to the respective three-member panel described above for review and determination of release.

The bill requires the DOC to provide notice to a victim of the inmate's referral to the panel immediately upon identification of the inmate as potentially eligible for release on CMR or

CAIR if the case that resulted in the inmate's commitment to the DOC involved a victim and such victim specifically requested notification pursuant to Article I, s. 16 of the Florida Constitution. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

Determination of Release

The bill requires the three-member panel established in s. 945.0911(1), F.S., or s. 945.0912, F.S., whichever is applicable, to conduct a hearing within a specified time after receiving the referral to determine whether CMR or CAIR, respectively, is appropriate for the inmate. The bill specifies that the hearing must be conducted by the panel:

- By April 1, 2021, if the inmate is immediately eligible for consideration for the CMR program or the CAIR program when the provisions take effect on October 1, 2020.
- By July 1, 2021, if the inmate becomes eligible for consideration for the CMR program or the CAIR program after October 1, 2020, but before July 1, 2021.
- Within 45 days after receiving the referral if the inmate becomes eligible for the CMR program or the CAIR program any time on or after July 1, 2021.

Before the hearing for an inmate being referred for the CMR program, the director of inmate health services or his or her designee must review any relevant information, including, but not limited to, medical evidence, and provide the panel with a recommendation regarding the appropriateness of releasing the inmate on CMR.

A majority of the panel members must agree that release on CMR or CAIR is appropriate for the inmate. If CMR or CAIR is approved, the inmate must be released by the DOC to the community within a reasonable amount of time with necessary release conditions imposed.

The bill provides that an inmate who is granted CMR is considered a medical releasee upon release to the community. Similarly, the bill provides that an inmate released on CAIR is considered an aging releasee upon release to the community.

An inmate who is denied CMR or CAIR by the three-member panel is able to have the decision reviewed. For an inmate who is denied release on CMR, the bill provides that the DOC's general counsel and chief medical officer must review the decision of the three-member panel and make a recommendation to the secretary. For an inmate who is denied release on CAIR, the decision is only reviewed by the DOC's general counsel, who must make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the release on CMR or CAIR and the bill provides that the appeal decision of the secretary is a final administrative decision not subject to appeal.

Additionally, an inmate who is denied CMR or CAIR who requests to have the decision reviewed must do so in a manner prescribed in rule and may be subsequently reconsidered for such release in a manner prescribed by department rule.

Release Conditions

The bill requires that an inmate granted release on CMR or CAIR must be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release

is granted. The medical releasee or aging releasee must comply with all reasonable conditions of release the DOC imposes, which must include, at a minimum:

- Supervision by an officer trained to handle special offender caseloads.
- Active electronic monitoring, if such monitoring is determined to be necessary to ensure the safety of the public and the releasee's compliance with release conditions.
- Any conditions of community control provided for in s. 948.101, F.S.²⁹⁷
- Any other conditions the DOC deems appropriate to ensure the safety of the community and compliance by the medical releasee or aging releasee.

Additionally, the bill requires a medical releasee to have periodic medical evaluations at intervals determined by the DOC at the time of release.

The bill provides that a medical releasee or an aging releasee is considered to be in the custody, supervision, and control of the DOC. The bill further states that this does not create a duty for the DOC to provide the medical releasee or aging releasee with medical care upon release into the community. The bill provides that the medical releasee or aging releasee remains eligible to earn or lose gain-time in accordance with s. 944.275, F.S., and department rule. However, the bill clarifies that the medical releasee or aging releasee may not be counted in the prison system population, and the medical releasee's or aging releasee's approved community-based housing location may not be counted in the capacity figures for the prison system.

Revocation of Conditional Release and Recommitment to the DOC

The bill establishes a process for the revocation of CMR that very closely parallels current law and for which may be based on two circumstances, including the:

- Discovery that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for release on CMR; or
- Violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law.

The bill provides that CAIR may be revoked for a violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. The DOC may terminate the medical releasee's CMR or the aging releasee's CAIR and return him or her to the same or another institution designated by the DOC.

Revocation Based on Medical or Physical Improvement - CMR

This provision only applies to revocation of a medical releasee's CMR.

When the basis of the revocation proceedings are based on an improved medical or physical condition of the medical releasee, the bill authorizes the DOC to:

- Order that the medical releasee be returned to the custody of the DOC for a CMR revocation hearing, as prescribed by rule; or

²⁹⁷ Some examples of community control conditions required under s. 948.101, F.S., include: to maintain specified contact with the parole and probation officer; confinement to an agreed-upon residence during hours away from employment and public service activities; mandatory public service; and supervision by the DOC by means of an electronic monitoring device or system.

- Allow the medical releasee to remain in the community pending the revocation hearing.

If the DOC elects to order the medical releasee to be returned to custody pending the revocation hearing, the officer or duly authorized representative may cause a warrant to be issued for the arrest of the medical releasee.

The revocation hearing must be conducted by the three-member panel discussed above and a majority of the panel members must agree that revocation is appropriate for the medical releasee's conditional medical release to be revoked. The bill requires the director of inmate health services or his or her designee to review any medical evidence pertaining to the medical releasee and provide the panel with a recommendation regarding the medical releasee's improvement and current medical or physical condition.

A medical releasee whose CMR was revoked due to improvement in his or her medical or physical condition must be recommitted to the DOC to serve the balance of his or her sentence with credit for the time served on CMR and without forfeiture of any gain-time accrued before recommitment. If the medical releasee whose CMR is revoked due to an improvement in her or his medical or physical condition would otherwise be eligible for parole or any other release program, the medical releasee may be considered for such release program pursuant to law.

Revocation Based on Violation of Conditions

The bill provides that CMR or CAIR may be revoked for violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. The bill provides that, if a duly authorized representative of the DOC has reasonable grounds to believe that a medical releasee or aging releasee has violated the conditions of his or her release in a material respect, such representative may cause a warrant to be issued for the arrest of the medical releasee or aging releasee.

Further, a law enforcement officer or a probation officer may arrest the medical releasee or aging releasee without a warrant in accordance with s. 948.06, F.S., if there are reasonable grounds to believe he or she has violated the terms and conditions of his or her CMR or CAIR, respectively. The law enforcement officer must report the medical releasee's or aging releasee's alleged violations to the supervising probation office or the DOC's emergency action center for initiation of revocation proceedings.

If the basis of the violation of release conditions is related to a new violation of law, the medical releasee or aging releasee must be detained without bond until his or her initial appearance at which a judicial determination of probable cause is made. If the judge determines that there was no probable cause for the arrest, the medical releasee or aging releasee may be released. If the judge determines that there was probable cause for the arrest, the judge's probable cause determination also constitutes reasonable grounds to believe that the medical releasee or aging releasee violated the conditions of the CMR or CAIR, respectively.

The bill requires the DOC to order that the medical releasee or aging releasee subject to revocation for a violation of conditions be returned to the custody of the DOC for a CMR or CAIR revocation hearing, respectively, as prescribed by rule. A medical releasee or an aging

releasee may admit to the alleged violation of the conditions of CMR or CAIR, respectively, or may elect to proceed to a revocation hearing. A majority of the panel members must agree that revocation is appropriate for the medical releasee's CMR or the aging releasee's CAIR to be revoked.

The bill provides that a medical releasee, who has his or her CMR, or an aging releasee, who has had his or her CAIR, revoked due to a violation of conditions must serve the balance of his or her sentence in an institution designated by the DOC with credit for the actual time served on CMR or CAIR, respectively. Additionally, the medical releasee's or aging releasee's gain-time accrued before recommitment may be forfeited pursuant to s. 944.28(1), F.S. If the medical releasee whose CMR is revoked or aging releasee whose CAIR is revoked would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

The bill provides that a medical releasee whose CMR or aging releasee whose CAIR is revoked and is recommitted to the DOC must comply with the 85 percent requirement discussed above upon recommitment.

Revocation Hearing Process

CMR

If the medical releasee subject to revocation for either basis elects to proceed with a hearing, the medical releasee must be informed orally and in writing of certain rights, including the releasee's:

- Alleged basis for the pending revocation proceeding against the releasee.
- Right to:
 - Be represented by counsel.²⁹⁸
 - Be heard in person.
 - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
 - Produce documents on his or her own behalf.
 - Access all evidence used to support the revocation proceeding against the releasee and confront and cross-examine adverse witnesses.
 - Waive the hearing.

CAIR

If the aging releasee is subject to revocation and elects to proceed with a hearing, the aging releasee must be informed orally and in writing of certain rights, including the releasee's:

- Alleged violation with which he or she is charged.
- Right to:
 - Be represented by counsel.²⁹⁹
 - Be heard in person.
 - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
 - Produce documents on his or her own behalf.

²⁹⁸ However, this bill explicitly provides that this does not create a right to publicly funded legal counsel.

²⁹⁹ However, this bill explicitly provides that this does not create a right to publicly funded legal counsel.

- Access all evidence used against the releasee and confront and cross-examine adverse witnesses.
- Waive the hearing.

If the panel approves the revocation of the medical releasee's CMR or aging releasee's CAIR, the panel must provide a written statement as to evidence relied on and reasons for revocation.

Sovereign Immunity

The bill includes language providing that unless otherwise provided by law and in accordance with Art. X, s. 13 of the Florida Constitution, members of the panel who are involved with decisions that grant or revoke CMR or CAIR are provided immunity from liability for actions that directly relate to such decisions.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The bill also amends a number of sections to conform these provisions to changes made by the Act.

These provisions of the bill are effective October 1, 2020.

Wrongful Incarceration Compensation Eligibility (Sections 24-28)

In Florida, 13 people have been exonerated or released from incarceration since 2000 as a result of post-conviction DNA testing.³⁰⁰ The Victims of Wrongful Incarceration Compensation Act (the Act) has been in effect since July 1, 2008.³⁰¹ The Act provides a process whereby a person may petition the original sentencing court for an order finding the petitioner to be a wrongfully incarcerated person who is eligible for compensation from the state.

A person is considered a "wrongfully incarcerated person" when his or her felony conviction and sentence have been vacated by a court of competent jurisdiction and he or she is the subject of an order issued by the original sentencing court pursuant to s. 961.03, F.S., finding that the person did not:

- Commit the act or offense that served as the basis for the conviction and incarceration; and
- Aid, abet, or act as an accomplice or accessory to a person who committed the act or offense.³⁰²

³⁰⁰ These persons include Frank Lee Smith, Jerry Townsend, Wilton Dedge, Luis Diaz, Alan Crotzer, Orlando Boquete, Larry Bostic, Chad Heins, Cody Davis, William Dillon, James Bain, Anthony Caravella, and Derrick Williams who have been released from prison or exonerated in Florida based on DNA testing. The National Registry of Exonerations, *Browse Cases, Florida*, available at <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA> (last visited on February 12, 2020).

³⁰¹ Chapter 961, F.S. (ch. 2008-39, L.O.F.). To date, four persons have been compensated under the Act. E-mail and documentation received from the Office of the Attorney General, October 16, 2019 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

³⁰² Section 961.02(7), F.S.

A person is deemed “eligible for compensation” if he or she meets the definition of the term “wrongfully incarcerated person” and is not disqualified from seeking compensation under the criteria prescribed in s. 961.04, F.S.³⁰³ Further, a person is considered to be “entitled to compensation” if he or she is deemed “eligible for compensation” and satisfies the application requirements prescribed in s. 961.05, F.S., and may receive compensation pursuant to s. 961.06, F.S.³⁰⁴

The Department of Legal Affairs (DLA) administers the eligible person’s application process and verifies the validity of the claim.³⁰⁵ The Chief Financial Officer arranges for payment of the claim by securing an annuity or annuities payable to the claimant over at least 10 years, calculated at a rate of \$50,000 for each year of wrongful incarceration up to a total of \$2 million.³⁰⁶ To date, four persons have been compensated under the Act for a total of \$4,276,901.³⁰⁷

In cases where sufficient evidence of actual innocence exists, s. 961.04, F.S., provides that a person is nonetheless *ineligible* for compensation if:

- *Before* the person’s wrongful conviction and incarceration the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication *any single violent felony*, or *more than one nonviolent felony*, or a crime or crimes committed in another jurisdiction the elements of which would constitute a felony in this state, or a crime committed against the United States which is designated a felony, excluding any delinquency disposition;
- *During* the person’s wrongful incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, *any violent felony offense* or *more than one nonviolent felony*; or
- *During* the person’s wrongful incarceration, the person was also serving a *concurrent sentence for another felony* for which the person was not wrongfully convicted.

A person could be wrongfully incarcerated for a crime and then placed on parole or community supervision for that crime after the incarcerative part of the sentence is served.³⁰⁸ Section 961.06(2), F.S., addresses this situation in terms of eligibility for compensation for the period of

³⁰³ Section 961.02(4), F.S.

³⁰⁴ Section 961.02(5), F.S.

³⁰⁵ Section 961.05, F.S.

³⁰⁶ Additionally, the wrongfully incarcerated person is entitled to: waiver of tuition and fees for up to 120 hours of instruction at any career center established under s. 1001.44, F.S., any state college as defined in s. 1000.21(3), F.S., or any state university as defined in s. 100.21(6), F.S., if the wrongfully incarcerated person meets certain requirements; the amount of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person; the amount of any reasonable attorney’s fees and expenses incurred and paid by the wrongfully incarcerated person in connection with all criminal proceedings and appeals regarding the wrongful conviction; and notwithstanding any provision to the contrary in s. 943.0583, F.S., or s. 943.0585, F.S., and immediate administrative expunction of the person’s criminal record resulting from his or her wrongful arrest, wrongful conviction, and wrongful incarceration. Section 961.06, F.S.

³⁰⁷ E-mail and documentation received from the Office of the Attorney General, October 16, 2019 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

³⁰⁸ Persons are not eligible for parole in Florida unless they were sentenced prior to the effective date of the sentencing guidelines, which was October 1, 1983, and only then if they meet the statutory criteria. Chapter 82-171, L.O.F., and s. 947.16, F.S. The term “community supervision” as used in s. 961.06(2), F.S., could include control release, conditional medical release, or conditional release under the authority of the FCOR (ch. 947, F.S.), or community control or probation under the supervision of the DOC (ch. 948, F.S.).

wrongful incarceration. Under this provision, if a person commits a misdemeanor, no more than one nonviolent felony, or some technical violation of his or her supervision that results in the revocation of parole or community supervision, the person is still eligible for compensation. If, however, any single violent felony law violation or multiple nonviolent felony law violations result in revocation, the person is ineligible for compensation.³⁰⁹

The term “violent felony” is defined in s. 961.02(6), F.S., by cross-referencing felonies listed in s. 775.084(1)(c)1. or s. 948.06(8)(c), F.S. The combined list of those violent felony offenses includes attempts to commit the crimes as well as offenses committed in other jurisdictions if the elements of the crimes are substantially similar. The violent felonies referenced in s. 961.02(6), F.S., are:

- Kidnapping;
- False imprisonment of a child;
- Luring or enticing a child;
- Murder;
- Manslaughter;
- Aggravated manslaughter of a child;
- Aggravated manslaughter of an elderly person or disabled adult;
- Robbery;
- Carjacking;
- Home invasion robbery;
- Sexual Battery;
- Aggravated battery;
- Armed burglary and other burglary offenses that are first or second degree felonies;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Arson;
- Aggravated assault;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Treason;
- Aggravated stalking;
- Aircraft piracy;
- Abuse of a dead human body;
- Poisoning food or water;
- Lewd or lascivious battery, molestation, conduct, exhibition, or exhibition on computer;
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person;
- Sexual performance by a child;
- Computer pornography;
- Transmission of child pornography; and
- Selling or buying of minors.

Since the Act’s inception, a number of claim bills have been filed on behalf of wrongfully incarcerated persons who are ineligible for compensation under the Act because of a felony

³⁰⁹ Section 961.06(2), F.S.

conviction prior to the person's wrongful incarceration. At least two such persons have received compensation for wrongful incarceration through the claim bill process.

In 2008, Alan Crotzer prevailed in a claim bill for his wrongful incarceration. Crotzer was ineligible for compensation under the Act because of a prior violent felony conviction for armed robbery when he was 18 years old.³¹⁰ In 2012, prior to the eligibility expansion in 2017, William Dillon prevailed in a claim bill for his wrongful incarceration. Dillon was barred from seeking compensation under the Act because of a prior felony conviction for possession of a single Quaalude.³¹¹

Effect of the Bill

The bill makes a number of changes to ch. 961, F.S., the "Victims of Wrongful Incarceration Compensation Act." The bill amends s. 961.03, F.S., to extend the time for a person who was wrongfully incarcerated for a petition from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed, if the person's conviction and sentence is vacated on or after July 1, 2020.

The bill also authorizes a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2022, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and found not guilty after January 1, 2006, but before July 1, 2020; and
- Person previously filed a claim that was dismissed or did not file a claim under ch. 961, F.S., because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating the conviction and sentence; or
 - Person was convicted of an unrelated felony before his or her wrongful conviction and incarceration and was previously barred under the clean hands provision.

Additionally, the bill repeals s. 961.04, F.S., removing the bar to compensation for a claimant who has been convicted of a violent felony or multiple nonviolent felonies prior to or during his or her wrongful conviction and incarceration. Accordingly, an otherwise eligible claimant who was convicted of a violent felony or multiple nonviolent felonies will not be disqualified from receiving compensation under the Act for their unrelated wrongful conviction and incarceration.

A deceased person's heirs, successors, or assigns do not have standing to file a claim on the deceased person's behalf for wrongful incarceration compensation.

If a sentencing court determines that a person is a wrongfully incarcerated person and eligible for compensation under s. 961.03, F.S., the person is authorized to apply for compensation with the DLA.

³¹⁰ See ch. 2008-259, L.O.F.

³¹¹ See ch. 2012-229, L.O.F. (compensating William Dillon for wrongful incarceration despite ineligibility for compensation under the Act).

The bill removes the requirement for a wrongfully incarcerated person to release the state or any agency from all claims arising out of the facts relating to the person's wrongful conviction and incarceration. The bill also removes the bar to applying for wrongful incarceration compensation if the person has a pending lawsuit against the state or any agency, or any political subdivision thereof for damages relating to the person's wrongful conviction and incarceration.

Finally, the bill replaces the bar on civil litigation with an "offset provision" that:

- Authorizes the state to deduct the amount of a civil award recovered in a lawsuit from the state compensation owed if the claimant receives a civil award first;
- Requires a claimant to reimburse the state for any difference between state compensation and a civil award if the claimant receives statutory compensation prior to a civil award; and
- Requires a claimant to notify the DLA upon filing a civil action and the DLA to file a notice of payment of monetary compensation in such action to recover any amount owed for state compensation already awarded.

As mentioned above, the bill repeals s. 961.04, F.S., which prohibited compensation based on unrelated violent felony convictions. The bill deletes the terms "eligible for compensation" and "violent felony" and modifies the term "entitled to compensation" from s. 961.02, F.S., to conform this change. The bill makes additional confirming changes throughout the Act.

These provisions of the bill are effective July 1, 2020.

Incarceration Counting Toward Tuition Residency Requirements (Sections 18, 23, and 29)

Residency Status for Tuition Purposes

Florida law defines "tuition" to mean the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.³¹² Residency designations are used for assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.³¹³ Students who are not classified as "residents for tuition purposes"³¹⁴ are required to pay the full cost of instruction at a public postsecondary institution. A person is able to meet the definition of a "legal resident" if the person has maintained his or her residence in Florida for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in this state.³¹⁵

Specifically, to qualify as a resident for tuition purposes:

- A person or, if that person is a dependent child, his or her parent or parents must have established legal residence in Florida and must have maintained legal residence for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education.

³¹² Section 1009.01(1), F.S.

³¹³ Section 1009.21, F.S.

³¹⁴ Section 1009.21(1)(g), F.S.

³¹⁵ Section 1009.21(1)(d), F.S.

- Every applicant for admission to an institution of higher education is required to make a statement as to his or her length of residence and establish that his or her presence or, if the applicant is a dependent child, the presence of his or her parent or parents in Florida currently is, and during the requisite 12-month qualifying period was, for the purpose of maintaining a bona fide domicile.³¹⁶

A person must show certain proof that he or she should be classified as a resident for tuition purposes and may not receive the in-state tuition rate until clear and convincing evidence related to legal residence and its duration has been provided. Each institution of higher education must make a residency determination that is documented by the submission of written or electronic verification that includes two or more specified documents that:

- Must include at least one of the following:
 - A Florida voter's registration card.
 - A Florida driver license.
 - A State of Florida identification card.
 - A Florida vehicle registration.
 - Proof of a permanent home in Florida that is occupied as a primary residence by the individual or by the individual's parent, if the individual is a dependent child.
 - Proof of a homestead exemption in Florida.
 - Transcripts from a Florida high school for multiple years if the Florida high school diploma or high school equivalency diploma was earned within the last 12 months.
 - Proof of permanent full-time employment in Florida for at least 30 hours per week for a 12-month period.
- May include one or more of the following:
 - A declaration of domicile in Florida.
 - A Florida professional or occupational license.
 - Florida incorporation.
 - A document evidencing family ties in Florida.
 - Proof of membership in a Florida-based charitable or professional organization.
 - Any other documentation that supports the student's request for resident status, including, but not limited to, utility bills and proof of 12 consecutive months of payments; a lease agreement and proof of 12 consecutive months of payments; or an official state, federal, or court document evidencing legal ties to Florida.³¹⁷

Florida law is silent as to whether time incarcerated in a Florida prison or county detention facility may count toward the 12-month legal residency requirements.

The DOC reports that it and Florida Gateway College partnered to offer the Second Chance Pell Program at Columbia Correctional Institution Annex, which is a pilot program operating under the Second Chance Pell Experimental Sites Initiative through the U.S. Department of Education and the Department of Justice. The program at Columbia Correctional Institution Annex commenced on January 24, 2017, and has recently been renewed for another three years. The DOC reports that this pilot program allows eligible inmates to access Pell Grant funds for post-

³¹⁶ Section 1009.21(2)(a), F.S.

³¹⁷ Section 1009.21(3), F.S.

secondary education. Such funds accessed through the grant must be used to cover the costs of tuition, fees, books, and supplies. The DOC is currently attempting to expand post-secondary opportunities for inmates in collaboration with several Florida colleges and universities.³¹⁸

Requirement to Provide Certain Information to Persons upon Release from Imprisonment

Entities that imprison persons convicted of offenses in violation of Florida law are required in certain circumstances to provide specified information to such persons upon release. For example, s. 944.705(6), F.S., requires the DOC to notify every inmate upon release, in no less than 18-point type in the inmate's release documents, that the inmate may be sentenced pursuant to s. 775.082(9), F.S., as a prison releasee reoffender as discussed below if the inmate commits any enumerated felony offense within 3 years after the inmate's release. Additionally, the notice must be prefaced by the word "WARNING" in boldfaced type.³¹⁹

Further, specified entities are required to provide inmates with certain information related to all outstanding terms of sentence in accordance with CS/SB 7066 (2019), related to voting rights restoration.³²⁰ For example, ss. 944.705 and 948.041, F.S., require the DOC to notify an inmate or offender in writing of all outstanding terms of sentence at the time of release or termination of probation or community control.

Such entities are not currently required to provide inmates being released from their facilities information related to dates of his or her admission to and release from the custody of the facility, including the total length of the term of imprisonment from which he or she is being released.

Effect of the Bill

The bill amends s. 1009.21(2), F.S., authorizing time spent incarcerated in a county detention facility or state correctional facility to apply towards the requirement to reside in Florida through an authorized manner for 12 consecutive months immediately before enrollment for the designation as a resident for tuition purposes. The bill also amends s. 1009.21(3), F.S., requiring time spent incarcerated in a county detention facility³²¹ or state correctional facility³²² to be credited toward the residency requirement, with any combination of documented time living in Florida before or after incarceration.

Further, the bill amends s. 944.705, F.S., and creates s. 951.30, F.S., requiring the DOC and administrators of county detention facilities, respectively, to provide written documentation to

³¹⁸ The DOC, *Agency Analysis for SB 1308*, February 3, 2020, p. 4 (on file with the Appropriations Subcommittee on Senate Criminal and Civil Justice Committee) (hereinafter cited as "The DOC SB 1308 Analysis").

³¹⁹ Section 944.705(6), F.S., further provides that evidence that the DOC failed to provide this notice to an inmate will not prohibit a person from being sentenced pursuant to s. 775.082(9), F.S. The state is not be required to demonstrate that a person received any notice from the DOC in order for the court to impose a sentence pursuant to s. 775.082(9), F.S.

³²⁰ See ch. 2019-162, L.O.F.

³²¹ Section 951.23(1)(a), F.S., defines "county detention facility" to mean a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor.

³²² Section 944.02(8), F.S., defines "state correctional institution" to mean any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the DOC.

inmates upon release specifying the dates of the inmate's admission to and release from the custody of the facility. This notification must include the total length of the term of imprisonment from which he or she is being released.

This documentation will assist inmates with providing the proper evidence to satisfy residency requirements for tuition purposes pursuant to s. 1009.21(3), F.S.

Office of Program Policy and Governmental Accountability (OPPAGA) Study on Collateral Consequences (Section 30)

The bill requires the OPPAGA to conduct a study to evaluate the various opportunities available to persons returning to the community from imprisonment. The bill provides that the study's scope must include, but need not be limited to:

- Any barriers to such opportunities;
- The collateral consequences that are present, if applicable, for persons who are released from incarceration into the community; and
- Methods for reducing the collateral consequences identified.

The bill requires the OPPAGA to submit a report to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives by November 1, 2020, on its findings.

This provision of the bill is effective July 1, 2020.

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:

None.

C. Government Sector Impact:**Driving With a License Suspended or Revoked (DWLSR) Amendments (Sections 1 and 15)*****Retroactive DWLSR Sentencing Provisions***

The Criminal Justice Impact Conference (CJIC) heard CS/SB 1504, the identical provisions of which are included herein on February 10, 2020. The CJIC found that the retroactive sentencing provisions of CS/SB 1504 will have a negative significant prison bed impact (i.e. decrease of more than 25 beds).³²³

The bill also allows for people to be sentenced to misdemeanor penalties, rather than to prison for such offenses. To the extent that the bill results in persons being sentenced to non-state sanctions or resentenced and released from imprisonment with the DOC, the bill will have an indeterminate negative prison bed impact (i.e. an unquantifiable decrease).³²⁴

According to the DOC, there are currently 2,086 inmates in custody for the offense of DWLSR who were sentenced under former s. 332.34, F.S., which would need to be reviewed for eligibility under the bill. Further, the DOC states that the bill would result in a significant, but temporary fiscal impact on the DOC. Therefore, the DOC will need one full-time non-recurring, Correctional Services Assistant Consultant at a cost of \$65,395, to conduct the review for eligibility of certain offenders. DOC also estimates there will be a minimal technology impact of \$3,480, based on a possible request for expungement of cases.³²⁵

³²³ The Office of Economic and Demographic Research, CJIC Narrative Analyses of Adopted Impacts, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited February 12, 2020). See also the CJIC, *CS/SB 1504 Adopted Impact*, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1504.pdf> (last visited February 12, 2020) (hereinafter cited as “The CJIC CS/SB 1504 Impact Results”).

³²⁴ February 10, 2020 Conference Results, Criminal Justice Impact Conference, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited February 14, 2020).

³²⁵ The DOC, *Agency Analysis for SB 1504*, January 31, 2020, p. 3-7 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

Expunction Provisions

The CJIC also found that the expunction provisions of CS/SB 1504 will have a positive insignificant prison bed impact (i.e. an increase of 10 or fewer prison beds).³²⁶

The bill allows for certain persons to have any specified criminal history records related to a DWLSR conviction expunged. This will result in a negative fiscal impact on the FDLE' workload. To accommodate this increased workload, the FDLE estimates it will need an additional 16 positions totaling \$1,039,809 (\$1,029,867 recurring),³²⁷ which may be offset in part by the \$75 fee collected for each application for COE associated with this additional category of expunction records.

Mandatory Minimum Sentences (Sections 2-5, 7, and 8)

The bill amends ss. 379.407, 403.4154, 456.065, 624.401, and 817.234, F.S., to remove various mandatory minimum penalties. To the extent that persons convicted for these various offenses that currently require the imposition of a minimum mandatory term of imprisonment are sentenced to lesser sentences of imprisonment than are currently required, the bill is expected to have a negative prison bed impact.

Drug Trafficking Safety Valve (Section 8)

The CJIC heard SB 468, which is identical to this provision in the bill, on January 27, 2020, and determined that this provision will result in a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds) due to the discretion given to the court to depart from such mandatory sentences.³²⁸

Prison Releasee Reoffenders (Section 6)

The CJIC heard CS/SB 1716, which is identical to these provisions of the bill, on February 10, 2020, and determined that the bill will have a negative significant prison bed impact (i.e. decrease of more than 25 prison beds).³²⁹

The DOC states that since it will be required to provide notice to the inmate of his or her eligibility to request a sentence review hearing, there will be a need in the Bureau of Admissions and Release for a full time, temporary position, funded for up to one year to

³²⁶ The CJIC, CS/SB 1504 Impact Results.

³²⁷ The 2020 FDLE Legislative Bill Analysis for SB 1504 C1, February 10, 2020, p 5 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

³²⁸ The CJIC, *SB 468 Adopted Impact*, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/SB468.pdf> (last visited February 12, 2020).

³²⁹ The DOC, *Agency Analysis for SB 1716*, February 20, 2020, p. 3-7 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

handle the work load increase required to complete notifications for the 7,400 inmates that this bill will effect.³³⁰

Probation Violations (Section 22)

The bill clarifies that all of the enumerated conditions must be satisfied for a court to be required to continue or modify a person on probation subsequent to certain violations of probation. To the extent that this results in fewer people being continued or modified on probation, the bill may result in more people having their probation revoked and sentenced to prison or jail. According the State Court Administrator, this bill is not likely to have a significant effect on judicial workload and not fiscal impact.³³¹

Sentence Review Hearings (Sections 10-12)

The CJIC, reviewed CS/SB 1308, the provisions of which are included herein, on February 10, 2020 and estimates the bill will have a “negative significant” prison bed impact (a decrease of more than 25 prison beds). The EDR provided the following information relevant to its estimate.³³²

Further, the bill modifies the ability of certain juvenile offenders from being eligible for a sentence review hearing in addition to creating a new sentence review hearing process for young adult offenders sentenced for committing specified offenses before attaining the age of 25 years. To the extent that the bill results in juvenile or young adult offenders being released from prison earlier than otherwise may occur as a result of such sentence review hearings, the bill may result in a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds).³³³

The DOC reports that there are 37 inmates eligible for review based on the changes made to s. 921.1402, F.S., and the retroactive application of such changes. Additionally, the DOC states that there are 5,312 potentially eligible young adult offenders that will require eligibility notification under the newly-created s. 921.1403, F.S. As stated above, to the extent that the bill results in juvenile or young adult offenders being released from prison earlier than otherwise may occur as a result of such sentence review hearings, the DOC provides that the bill may result in a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds) and an indeterminate positive impact on the supervision population managed by the DOC.³³⁴

Additionally, the bill may have an impact on the court system to the extent that resentencing hearings for such offenders affected by the bill will require more time and

³³⁰ Id.

³³¹ The State Courts Administrator, 2020 Judicial Impact Statement for SB 7064, February 23, 2020, p. 1 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

³³² February 10, 2020 Conference Results, Criminal Justice Impact Conference, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited February 14, 2020).

³³³ Id.

³³⁴ The DOC SB 1308 Analysis, p. 5, 6, and 8.

resources. However, any fiscal impact cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial and court staff workload.³³⁵

The Public Defender Association states that they currently represent a large majority of the juvenile offenders who are seeking to be resentenced, but the bill adds adult offenders who committed their offenses between the ages of 18-25. Therefore, it is anticipated that this bill will create more workload for public defender staff for the next several fiscal years.³³⁶

Postconviction Forensic Analysis (Sections 13, 14, 16, and 17)

The CJIC heard HB 7077, which is identical to the provisions contained herein, on February 10, 2020, and found that the bill will have a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds).³³⁷ The bill may increase the amount of postsentencing forensic analysis the FDLE is ordered to perform, but the bill also authorizes third-party laboratories to conduct such analysis as well. To the extent that the bill increases analysis that is conducted by the FDLE, these provisions will likely increase the FDLE laboratories' workload. Additionally, if indigent defendants are successful in petitioning for postsentencing forensic analysis, the state may be responsible for increased testing costs. However, since the bill authorizes private laboratory testing, at the petitioner's expense, the degree to which state laboratories' workload and testing costs will increase is unknown.³³⁸

Conditional Release for Certain Inmates (In part, Sections 19- 21)

Conditional Medical Release (CMR)

The CJIC reviewed CS/CS/SB 556, which is identical to the provisions in this bill, on January 27, 2020. The CJIC determined that these sections will likely result in a negative significant prison bed impact (i.e. a decrease of more than 25 prison beds).³³⁹ Additionally, these sections will likely result in a reduction in the associated inmate healthcare costs.

The bill removes any role of determining the appropriateness of an inmate's release on CMR from the FCOR and places such comparable duties within the DOC. In Fiscal Year 2018-2019, FCOR conducted 84 CMR determinations. They report that they spent 804

³³⁵ The State Courts Administrator, 2020 Judicial Impact Statement for SB 7064, February 23, 2020, p. 1 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

³³⁶ Florida Public Defender Association, Inc., Fiscal Analysis for SB 1308, (January 13, 2020) (on file with Senate Appropriations Subcommittee on Criminal and Civil Justice).

³³⁷ The CJIC, *HB 7077 Adopted Impact*, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/HB7077.pdf> (last visited February 24, 2020).

³³⁸ The Florida House of Representatives, HB 7077 staff analysis, p. 9 (February 24, 2020).

³³⁹ The CJIC meeting at which this bill estimate was made occurred during a meeting of the Criminal Justice Estimating Conference on January 27, 2020. The meeting is available on video on the Florida Channel at <https://thefloridachannel.org/videos/1-27-20-criminal-justice-estimating-conference/> (last visited January 29, 2020).

hours on the investigation/determination, 64 hours on victim assistance, and 433 hours on revocations for CMR. The FCOR reports that this equates to less than 1 FTE.³⁴⁰

The DOC reports that when the inmate population is impacted in small increments statewide, the inmate variable per diem of \$20.04 is the most appropriate to use to determine the fiscal impact. The variable per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The DOC’s Fiscal Year 2017-2018 average per diem for community supervision was \$5.47.³⁴¹

According to the DOC, the department will need 9 additional staff in the Bureau of Classification Management to oversee, provide guidance, and coordinate the implementation and administration of the CMR program, as follows.³⁴²

| | | |
|---|-------------------------------------|---------------------------------|
| 1 | Correctional Program Administrator | \$90,279 (salary and benefits) |
| 1 | Correctional Services Consultant | \$68,931 (salary and benefits) |
| 1 | Correctional Services Asst. Cons. | \$58,732 (salary and benefits) |
| 1 | Government Oper. Consult. I | \$52,324 (salary and benefits) |
| 1 | Senior Attorney | \$79,073 (salary and benefits) |
| 4 | Correctional Probation Senior Ofcr. | \$246,848 (salary and benefits) |

| | | |
|----------------------------------|-----------------------|---------------------------|
| Professional travel | \$ 13,512 (recurring) | \$17,716 (non-recurring) |
| Expense | \$ 42,275 (recurring) | \$29,795 (non-recurring) |
| Human Resources | \$ 2,961 (recurring) | |
| Salary Incentive (if applicable) | \$ 4,512 (recurring) | |
| Information Technology | | \$ 17,400 (non-recurring) |

Total All Funds³⁴³ \$659,447 (recurring) \$64,911(non-recurring)

Conditional Aging Inmate Release (CAIR)

The CJIC reviewed CS/CS/SB 574, which is identical to the sections in this bill, on January 27, 2020. The CJIC determined that these sections will likely result in a negative insignificant prison bed impact (i.e. a decrease of 10 or fewer prison beds).³⁴⁴

The DOC reports that the overall fiscal impact of these sections is indeterminate because release will be at the discretion of the DOC.³⁴⁵ The DOC reports that as of October 18,

³⁴⁰ The FCOR, CS/SB 556 Agency Bill Analysis, p. 5 (October 24, 2019).

³⁴¹ The DOC SB 574 Analysis, p. 5.

³⁴² The DOC spreadsheet (January 30, 2020) (on file with the Committee on Criminal and Civil Justice Appropriations).

³⁴³ DOC Spreadsheet (January 30, 2019), (on file with the committee on Criminal and Civil Justice Appropriations).

³⁴⁴ The CJIC meeting at which this bill estimate was made occurred during a meeting of the Criminal Justice Estimating Conference on January 27, 2020. The meeting is available on video on the Florida Channel at <https://thefloridachannel.org/videos/1-27-20-criminal-justice-estimating-conference/> (last visited January 29, 2020).

³⁴⁵ The five highest occurring offenses of incarceration for these inmates are first or second degree murder (s. 782.04, F.S.), sexual battery on a victim under 12 (s. 794.011, F.S.), lewd or lascivious molestation on a victim under 12 (s. 800.04, F.S.),

2019, there were a total of 1,849 inmates age 70 or older in its custody, and, based on the criteria set forth in the bill, only 168 of these inmates would meet the eligibility criteria for consideration for CAIR. The DOC reports that an additional 291 inmates were projected to become eligible based on the 70 years of age threshold over the next five years.³⁴⁶ This data was provided based on the age threshold contained in CS/SB 574. However, PCS/CS/SB 574, which is identical to the section in this bill, lowers the age threshold for eligibility to 65 years of age and also expands the offenses that preclude eligibility for release under the program. Therefore, this bill may expand the pool of inmates who are eligible for consideration of CAIR release.

The DOC reports that when the inmate population is impacted in small increments statewide, the inmate variable per diem of \$20.04 is the most appropriate to use to determine the fiscal impact. The variable per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The DOC’s Fiscal Year 2017-2018 average per diem for community supervision was \$5.47.³⁴⁷

According to the DOC, the department will need 9 additional staff in the Bureau of Classification Management to oversee, provide guidance, and coordinate the implementation and administration of the CAIR program, as follows.³⁴⁸

| | | | |
|---|--------------------------------------|---------------------------------|--------------------------------|
| 1 | Correctional Program Administrator | \$90,279 (salary and benefits) | |
| 1 | Correctional Services Consultant | \$68,931 (salary and benefits) | |
| 1 | Correctional Services Asst. Cons. | \$58,732 (salary and benefits) | |
| 1 | Government Oper. Consult. I | \$52,324 (salary and benefits) | |
| 1 | Senior Attorney | \$79,073 (salary and benefits) | |
| 4 | Correctional Probation Senior Ofcr. | \$246,848 (salary and benefits) | |
| | Professional travel | \$ 13,512 (recurring) | \$17,716 (non-recurring) |
| | Expense | \$ 42,275 (recurring) | \$29,795 (non-recurring) |
| | Human Resources | \$ 2,961 (recurring) | |
| | Salary Incentive (if applicable) | \$ 4,512 (recurring) | |
| | Information Technology | \$ 17,400 (non-recurring) | |
| | Total All Funds³⁴⁹ | \$659,447 (recurring) | \$64,911(non-recurring) |

and robbery with a gun or deadly weapon (s. 812.13, F.S.). The DOC, *SB 574 Agency Analysis*, p. 1 and 4 (December 6, 2019)(on file with the Senate Criminal Justice Committee) [hereinafter cited as “The DOC SB 574 Analysis”].

³⁴⁶ The DOC, *SB 574 Agency Analysis Updated*, p. 2 and 4 (January 29, 2020)(on file with the Senate Appropriations Subcommittee on Civil and Criminal Justice) [hereinafter cited as “The DOC SB 574 Updated Analysis”].

³⁴⁷ The DOC SB 574 Analysis, p. 5.

³⁴⁸ The DOC spreadsheet (January 30, 2020) (on file with the Committee on Criminal and Civil Justice Appropriations).

³⁴⁹ DOC Spreadsheet (January 30, 2019), (on file with the committee on Criminal and Civil Justice Appropriations).

Compensation for Wrongful Incarceration (Sections 24-28)

More persons are potentially eligible for compensation for wrongful incarceration under these sections of the bill. A person who is entitled to compensation based on wrongful incarceration would be paid at the rate of \$50,000 per year of wrongful incarceration up to a limit of \$2 million. Payment is made from an annuity or annuities purchased by the Chief Financial Officer for the benefit of the wrongfully incarcerated person. The Victims of Wrongful Incarceration Compensation Act is funded through a continuing appropriation pursuant to s. 961.07, F.S.

Although statutory limits on compensation under the Act are clear, the fiscal impact of the bill is unquantifiable. The possibility that a person would be compensated for wrongful incarceration is based upon variables that cannot be known, such as the number of wrongful incarcerations that currently exist or might exist in the future. Four successful claims since the Act became effective total \$4,276,901.

Notification of Certain Release Information (Sections 18, 23, and 29)

The bill requires the DOC and county detention facilities to provide inmates certain information related to the length of incarceration. The DOC states that inmates in its custody often have multiple sentences with various admission dates, release dates, and terms imposed. Further, each sentence length is calculated individually based on a number of factors and therefore an inmate may have multiple endpoints of their various sentences. According to the DOC, these sections of the bill will require significant programming changes, but such necessary changes are not specified by the DOC.³⁵⁰

Residency for Tuition Purposes (Sections 29)

The bill allows time incarcerated in a Florida facility to count towards the 12-month residency requirement for tuition purposes and requires the DOC and county detention facilities to provide certain information to inmates upon release from such facilities. To the extent that the requirement to provide such notification increases the workload of the DOC and county detention facilities, the bill may result in an indeterminate fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1935, 379.407, 403.4154, 456.065, 624.401, 775.082, 775.084, 775.087, 782.051, 784.07, 790.235, 794.0115,

³⁵⁰ The DOC SB 1308 Analysis, p. 6.

817.234, 817.568, 893.03, 893.13, 893.135, 893.20, 910.035, 921.002, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 921.1402, 925.11, 925.12, 943.325, 943.3251, 944.17, 944.605, 944.70, 944.705, 947.13, 947.141, 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, 961.02, 961.03, 961.05, 961.06, 985.465, and 1009.21.

This bill creates the following sections of the Florida Statutes: 322.3401, 921.14021, 921.1403, 943.0587, 945.0911, 945.0912, and 951.30.

The bill repeals the following sections of the Florida Statutes: 947.149 and 961.04.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 25, 2020:

The committee substitute:

- Provides for the retroactive application of the changes made by CS/HB 7125 (2019) to s. 322.34, F.S., related to the offense of driving while license suspended or revoked (DWLSR).
- Requires offenders convicted of DWLSR who have not been sentenced as of October 1, 2020, to be sentenced in accordance with the new penalties outlined in CS/HB 7125 (2019).
- Authorizes offenders convicted of DWLSR who have been sentenced and are still serving such sentence to be resentenced in accordance with the penalties in CS/HB 7125 (2019).
- Provides procedures for the resentencing of eligible persons previously convicted of DWLSR and requires the court of original jurisdiction, upon receiving an application for sentence review from the eligible person, to hold a sentence review hearing to determine if the eligible person meets the criteria for resentencing.
- Provides that a person is eligible to expunge a criminal history record of a conviction that resulted from former s. 322.34, F.S., in specified circumstances.
- Renames of the Criminal Punishment Code to the “Public Safety Code” and changing the primary purpose from punishing the offender to public safety.
- Removes various mandatory minimum terms of imprisonment for specified offenses.
- Reduces the mandatory minimum penalties imposed upon a prison releasee reoffender (PRR), a category of repeat offenders, under s. 775.082(9), F.S., and expressly applying such changes retroactively.
- Provides a process for resentencing certain prison releasee reoffenders and removing a provision of law that prohibits a prison releasee reoffender from any form of early release.
- Authorizes a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met.
- Clarifies that a court is only required to modify or continue an offender’s probationary term if all of the enumerated specified factors apply.
- Expands the types of forensic analysis available to a petitioner beyond DNA testing.

- Requires a petitioner to show that forensic analysis may result in evidence material to the identity of the perpetrator of, or an accomplice to, the crime that resulted in the person's conviction, rather than having to show the evidence would exonerate the person or mitigate his or her sentence.
- Authorizes a private laboratory to perform forensic analysis under specified circumstances at the petitioner's expense.
- Requires the Florida Department of Law Enforcement (FDLE) to conduct a search of the statewide DNA database and request the National DNA Index System (NDIS) to search the federal database if forensic analysis produces a DNA profile.
- Authorizes a court to order a governmental entity that is in possession of physical evidence claimed to be lost or destroyed to search for the physical evidence and produce a report to the court, the petitioner, and the prosecuting authority regarding such lost evidence.
- Repeals s. 947.149, F.S., which establishes the conditional medical release (CMR) program within the Florida Commission on Offender Review (FCOR) and creates s. 945.0911, F.S., to establish a CMR program within the Department of Corrections (DOC).
- Provides definitions and eligibility criteria for the CMR program.
- Providing a process for the referral, determination of release, and revocation of release for the CMR program.
- Establishes a conditional aging inmate release (CAIR) program within the DOC.
- Provides eligibility criteria for the CAIR program.
- Provides a process for the referral, determination of release, and revocation of release for the CAIR program.
- Deletes and modifying terms related to the "Victims of Wrongful Incarceration Compensation Act."
- Eliminates specified factors barring from consideration for certain persons from compensation for wrongful incarceration.
- Extends the time for a person who was wrongfully incarcerated to file a petition with the court to determine eligibility for compensation from 90 days to two years.
- Authorizes certain persons who were previously barred from filing a petition for wrongful compensation to file a petition with the court by July 1, 2021.
- Requires the Department of Corrections (DOC and county detention facilities to provide documentation to inmates upon release specifying the total length of the term of imprisonment at the time of release.
- Allows the time spent incarcerated in a county detention facility or state correctional facility to apply towards satisfaction of residing for a specified amount of time in Florida for designation as a resident for tuition purposes.
- Requires the time spent incarcerated in a county detention facility or state correctional facility to be credited toward the residency requirement, with any combination of documented time living in Florida before or after incarceration.
- Requires the Office of Program Policy and Governmental Accountability (OPPAGA) to conduct a study to evaluate the various opportunities available to persons returning to the community from imprisonment and submit a report by November 1, 2020.

CS by Criminal Justice on February 4, 2020:

The committee substitute:

- Fixes incorrect citations in the provision that allowed juvenile offenders and young adult offenders sentenced with the PRR enhancement to be released if the court deems appropriate;
- Adds legislative findings language to the section created to retroactively apply the changes made to the juvenile offenders who are eligible for a sentence review;
- Corrects language in the provision limiting review of certain juvenile offenders related to the two criminal episodes to ensure the correct application of limiting such reviews; and
- Ensures the provisions that limit certain offenders from having a review are the same between the juvenile offender and young adult offender statutes.

B. Amendments:

None.



165266

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Before line 380

insert:

Section 1. Subsections (2) and (3) of section 20.316, Florida Statutes, are amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

(2) DEPARTMENT PROGRAMS.—The following programs are established within the Department of Juvenile Justice:



165266

- 11 (a) Accountability and Program Support.
- 12 (d) ~~(a) Prevention and Victim Services.~~
- 13 (c) ~~(b) Intake and Detention.~~
- 14 (f) ~~(e) Residential and Correctional Facilities.~~
- 15 (e) ~~(d) Probation and Community Corrections.~~
- 16 (b) ~~(e) Administration.~~

17

18 The secretary may establish assistant secretary positions and a
19 chief of staff position as necessary to administer the
20 requirements of this section.

21 (3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department
22 shall plan and administer its programs through a substate
23 structure that conforms to the boundaries of the judicial
24 circuits prescribed in s. 26.021. A county may seek placement in
25 a juvenile justice operating circuit other than as prescribed in
26 s. 26.021 for participation in the Prevention ~~and Victim~~
27 ~~Services~~ Program and the Probation and Community Corrections
28 Program by making a request of the chief circuit judge in each
29 judicial circuit affected by such request. Upon a showing that
30 geographic proximity, community identity, or other legitimate
31 concern for efficiency of operations merits alternative
32 placement, each affected chief circuit judge may authorize the
33 execution of an interagency agreement specifying the alternative
34 juvenile justice operating circuit in which the county is to be
35 placed and the basis for the alternative placement. Upon the
36 execution of said interagency agreement by each affected chief
37 circuit judge, the secretary may administratively place a county
38 in an alternative juvenile justice operating circuit pursuant to
39 the agreement.



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40 Section 2. Section 985.686, Florida Statutes, is repealed.

41 Section 3. Subsections (1) through (4) and (6) of section
42 985.6865, Florida Statutes, are amended to read:

43 985.6865 Juvenile detention.—

44 ~~(1) The Legislature finds that various counties and the~~
45 ~~Department of Juvenile Justice have engaged in a multitude of~~
46 ~~legal proceedings regarding detention cost sharing for~~
47 ~~juveniles. Such litigation has largely focused on how the~~
48 ~~Department of Juvenile Justice calculates the detention costs~~
49 ~~that the counties are responsible for paying, leading to the~~
50 ~~overbilling of counties for a period of years. Additionally,~~
51 ~~litigation pending in 2016 is a financial burden on the~~
52 ~~taxpayers of this state.~~

53 ~~(2) It is the intent of the Legislature that all counties~~
54 ~~that are not fiscally constrained counties and that have pending~~
55 ~~administrative or judicial claims or challenges file a notice of~~
56 ~~voluntary dismissal with prejudice to dismiss all actions~~
57 ~~pending on or before February 1, 2016, against the state or any~~
58 ~~state agency related to juvenile detention cost sharing.~~
59 ~~Furthermore, all counties that are not fiscally constrained~~
60 ~~shall execute a release and waiver of any existing or future~~
61 ~~claims and actions arising from detention cost share prior to~~
62 ~~the 2016-2017 fiscal year. The department may not seek~~
63 ~~reimbursement from counties complying with this subsection for~~
64 ~~any underpayment for any cost sharing requirements before the~~
65 ~~2016-2017 fiscal year.~~

66 (1)~~(3)~~ As used in this section, the term:

67 (a) "Detention care" means secure detention and respite
68 beds for juveniles charged with a domestic violence crime.



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69 (b) "Fiscally constrained county" means a county within a
70 rural area of opportunity as designated by the Governor pursuant
71 to s. 288.0656 or each county for which the value of a mill will
72 raise no more than \$5 million in revenue, based on the certified
73 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
74 from the previous July 1.

75 (c) "Total shared detention costs" means the amount of
76 funds expended by the department for the costs of detention care
77 for the prior fiscal year. This amount includes the most recent
78 actual certify forward amounts minus any funds it expends on
79 detention care for juveniles residing in fiscally constrained
80 counties or out of state.

81 ~~(2)-(4) Notwithstanding s. 985.686, for the 2017-2018 fiscal~~
82 ~~year, and each fiscal year thereafter, each county that is not a~~
83 ~~fiscally constrained county and that has taken the action~~
84 ~~fulfilling the intent of this section as described in subsection~~
85 ~~(2) shall pay its annual percentage share of 50 percent of the~~
86 ~~total shared detention costs. Annually by July 15, 2017, and~~
87 ~~each year thereafter, the department shall calculate and provide~~
88 ~~to each county that is not a fiscally constrained county and~~
89 ~~that does not provide its own detention care for juveniles its~~
90 ~~annual percentage share by dividing the total number of~~
91 ~~detention days for juveniles residing in the county for the most~~
92 ~~recently completed 12-month period by the total number of~~
93 ~~detention days for juveniles in all counties that are not~~
94 ~~fiscally constrained counties during the same period. The annual~~
95 ~~percentage share of each county that is not a fiscally~~
96 ~~constrained county and that does not provide its own detention~~
97 ~~care for juveniles must be multiplied by 50 percent of the total~~



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98 shared detention costs to determine that county's share of
99 detention costs. Beginning August 1, each such county shall pay
100 to the department its share of detention costs, which shall be
101 paid in 12 equal payments due on the first day of each month.
102 The state shall pay the remaining actual costs of detention
103 care.

104 ~~(4)-(6)~~ Each county that is not a fiscally constrained
105 county and that does not provide its own detention care for
106 juveniles ~~has taken the action fulfilling the intent of this~~
107 ~~section as described in subsection (2)~~ shall incorporate into
108 its annual county budget sufficient funds to pay its annual
109 percentage share of the total shared detention costs required by
110 subsection (2) ~~(4)~~.

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

113 And the title is amended as follows:

114 Delete line 2

115 and insert:

116 An act relating to criminal justice; amending s.
117 20.316, F.S.; revising the name of a program and
118 creating an additional program within the Department
119 of Juvenile Justice; conforming a provision to changes
120 made by the act; repealing s. 985.686, F.S., relating
121 to shared county and state responsibility for juvenile
122 detention; amending s. 985.6865, F.S.; deleting
123 provisions relating to legislative findings and
124 legislative intent; deleting a provision requiring
125 each county that is not a fiscally constrained county
126 to pay its annual percentage share of the total shared



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127 detention costs; requiring the Department of Juvenile
128 Justice to calculate and provide to each county that
129 is not a fiscally constrained county and that does not
130 provide its own detention care for juveniles its
131 annual percentage share; requiring each county that is
132 not a fiscally constrained county and that does not
133 provide its own detention care for juveniles to
134 incorporate into its annual budget sufficient funds to
135 pay its annual percentage share; conforming a
136 provision to changes made by the act; conforming a
137 cross-reference; creating s.



433370

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 2931 and 2932

insert:

Section 29. Section 985.031, Florida Statutes, is created to read:

985.031 Age limitation; exception.—

(1) A child younger than 10 years of age may not be adjudicated delinquent, arrested, or charged with a violation of law or delinquent act on the basis of acts occurring before he



433370

11 or she reaches 10 years of age.

12 (2) Notwithstanding this section, a child who commits a
13 forcible felony as defined in s. 776.08, except any third degree
14 felony violation of chapter 810, may be adjudicated delinquent,
15 arrested, or charged with a violation of law or delinquent act.

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete line 358

20 and insert:

21 made by the act; creating s. 985.031, F.S.;

22 prohibiting a child younger than a certain age from

23 being adjudicated delinquent, arrested, or charged

24 with a violation of law or delinquent act; providing

25 an exception; amending s. 1009.21, F.S.; providing



284432

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

1 **Senate Substitute for Amendment (433370) (with title**
2 **amendment)**

3
4 Between lines 2931 and 2932
5 insert:

6 Section 29. Section 985.031, Florida Statutes, is created
7 to read:

8 985.031 Age limitation; exception.—

9 (1) A child younger than 10 years of age may not be
10 adjudicated delinquent, arrested, or charged with a violation of



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11 law or delinquent act, on the basis of acts occurring before he
12 or she reaches 10 years of age.

13 (2) Notwithstanding this section, a child who commits a
14 forcible felony as defined in s. 776.08, may be adjudicated
15 delinquent, arrested, or charged with a violation of law or
16 delinquent act.

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete line 358

21 and insert:

22 made by the act; creating s. 985.031, F.S.;

23 prohibiting a child younger than a certain age from

24 being adjudicated delinquent, arrested, or charged

25 with a violation of law or delinquent act; providing

26 an exception; amending s. 1009.21, F.S.; providing



720158

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment (with title amendment)

Between lines 628 and 629

insert:

Section 3. Present subsections (6) through (10) of section 397.334, Florida Statutes, are redesignated as subsections (7) through (11), respectively, and a new subsection (6) is added to that section, to read:

397.334 Treatment-based drug court programs.—

(6) If the court orders a defendant to enter into a



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11 pretrial treatment-based drug court program or a
12 postadjudicatory treatment-based drug court program, and if the
13 defendant is ordered to document participation in self-help or
14 other support groups and activities as an element of ancillary
15 services, as described in s. 394.67, the court may offer the
16 defendant an option for either electronic or written
17 verification of such participation.

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete line 20

22 and insert:

23 lobsters and saltwater products; amending s. 397.334,
24 F.S.; authorizing a court to offer certain defendants
25 an option for verification of participation in self-
26 help groups or support activities; amending s.
27 403.4154,



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to criminal justice; creating s. 322.3401, F.S.; providing legislative intent; defining terms; requiring certain persons convicted of driving while license suspended, revoked, canceled, or disqualified committed before a specified date to be sentenced in a specified manner in accordance with the amendments in ch. 2019-167, Laws of Florida; authorizing a court to resentence persons who committed such violations before a specified date and are serving terms of imprisonment or supervision; providing resentencing requirements; requiring certain outstanding fines, fees, and costs to be waived; requiring certain persons convicted of driving while license suspended, revoked, canceled, or disqualified to have such conviction treated as a misdemeanor for specified purposes; amending s. 379.407, F.S.; deleting provisions requiring mandatory minimum terms of imprisonment for certain offenses relating to spiny lobsters and saltwater products; amending s. 403.4154, F.S.; deleting provisions requiring specified sentences of imprisonment for certain offenses related to a phosphogypsum stack or stack system; amending s. 456.065, F.S.; deleting provisions requiring minimum mandatory terms of imprisonment for the violation of certain offenses related to the unlicensed practice of a health care profession; amending s. 624.401, F.S.;



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deleting provisions requiring minimum terms of imprisonment for certain offenses related to insurers operating without a certificate of authority; amending s. 775.082, F.S.; revising the required sentencing structure for prison releasee reoffenders upon proof from a state attorney which establishes that a defendant is a prison releasee reoffender; deleting a provision that prohibits a prison releasee reoffender from eligibility for any form of early release and that requires a prison releasee reoffender to serve 100 percent of the court-imposed sentence; providing legislative intent; defining a term; applying the revised sentencing structure to specified persons under certain circumstances; providing resentencing requirements; deleting a provision relating to legislative intent; deleting a provision that requires a state attorney to explain a sentencing deviation in writing under certain circumstances; conforming provisions to changes made by the act; amending s. 817.234, F.S.; deleting provisions requiring mandatory minimum terms of imprisonment for certain offenses related to false and fraudulent insurance claims; amending s. 893.135, F.S.; creating exceptions to ineligibility for discretionary early release for conditional aging inmate release for the violation of specified drug trafficking offenses; authorizing a court to impose a sentence other than a mandatory minimum term of imprisonment and mandatory fine for a person convicted of trafficking if the court makes



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57 certain findings on the record; conforming provisions
58 to changes made by the act; amending s. 921.002, F.S.;
59 renaming the Criminal Punishment Code as the Public
60 Safety Code; revising the primary purpose of
61 sentencing under the Public Safety Code from
62 punishment to public safety; reenacting and amending
63 s. 921.1402, F.S.; revising the circumstances under
64 which a juvenile offender is not entitled to a review
65 of his or her sentence after a specified timeframe;
66 creating s. 921.14021, F.S.; providing legislative
67 intent for retroactive application; providing for
68 retroactive application of a specified provision
69 relating to a review of sentence for juvenile
70 offenders convicted of murder; providing for immediate
71 review of certain sentences; creating s. 921.1403,
72 F.S.; providing legislative intent for retroactive
73 application; defining the term "young adult offender";
74 precluding eligibility for a sentence review for young
75 adult offenders who previously committed, or conspired
76 to commit, murder; providing timeframes within which
77 young adult offenders who commit specified crimes are
78 entitled to a review of their sentences; providing
79 applicability; requiring the Department of Corrections
80 to notify young adult offenders in writing of their
81 eligibility for sentence review within certain
82 timeframes; requiring a young adult offender seeking a
83 sentence review or a subsequent sentence review to
84 submit an application to the original sentencing court
85 and request a hearing; providing for legal



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86 representation of eligible young adult offenders;
87 providing for one subsequent review hearing for the
88 young adult offender after a certain timeframe if he
89 or she is not resentenced at the initial sentence
90 review hearing; requiring the original sentencing
91 court to hold a sentence review hearing upon receiving
92 an application from an eligible young adult offender;
93 requiring the court to consider certain factors in
94 determining whether to modify the young adult
95 offender's sentence; authorizing a court to modify the
96 sentence of certain young adult offenders if the court
97 makes certain determinations; requiring the court to
98 issue a written order stating certain information in
99 specified circumstances; amending s. 925.11, F.S.;
100 defining terms; authorizing specified persons to
101 petition a court for postsentencing forensic analysis
102 that may result in evidence of the identity of a
103 perpetrator or an accomplice to a crime; providing
104 requirements for such petition; requiring a court to
105 make specified findings before entering an order for
106 forensic analysis; providing for payment of costs
107 associated with such forensic analysis; requiring the
108 forensic analysis to be performed by the Department of
109 Law Enforcement; providing exceptions; providing
110 requirements for such exceptions; requiring the
111 department to submit a DNA profile meeting submission
112 standards to certain DNA databases; requiring the
113 results of the DNA database search to be provided to
114 specified parties; authorizing a court to order



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115 specified persons to conduct a search for physical
116 evidence reported to be missing or destroyed in
117 violation of law; requiring a report of the results of
118 such a search; providing for requirements and
119 distribution of such report; amending s. 925.12, F.S.;
120 authorizing specified defendants to petition for
121 forensic analysis after entering a plea of guilty or
122 nolo contendere; requiring a court to inquire of a
123 defendant about specified information relating to
124 physical evidence before accepting a plea; revising
125 legislative intent; creating s. 943.0587, F.S.;
126 defining terms; providing that persons who meet
127 specified criteria are eligible to petition a court to
128 expunge a criminal history record for convictions of
129 driving while license suspended, revoked, canceled, or
130 disqualified; requiring such persons to apply to the
131 Department of Law Enforcement for a certificate of
132 eligibility for expunction; requiring the department to
133 adopt rules; requiring the department to issue such
134 certificates if specified conditions are met;
135 providing for the timeframe during which a certificate
136 is valid; providing requirements for such petitions;
137 providing criminal penalties; providing court
138 authority and procedures relating to a petition to
139 expunge; providing for the effects of expunction
140 orders; amending s. 943.325, F.S.; authorizing certain
141 samples obtained from postsentencing forensic analysis
142 to be entered into the statewide DNA database;
143 authorizing DNA analysis and results to be released to



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144 specified entities; amending s. 943.3251, F.S.;
145 requiring the department, its designee, or a private
146 laboratory to carry out certain forensic analysis and
147 searches of the statewide DNA database; requiring the
148 results of forensic analysis and a DNA database search
149 to be provided to specified entities; amending s.
150 944.705, F.S.; requiring the Department of Corrections
151 to notify every inmate of specified information upon
152 their release; creating s. 945.0911, F.S.; providing
153 legislative findings; establishing the conditional
154 medical release program within the department;
155 establishing a panel to consider specified matters;
156 defining terms; providing for program eligibility;
157 authorizing an inmate to be released on conditional
158 medical release before serving 85 percent of his or
159 her term of imprisonment; requiring any inmate who
160 meets certain criteria to be considered for
161 conditional medical release; providing that the inmate
162 does not have a right to release or to a certain
163 medical evaluation; requiring the department to
164 identify eligible inmates; requiring the department to
165 refer certain inmates to the panel for consideration;
166 providing for victim notification under certain
167 circumstances; requiring the panel to conduct a
168 hearing within specified timeframes; specifying
169 requirements for the hearing; providing conditions for
170 release; providing that an inmate who is approved for
171 conditional medical release must be released from the
172 department in a reasonable amount of time; providing



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173 that an inmate is considered a medical releasee upon
174 release from the department into the community;
175 providing a review process for an inmate who is denied
176 release; requiring medical releasees to comply with
177 specified conditions; providing that medical releasees
178 remain in the custody, supervision, and control of the
179 department; providing that a medical releasee is
180 eligible to earn or lose gain-time; prohibiting a
181 medical releasee or his or her community-based housing
182 from being counted in the prison system population and
183 the prison capacity figures, respectively; providing
184 for the revocation of a medical releasee's conditional
185 medical release; authorizing the medical releasee to
186 be returned to the department's custody if his or her
187 medical or physical condition improves; authorizing
188 the department to order a medical releasee to be
189 returned for a revocation hearing or to remain in the
190 community pending such hearing; authorizing the
191 department to issue a warrant for the arrest of a
192 medical releasee under certain circumstances;
193 authorizing a medical releasee to admit to the
194 allegation that his or her medical or physical
195 condition improved or to proceed to a revocation
196 hearing; requiring such hearing to be conducted by the
197 panel; requiring certain evidence to be reviewed and a
198 recommendation to be made before such hearing;
199 requiring a majority of the panel members to agree
200 that revocation of medical release is appropriate;
201 requiring a medical releasee to be recommitted to the



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202 department to serve the balance of his or her sentence
203 if a conditional medical release is revoked; providing
204 that gain-time is not forfeited for revocation based
205 on improvement in the medical releasee's condition;
206 providing a review process for a medical releasee who
207 has his or her release revoked; authorizing the
208 medical releasee to be recommitted if he or she
209 violates any conditions of the release; authorizing
210 certain entities to issue a warrant for the arrest of
211 a medical releasee if certain conditions are met;
212 authorizing a law enforcement or probation officer to
213 arrest a medical releasee without a warrant under
214 certain circumstances; requiring that the medical
215 releasee be detained if a violation is based on
216 certain circumstances; authorizing certain entities to
217 issue a warrant for the arrest of a medical releasee
218 if certain conditions are met; authorizing law
219 enforcement or probation officer to arrest a medical
220 releasee without a warrant under certain
221 circumstances; authorizing a medical releasee to admit
222 to the alleged violation or to proceed to a revocation
223 hearing; requiring such hearing to be conducted by the
224 panel; requiring a majority of the panel members to
225 agree that revocation of medical release is
226 appropriate; requiring specified medical releasees to
227 be recommitted to the department upon the revocation
228 of the conditional medical release; authorizing the
229 forfeiture of gain-time if the revocation is based on
230 certain violations; providing a review process for a



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231 medical releasee who has his or her release revoked;
232 requiring that the medical releasee be given specified
233 information in certain instances; requiring the panel
234 to provide a written statement as to evidence relied
235 on and reasons for revocation; requiring a medical
236 releasee whose release is revoked and who is
237 recommitted to the department to comply with the 85
238 percent requirement upon recommitment; requiring the
239 department to notify certain persons within a
240 specified timeframe of an inmate's diagnosis of a
241 terminal medical condition; requiring the department
242 to allow a visit between an inmate and certain persons
243 within 7 days of a diagnosis of a terminal medical
244 condition; requiring the department to initiate the
245 conditional medical release review process immediately
246 upon an inmate's diagnosis of a terminal medical
247 condition; requiring the inmate to consent to release
248 of information under certain circumstances; providing
249 members of the panel have sovereign immunity related
250 to specified decisions; providing rulemaking
251 authority; creating s. 945.0912, F.S.; providing
252 legislative findings; establishing the conditional
253 aging inmate release program within the department;
254 establishing a panel to consider specified matters;
255 providing for program eligibility; providing that an
256 inmate may be released on conditional aging inmate
257 release before serving 85 percent of his or her term
258 of imprisonment; prohibiting certain inmates from
259 being considered for conditional aging release;

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260 requiring that an inmate who meets certain criteria be
261 considered for conditional aging inmate release;
262 providing that the inmate does not have a right to
263 release; requiring the department to identify eligible
264 inmates; requiring the department to refer certain
265 inmates to the panel for consideration; providing
266 victim notification requirements under certain
267 circumstances; requiring the panel to conduct a
268 hearing within specified timeframes; specifying
269 requirements for the hearing; requiring that inmates
270 who are approved for conditional aging inmate release
271 be released from the department's custody within a
272 reasonable amount of time; providing that an inmate is
273 considered an aging releasee upon release from the
274 department into the community; providing a review
275 process for an inmate who is denied release; providing
276 conditions for release; providing that aging releasees
277 remain in the custody, supervision, and control of the
278 department; providing that the department does not
279 have a duty to provide medical care to an aging
280 releasee; providing that an aging releasee is eligible
281 to earn or lose gain-time; prohibiting an aging
282 releasee or his or her community-based housing from
283 being counted in the prison system population and the
284 prison capacity figures, respectively; providing for
285 the revocation of conditional aging inmate release;
286 authorizing the department to issue a warrant for the
287 arrest of an aging releasee under certain
288 circumstances; authorizing a law enforcement or

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289 probation officer to arrest an aging releasee without
290 a warrant under certain circumstances; requiring an
291 aging releasee to be detained without bond if a
292 violation is based on certain circumstances; requiring
293 the department to order an aging releasee subject to
294 revocation to be returned to department custody for a
295 revocation hearing; authorizing an aging releasee to
296 admit to his or her alleged violation or to proceed to
297 a revocation hearing; requiring such hearing to be
298 conducted by the panel; requiring a majority of the
299 panel to agree that revocation is appropriate;
300 authorizing the forfeiture of gain-time if the
301 revocation is based on certain violations; providing
302 that an aging releasee whose conditional aging inmate
303 release is revoked and is recommitted to the
304 department must comply with the 85 percent requirement
305 upon recommitment; providing a review process for an
306 aging releasee who has his or her released revoked;
307 requiring the aging releasee to be given specified
308 information in certain instances; requiring the panel
309 to provide a written statement as to evidence relied
310 on and reasons for revocation; providing that members
311 of the panel have sovereign immunity related to
312 specified decisions; providing rulemaking authority;
313 repealing s. 947.149, F.S., relating to conditional
314 medical release; amending s. 948.06, F.S.; requiring a
315 court to modify or continue a probationary term upon
316 finding that a probationer has met all specified
317 conditions, rather than any of the conditions, after a



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318 violation of probation; creating s. 951.30, F.S.;
319 requiring that administrators of county detention
320 facilities provide inmates with certain information in
321 writing upon their release; amending s. 961.02, F.S.;
322 revising and redefining terms; amending s. 961.03,
323 F.S.; revising the minimum requirements of a petition
324 that a person must set forth in order to meet the
325 definition of a "wrongfully incarcerated person";
326 extending the filing deadline for a person to file a
327 petition claiming wrongful incarceration; providing
328 limited retroactivity for filing a petition claiming
329 wrongful incarceration; providing that certain persons
330 do not have standing to file a claim on behalf of a
331 deceased person; conforming provisions to changes made
332 by the act; repealing s. 961.04, F.S., relating to
333 eligibility for compensation for wrongful
334 incarceration; amending s. 961.05, F.S.; conforming
335 provisions to changes made by the act; amending s.
336 961.06, F.S.; revising the date after which the Chief
337 Financial Officer is authorized to adjust the annual
338 rate of compensation for a wrongfully incarcerated
339 person; deleting provisions relating to calculating
340 monetary compensation for certain wrongfully
341 incarcerated persons; requiring the state to deduct
342 the amount of a civil award from the state
343 compensation amount owed if the claimant first
344 receives a civil award; deleting a requirement that a
345 wrongfully incarcerated person sign a release and
346 waiver before receiving compensation; requiring a



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347 claimant to reimburse the state for any difference
348 between state compensation and a civil award if the
349 claimant receives statutory compensation before a
350 civil award; requiring a claimant to notify the
351 Department of Legal Affairs upon filing a civil
352 action; deleting a provision prohibiting a wrongfully
353 incarcerated person from submitting an application for
354 compensation if the person has a lawsuit pending
355 requesting compensation; requiring the department to
356 file a notice of payment of monetary compensation in
357 the civil action; conforming provisions to changes
358 made by the act; amending s. 1009.21, F.S.; providing
359 that a specified period of time spent in a county
360 detention facility or state correctional facility
361 counts toward a certain residency requirement for
362 tuition purposes; requiring the Office of Program
363 Policy and Governmental Accountability (OPPAGA) to
364 conduct a study to evaluate the various opportunities
365 available to persons returning to the community from
366 imprisonment; providing study requirements; requiring
367 OPPAGA to submit a report to the Governor and the
368 Legislature by a specified date; conforming provisions
369 to changes made by the act; amending ss. 316.1935,
370 775.084, 775.087, 782.051, 784.07, 790.235, 794.0115,
371 817.568, 893.03, 893.13, 893.20, 910.035, 921.0022,
372 921.0023, 921.0024, 921.0025, 921.0026, 921.0027,
373 924.06, 924.07, 944.17, 944.605, 944.70, 947.13,
374 947.141, 948.01, 948.015, 948.06, 948.20, 948.51,
375 958.04, and 985.465, F.S.; conforming provisions to



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376 changes made by the act; providing effective dates.
377
378 Be It Enacted by the Legislature of the State of Florida:
379
380 Section 1. Section 322.3401, Florida Statutes, is created
381 to read:
382 322.3401 Retroactive application relating to s. 322.34;
383 legislative intent; prohibiting certain sentences for specified
384 offenses; resentencing procedures.-
385 (1) It is the intent of the Legislature to retroactively
386 apply section 12 of chapter 2019-167, Laws of Florida, only as
387 provided in this section, to persons who committed the offense
388 of driving while license suspended, revoked, canceled, or
389 disqualified before October 1, 2019, the effective date of
390 section 12 of chapter 2019-167, Laws of Florida, which amended
391 s. 322.34 to modify criminal penalties and collateral
392 consequences for offenses under that section.
393 (2) As used in this section, the term:
394 (a) "Former s. 322.34" is a reference to s. 322.34 as it
395 existed at any time before its amendment by chapter 2019-167,
396 Laws of Florida.
397 (b) "New s. 322.34" is a reference to s. 322.34 as it
398 exists after the amendments made by chapter 2019-167, Laws of
399 Florida, became effective.
400 (3) (a) A person who committed the offense of driving while
401 license suspended, revoked, canceled, or disqualified before
402 October 1, 2019, but who was not sentenced under former s.
403 322.34 before October 1, 2020, must be sentenced in accordance
404 with s. 775.082, s. 775.083, or s. 775.084 for the degree of



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405 offense as provided for in the new s. 322.34.

406 (b) A person who committed the offense of driving while
407 license suspended, revoked, canceled, or disqualified before
408 October 1, 2019, who was sentenced before October 1, 2019, to a
409 term of imprisonment or supervision pursuant to former s.
410 322.34, and who is serving such penalty on or after October 1,
411 2020, may be resentenced in accordance with paragraph (c).

412 (c) Resentencing under this section must occur in the
413 following manner:

414 1. A person described in paragraph (b) who is eligible to
415 request a sentence review hearing pursuant to this section shall
416 be notified of such eligibility by the facility in which the
417 person is imprisoned or the entity who is supervising the
418 person.

419 2. A person seeking a sentence review hearing under this
420 section must submit an application to the court of original
421 jurisdiction requesting that such a hearing be conducted. Such
422 request by the person serves to initiate the procedures provided
423 for in this section. The sentencing court shall retain original
424 jurisdiction for the duration of the sentence for this purpose.

425 3. A person who is eligible for a sentence review hearing
426 under this section is entitled to be represented by counsel, and
427 the court shall appoint a public defender to represent the
428 person if he or she cannot afford an attorney.

429 4. Upon receiving an application from the eligible person,
430 the court of original jurisdiction shall hold a sentence review
431 hearing to determine if the eligible person meets the criteria
432 for resentencing under this section.

433 5. If the court determines at the sentence review hearing



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434 that the eligible person meets the criteria in this section for
435 resentencing, the court may resentence the person in accordance
436 with s. 775.082, s. 775.083, or s. 775.084 for the degree of
437 offense as provided for in the new s. 322.34. However, the new
438 sentence may not exceed the person's original sentence with
439 credit for time served. If the court does not resentence the
440 person under this subsection, the court must provide written
441 findings why resentencing is not appropriate.

442 (4) Notwithstanding any other law, a person who has been
443 convicted of a felony under former s. 322.34 and whose offense
444 would not be classified as a felony under the new s. 322.34 must
445 have all outstanding fines, fees, and costs related to such
446 felony conviction waived. In addition, such person must be
447 treated as if he or she had been convicted of a misdemeanor for
448 purposes of any right, privilege, benefit, remedy, or collateral
449 consequence that the person might be entitled to but for such
450 felony conviction. This provision does not serve to remove the
451 designation of the person as a convicted felon. However, the
452 consequences of such felony conviction which are solely
453 statutory in nature and are imposed as a result of such
454 conviction shall no longer apply.

455 Section 2. Subsections (5) and (7) of section 379.407,
456 Florida Statutes, are amended to read:

457 379.407 Administration; rules, publications, records;
458 penalties; injunctions.-

459 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED
460 SEASON AND WRUNG TAILS.-

461 (a) It is a major violation under this section for any
462 person, firm, or corporation to be in possession of spiny



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463 lobster during the closed season or, while on the water, to be
464 in possession of spiny lobster tails that have been wrung or
465 separated from the body, unless such possession is allowed by
466 commission rule. A person, firm, or corporation that violates
467 this paragraph is subject to the following penalties:

468 1. A first violation is a misdemeanor of the second degree,
469 punishable as provided in s. 775.082 or s. 775.083. If the
470 violation involves 25 or more lobster, the violation is a
471 misdemeanor of the first degree, punishable as provided in s.
472 775.082 or s. 775.083.

473 2. A second violation is a misdemeanor of the first degree,
474 punishable as provided in s. 775.082 or s. 775.083, and such
475 person is subject to a suspension of his or her license
476 privileges under this chapter for a period not to exceed 90
477 days.

478 3. A third violation is a misdemeanor of the first degree,
479 punishable as provided in s. 775.082 or s. 775.083, ~~with a~~
480 ~~mandatory minimum term of imprisonment of 6 months~~, and such
481 person may be assessed a civil penalty of up to \$2,500 and is
482 subject to a suspension of all license privileges under this
483 chapter for a period not to exceed 6 months.

484 4. A third violation within 1 year after a second violation
485 is a felony of the third degree, punishable as provided in s.
486 775.082 or s. 775.083, ~~with a mandatory minimum term of~~
487 ~~imprisonment of 1 year~~, and such person shall be assessed a
488 civil penalty of \$5,000 and all license privileges under this
489 chapter shall be permanently revoked.

490 5. A fourth or subsequent violation is a felony of the
491 third degree, punishable as provided in s. 775.082 or s.



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492 775.083, ~~with a mandatory minimum term of imprisonment of 1~~
493 ~~year~~, and such person shall be assessed a civil penalty of
494 \$5,000 and all license privileges under this chapter shall be
495 permanently revoked.

496 (b) It is a major violation under this section for a
497 recreational or commercial harvester to possess an undersized
498 spiny lobster, unless authorized by commission rule. For
499 violations of this paragraph involving fewer than 100 undersized
500 spiny lobsters, each undersized spiny lobster may be charged as
501 a separate offense under subparagraphs 1. and 2. However, the
502 total penalties assessed under subparagraphs 1. and 2. for any
503 one scheme or course of conduct may not exceed 4 years'
504 imprisonment and a fine of \$4,000 under such subparagraphs. A
505 person who violates this paragraph is subject to the following
506 penalties:

507 1. A first violation is a misdemeanor of the second degree,
508 punishable as provided in s. 775.082 or s. 775.083.

509 2. A second or subsequent violation is a misdemeanor of the
510 first degree, punishable as provided in s. 775.082 or s.
511 775.083.

512 3. If a violation involves 100 or more undersized spiny
513 lobsters, the violation is a felony of the third degree,
514 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
515 and a mandatory civil fine of at least \$500. In addition, the
516 commission shall assess the violator with an administrative
517 penalty of up to \$2,000 and may suspend the violator's license
518 privileges under this chapter for a period of up to 12 months.

519 (7) PENALTIES FOR UNLICENSED SALE, PURCHASE, OR HARVEST.—It
520 is a major violation and punishable as provided in this



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521 subsection for any unlicensed person, firm, or corporation who
522 is required to be licensed under this chapter as a commercial
523 harvester or a wholesale or retail dealer to sell or purchase
524 any saltwater product or to harvest or attempt to harvest any
525 saltwater product with intent to sell the saltwater product.

526 (a) Any person, firm, or corporation who sells or purchases
527 any saltwater product without having purchased the licenses
528 required by this chapter for such sale is subject to penalties
529 as follows:

530 1. A first violation is a misdemeanor of the second degree,
531 punishable as provided in s. 775.082 or s. 775.083.

532 2. A second violation is a misdemeanor of the first degree,
533 punishable as provided in s. 775.082 or s. 775.083, and such
534 person may also be assessed a civil penalty of up to \$2,500 and
535 is subject to a suspension of all license privileges under this
536 chapter for a period not exceeding 90 days.

537 3. A third violation is a misdemeanor of the first degree,
538 punishable as provided in s. 775.082 or s. 775.083, ~~with a~~
539 ~~mandatory minimum term of imprisonment of 6 months~~, and such
540 person may also be assessed a civil penalty of up to \$5,000 and
541 is subject to a suspension of all license privileges under this
542 chapter for a period not exceeding 6 months.

543 4. A third violation within 1 year after a second violation
544 is a felony of the third degree, punishable as provided in s.
545 775.082 or s. 775.083, ~~with a mandatory minimum term of~~
546 ~~imprisonment of 1 year~~, and such person shall be assessed a
547 civil penalty of \$5,000 and all license privileges under this
548 chapter shall be permanently revoked.

549 5. A fourth or subsequent violation is a felony of the



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550 third degree, punishable as provided in s. 775.082 or s.
551 775.083, ~~with a mandatory minimum term of imprisonment of 1~~
552 ~~year~~, and such person shall be assessed a civil penalty of
553 \$5,000 and all license privileges under this chapter shall be
554 permanently revoked.

555 (b) Any person whose license privileges under this chapter
556 have been permanently revoked and who thereafter sells or
557 purchases or who attempts to sell or purchase any saltwater
558 product commits a felony of the third degree, punishable as
559 provided in s. 775.082 or s. 775.083, ~~with a mandatory minimum~~
560 ~~term of imprisonment of 1 year~~, and such person shall also be
561 assessed a civil penalty of \$5,000. All property involved in
562 such offense shall be forfeited pursuant to s. 379.337.

563 (c) Any commercial harvester or wholesale or retail dealer
564 whose license privileges under this chapter are under suspension
565 and who during such period of suspension sells or purchases or
566 attempts to sell or purchase any saltwater product shall be
567 assessed the following penalties:

568 1. A first violation, or a second violation occurring more
569 than 12 months after a first violation, is a first degree
570 misdemeanor, punishable as provided in ss. 775.082 and 775.083,
571 and such commercial harvester or wholesale or retail dealer may
572 be assessed a civil penalty of up to \$2,500 and an additional
573 suspension of all license privileges under this chapter for a
574 period not exceeding 90 days.

575 2. A second violation occurring within 12 months of a first
576 violation is a third degree felony, punishable as provided in
577 ss. 775.082 and 775.083, ~~with a mandatory minimum term of~~
578 ~~imprisonment of 1 year~~, and such commercial harvester or



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579 wholesale or retail dealer may be assessed a civil penalty of up
580 to \$5,000 and an additional suspension of all license privileges
581 under this chapter for a period not exceeding 180 days. All
582 property involved in such offense shall be forfeited pursuant to
583 s. 379.337.

584 3. A third violation within 24 months of the second
585 violation or subsequent violation is a third degree felony,
586 punishable as provided in ss. 775.082 and 775.083, ~~with a~~
587 ~~mandatory minimum term of imprisonment of 1 year,~~ and such
588 commercial harvester or wholesale or retail dealer shall be
589 assessed a mandatory civil penalty of up to \$5,000 and an
590 additional suspension of all license privileges under this
591 chapter for a period not exceeding 24 months. All property
592 involved in such offense shall be forfeited pursuant to s.
593 379.337.

594 (d) Any commercial harvester who harvests or attempts to
595 harvest any saltwater product with intent to sell the saltwater
596 product without having purchased a saltwater products license
597 with the requisite endorsements is subject to penalties as
598 follows:

599 1. A first violation is a misdemeanor of the second degree,
600 punishable as provided in s. 775.082 or s. 775.083.

601 2. A second violation is a misdemeanor of the first degree,
602 punishable as provided in s. 775.082 or s. 775.083, and such
603 commercial harvester may also be assessed a civil penalty of up
604 to \$2,500 and is subject to a suspension of all license
605 privileges under this chapter for a period not exceeding 90
606 days.

607 3. A third violation is a misdemeanor of the first degree,



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608 punishable as provided in s. 775.082 or s. 775.083, ~~with a~~
609 ~~mandatory minimum term of imprisonment of 6 months,~~ and such
610 commercial harvester may also be assessed a civil penalty of up
611 to \$5,000 and is subject to a suspension of all license
612 privileges under this chapter for a period not exceeding 6
613 months.

614 4. A third violation within 1 year after a second violation
615 is a felony of the third degree, punishable as provided in s.
616 775.082 or s. 775.083, ~~with a mandatory minimum term of~~
617 ~~imprisonment of 1 year,~~ and such commercial harvester shall also
618 be assessed a civil penalty of \$5,000 and all license privileges
619 under this chapter shall be permanently revoked.

620 5. A fourth or subsequent violation is a felony of the
621 third degree, punishable as provided in s. 775.082 or s.
622 775.083, ~~with a mandatory minimum term of imprisonment of 1~~
623 ~~year,~~ and such commercial harvester shall also be assessed a
624 mandatory civil penalty of \$5,000 and all license privileges
625 under this chapter shall be permanently revoked.

626
627 For purposes of this subsection, a violation means any judicial
628 disposition other than acquittal or dismissal.

629 Section 3. Paragraphs (c) and (d) of subsection (2) of
630 section 403.4154, Florida Statutes, are amended to read:

631 403.4154 Phosphogypsum management program.—

632 (2) REGULATORY PROGRAM.—

633 (c) Whoever willfully, knowingly, or with reckless
634 indifference or gross carelessness misstates or misrepresents
635 the financial condition or closure costs of an entity engaged in
636 managing, owning, or operating a phosphogypsum stack or stack



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637 system commits a felony of the third degree, punishable as
638 provided in s. 775.082 or s. 775.083, and by a fine of not more
639 than \$50,000 ~~and by imprisonment for 5 years for each offense.~~

640 (d) If an owner or operator of a phosphogypsum stack or
641 stack system fails to comply with department rules requiring
642 demonstration of closure financial responsibility, no
643 distribution may be made which would be prohibited under s.
644 607.06401(3) until the noncompliance is corrected. Whoever
645 willfully, knowingly, or with reckless indifference or gross
646 carelessness violates this prohibition commits a felony of the
647 third degree, punishable as provided in s. 775.082 or s.
648 775.083, and by a fine of not more than \$50,000 ~~or by~~
649 ~~imprisonment for 5 years for each offense.~~

650 Section 4. Paragraph (d) of subsection (2) of section
651 456.065, Florida Statutes, is amended to read:

652 456.065 Unlicensed practice of a health care profession;
653 intent; cease and desist notice; penalties; enforcement;
654 citations; fees; allocation and disposition of moneys
655 collected.-

656 (2) The penalties for unlicensed practice of a health care
657 profession shall include the following:

658 (d) In addition to the administrative and civil remedies
659 under paragraphs (b) and (c) and in addition to the criminal
660 violations and penalties listed in the individual health care
661 practice acts:

662 1. It is a felony of the third degree, punishable as
663 provided in s. 775.082, s. 775.083, or s. 775.084, to practice,
664 attempt to practice, or offer to practice a health care
665 profession without an active, valid Florida license to practice



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666 that profession. Practicing without an active, valid license
667 also includes practicing on a suspended, revoked, or void
668 license, but does not include practicing, attempting to
669 practice, or offering to practice with an inactive or delinquent
670 license for a period of up to 12 months ~~which is addressed in~~
671 ~~subparagraph 3.~~ Knowingly applying for employment for a position
672 that requires a license without notifying the employer that the
673 person does not currently possess a valid, active license to
674 practice that profession shall be deemed to be an attempt or
675 offer to practice that health care profession without a license.
676 Holding oneself out, regardless of the means of communication,
677 as able to practice a health care profession or as able to
678 provide services that require a health care license shall be
679 deemed to be an attempt or offer to practice such profession
680 without a license. The minimum penalty for violating this
681 subparagraph shall be a fine of \$1,000 ~~and a minimum mandatory~~
682 ~~period of incarceration of 1 year.~~

683 2. It is a felony of the second degree, punishable as
684 provided in s. 775.082, s. 775.083, or s. 775.084, to practice a
685 health care profession without an active, valid Florida license
686 to practice that profession when such practice results in
687 serious bodily injury. For purposes of this section, "serious
688 bodily injury" means death; brain or spinal damage;
689 disfigurement; fracture or dislocation of bones or joints;
690 limitation of neurological, physical, or sensory function; or
691 any condition that required subsequent surgical repair. The
692 minimum penalty for violating this subparagraph shall be a fine
693 of \$1,000 ~~and a minimum mandatory period of incarceration of 1~~
694 ~~year.~~



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695 3. It is a misdemeanor of the first degree, punishable as
696 provided in s. 775.082 or s. 775.083, to practice, attempt to
697 practice, or offer to practice a health care profession with an
698 inactive or delinquent license for any period of time up to 12
699 months. However, practicing, attempting to practice, or offering
700 to practice a health care profession when that person's license
701 has been inactive or delinquent for a period of time of 12
702 months or more shall be a felony of the third degree, punishable
703 as provided in s. 775.082, s. 775.083, or s. 775.084. The
704 minimum penalty for violating this subparagraph shall be a term
705 of imprisonment of 30 days and a fine of \$500.

706 Section 5. Subsection (4) of section 624.401, Florida
707 Statutes, is amended to read:

708 624.401 Certificate of authority required.-

709 (4) (a) Any person who acts as an insurer, transacts
710 insurance, or otherwise engages in insurance activities in this
711 state without a certificate of authority in violation of this
712 section commits a felony of the third degree, punishable as
713 provided in s. 775.082, s. 775.083, or s. 775.084.

714 (b) However, any person acting as an insurer without a
715 valid certificate of authority who violates this section commits
716 insurance fraud, punishable as provided in this paragraph. If
717 the amount of any insurance premium collected with respect to
718 any violation of this section:

719 1. Is less than \$20,000, the offender commits a felony of
720 the third degree, punishable as provided in s. 775.082, s.
721 775.083, or s. 775.084, and the offender shall be sentenced to a
722 minimum term of imprisonment of 1 year.

723 2. Is \$20,000 or more, but less than \$100,000, the offender



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724 commits a felony of the second degree, punishable as provided in
725 s. 775.082, s. 775.083, or s. 775.084, and the offender shall be
726 sentenced to a minimum term of imprisonment of 18 months.

727 3. Is \$100,000 or more, the offender commits a felony of
728 the first degree, punishable as provided in s. 775.082, s.
729 775.083, or s. 775.084, and the offender shall be sentenced to a
730 minimum term of imprisonment of 2 years.

731 Section 6. Paragraphs (d) and (e) of subsection (8) and
732 subsection (9) of section 775.082, Florida Statutes, are amended
733 to read:

734 775.082 Penalties; applicability of sentencing structures;
735 mandatory minimum sentences for certain reoffenders previously
736 released from prison.-

737 (8)

738 (d) The Public Safety Criminal Punishment Code applies to
739 all felonies, except capital felonies, committed on or after
740 October 1, 1998. Any revision to the Public Safety Criminal
741 Punishment Code applies to sentencing for all felonies, except
742 capital felonies, committed on or after the effective date of
743 the revision.

744 (e) Felonies, except capital felonies, with continuing
745 dates of enterprise shall be sentenced under the sentencing
746 guidelines or the Public Safety Criminal Punishment Code in
747 effect on the beginning date of the criminal activity.

748 (9) (a) 1. "Prison releasee reoffender" means any defendant
749 who commits, or attempts to commit:

- 750 a. Treason;
- 751 b. Murder;
- 752 c. Manslaughter;



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753 d. Sexual battery;
754 e. Carjacking;
755 f. Home-invasion robbery;
756 g. Robbery;
757 h. Arson;
758 i. Kidnapping;
759 j. Aggravated assault with a deadly weapon;
760 k. Aggravated battery;
761 l. Aggravated stalking;
762 m. Aircraft piracy;
763 n. Unlawful throwing, placing, or discharging of a
764 destructive device or bomb;
765 o. Any felony that involves the use or threat of physical
766 force or violence against an individual;
767 p. Armed burglary;
768 q. Burglary of a dwelling or burglary of an occupied
769 structure; or
770 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,
771 s. 827.071, or s. 847.0135(5);
772
773 within 3 years after being released from a state correctional
774 facility operated by the Department of Corrections or a private
775 vendor, a county detention facility following incarceration for
776 an offense for which the sentence pronounced was a prison
777 sentence, or a correctional institution of another state, the
778 District of Columbia, the United States, any possession or
779 territory of the United States, or any foreign jurisdiction,
780 following incarceration for an offense for which the sentence is
781 punishable by more than 1 year in this state.



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782 2. "Prison releasee reoffender" also means any defendant
783 who commits or attempts to commit any offense listed in sub-
784 subparagraphs ~~(a)~~1.a.-r. while the defendant was serving a
785 prison sentence or on escape status from a state correctional
786 facility operated by the Department of Corrections or a private
787 vendor or while the defendant was on escape status from a
788 correctional institution of another state, the District of
789 Columbia, the United States, any possession or territory of the
790 United States, or any foreign jurisdiction, following
791 incarceration for an offense for which the sentence is
792 punishable by more than 1 year in this state.
793 3. If the state attorney determines that a defendant is a
794 prison releasee reoffender as defined in subparagraph 1., the
795 state attorney may seek to have the court sentence the defendant
796 as a prison releasee reoffender. Upon proof from the state
797 attorney which ~~that~~ establishes ~~by a preponderance of the~~
798 ~~evidence~~ that a defendant is a prison releasee reoffender as
799 defined in this section, such defendant ~~is not eligible for~~
800 ~~sentencing under the sentencing guidelines~~ and must be sentenced
801 as follows:
802 a. For a felony punishable by life, to at least ~~by~~ a term
803 of imprisonment of 25 years ~~imprisonment for life~~;
804 b. For a felony of the first degree, to at least ~~by~~ a term
805 of imprisonment of 20 ~~30~~ years;
806 c. For a felony of the second degree, to at least ~~by~~ a term
807 of imprisonment of 10 ~~15~~ years; and
808 d. For a felony of the third degree, to at least ~~by~~ a term
809 of imprisonment of 3 ~~5~~ years.
810 ~~(b) A person sentenced under paragraph (a) shall be~~



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811 ~~released only by expiration of sentence and shall not be~~
812 ~~eligible for parole, control release, or any form of early~~
813 ~~release. Any person sentenced under paragraph (a) must serve 100~~
814 ~~percent of the court-imposed sentence.~~

815 ~~(c) Nothing in this subsection shall prevent a court from~~
816 ~~imposing a greater sentence of incarceration as authorized by~~
817 ~~law, pursuant to s. 775.084 or any other provision of law.~~

818 (b)(d)1. It is the intent of the Legislature to
819 retroactively apply the amendments to this subsection which are
820 effective October 1, 2020.

821 2. As used in this paragraph, the term "former s.
822 775.082(9)" means s. 775.082(9) as it existed before the
823 amendment of this subsection, which took effect October 1, 2020.

824 3. A person who qualified as a prison releasee reoffender
825 before October 1, 2020, and who was not sentenced as a prison
826 releasee reoffender before October 1, 2020, may not be sentenced
827 as such under former s. 775.082(9). Such person, if sentenced as
828 a prison releasee reoffender, must be sentenced as provided in
829 paragraph (a).

830 4. A person who qualified as a prison releasee reoffender
831 before October 1, 2020, who was sentenced as such before October
832 1, 2020, to a mandatory minimum term of imprisonment pursuant to
833 former s. 775.082(9), and who is serving such mandatory minimum
834 term of imprisonment on or after October 1, 2020, may be
835 resentenced in accordance with subparagraph 5. to a sentence as
836 provided in paragraph (a) and sub-subparagraph 5.d.

837 5. Resentencing must occur in the following manner:

838 a. The Department of Corrections shall notify a person
839 described in subparagraph 4. of his or her eligibility to



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840 request a sentence review hearing.

841 b. The person seeking sentence review must submit an
842 application to the court of original jurisdiction requesting
843 that a sentence review hearing be held. The sentencing court
844 shall retain original jurisdiction for the duration of the
845 sentence for this purpose.

846 c. A person who is eligible for a sentence review hearing
847 under this paragraph is entitled to be represented by counsel,
848 and the court shall appoint a public defender to represent the
849 person if he or she cannot afford an attorney.

850 d. Upon receiving an application from an eligible person,
851 the court of original jurisdiction shall hold a sentence review
852 hearing to determine if the eligible person meets the criteria
853 for resentencing under subparagraph 4. If the court determines
854 at the sentence review hearing that the eligible person meets
855 such criteria, the court may resentence the person as provided
856 in paragraph (a); however, the new sentence may not exceed the
857 person's original sentence with credit for time served. If the
858 court does not resentence the person under subparagraph 4., the
859 court must provide written findings why resentencing is not
860 appropriate.

861 6. A person resentenced pursuant to this subsection is
862 eligible to receive any gain-time pursuant to s. 944.275 which
863 he or she was previously ineligible to receive under former s.
864 775.082(9) It is the intent of the Legislature that offenders
865 previously released from prison or a county detention facility
866 following incarceration for an offense for which the sentence
867 pronounced was a prison sentence who meet the criteria in
868 paragraph (a) be punished to the fullest extent of the law and



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869 ~~as provided in this subsection, unless the state attorney~~
870 ~~determines that extenuating circumstances exist which preclude~~
871 ~~the just prosecution of the offender, including whether the~~
872 ~~victim recommends that the offender not be sentenced as provided~~
873 ~~in this subsection.~~

874 ~~2. For every case in which the offender meets the criteria~~
875 ~~in paragraph (a) and does not receive the mandatory minimum~~
876 ~~prison sentence, the state attorney must explain the sentencing~~
877 ~~deviation in writing and place such explanation in the case file~~
878 ~~maintained by the state attorney.~~

879 Section 7. Subsections (8) and (9) of section 817.234,
880 Florida Statutes, are amended to read:

881 817.234 False and fraudulent insurance claims.—

882 (8) (a) It is unlawful for any person intending to defraud
883 any other person to solicit or cause to be solicited any
884 business from a person involved in a motor vehicle accident for
885 the purpose of making, adjusting, or settling motor vehicle tort
886 claims or claims for personal injury protection benefits
887 required by s. 627.736. Any person who violates ~~the provisions~~
888 ~~of~~ this paragraph commits a felony of the second degree,
889 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
890 ~~A person who is convicted of a violation of this subsection~~
891 ~~shall be sentenced to a minimum term of imprisonment of 2 years.~~

892 (b) A person may not solicit or cause to be solicited any
893 business from a person involved in a motor vehicle accident by
894 any means of communication other than advertising directed to
895 the public for the purpose of making motor vehicle tort claims
896 or claims for personal injury protection benefits required by s.
897 627.736, within 60 days after the occurrence of the motor



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898 vehicle accident. Any person who violates this paragraph commits
899 a felony of the third degree, punishable as provided in s.
900 775.082, s. 775.083, or s. 775.084.

901 (c) A lawyer, health care practitioner as defined in s.
902 456.001, or owner or medical director of a clinic required to be
903 licensed pursuant to s. 400.9905 may not, at any time after 60
904 days have elapsed from the occurrence of a motor vehicle
905 accident, solicit or cause to be solicited any business from a
906 person involved in a motor vehicle accident by means of in
907 person or telephone contact at the person's residence, for the
908 purpose of making motor vehicle tort claims or claims for
909 personal injury protection benefits required by s. 627.736. Any
910 person who violates this paragraph commits a felony of the third
911 degree, punishable as provided in s. 775.082, s. 775.083, or s.
912 775.084.

913 (d) Charges for any services rendered by any person who
914 violates this subsection in regard to the person for whom such
915 services were rendered are noncompensable and unenforceable as a
916 matter of law.

917 (9) A person may not organize, plan, or knowingly
918 participate in an intentional motor vehicle crash or a scheme to
919 create documentation of a motor vehicle crash that did not occur
920 for the purpose of making motor vehicle tort claims or claims
921 for personal injury protection benefits as required by s.
922 627.736. Any person who violates this subsection commits a
923 felony of the second degree, punishable as provided in s.
924 775.082, s. 775.083, or s. 775.084. ~~A person who is convicted of~~
925 ~~a violation of this subsection shall be sentenced to a minimum~~
926 ~~term of imprisonment of 2 years.~~



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927 Section 8. Present subsections (6) and (7) of section
928 893.135, Florida Statutes, are redesignated as subsections (7)
929 and (8), respectively, a new subsection (6) is added to that
930 section, and paragraphs (b), (c), and (g) of subsection (1) and
931 subsection (3) of that section are amended, to read:

932 893.135 Trafficking; mandatory sentences; suspension or
933 reduction of sentences; conspiracy to engage in trafficking.-

934 (1) Except as authorized in this chapter or in chapter 499
935 and notwithstanding the provisions of s. 893.13:

936 (b)1. Any person who knowingly sells, purchases,
937 manufactures, delivers, or brings into this state, or who is
938 knowingly in actual or constructive possession of, 28 grams or
939 more of cocaine, as described in s. 893.03(2)(a)4., or of any
940 mixture containing cocaine, but less than 150 kilograms of
941 cocaine or any such mixture, commits a felony of the first
942 degree, which felony shall be known as "trafficking in cocaine,"
943 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
944 If the quantity involved:

945 a. Is 28 grams or more, but less than 200 grams, such
946 person shall be sentenced to a mandatory minimum term of
947 imprisonment of 3 years, and the defendant shall be ordered to
948 pay a fine of \$50,000.

949 b. Is 200 grams or more, but less than 400 grams, such
950 person shall be sentenced to a mandatory minimum term of
951 imprisonment of 7 years, and the defendant shall be ordered to
952 pay a fine of \$100,000.

953 c. Is 400 grams or more, but less than 150 kilograms, such
954 person shall be sentenced to a mandatory minimum term of
955 imprisonment of 15 calendar years and pay a fine of \$250,000.



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956 2. Any person who knowingly sells, purchases, manufactures,
957 delivers, or brings into this state, or who is knowingly in
958 actual or constructive possession of, 150 kilograms or more of
959 cocaine, as described in s. 893.03(2)(a)4., commits the first
960 degree felony of trafficking in cocaine. A person who has been
961 convicted of the first degree felony of trafficking in cocaine
962 under this subparagraph shall be punished by life imprisonment
963 and is ineligible for any form of discretionary early release
964 except pardon or executive clemency, ~~or~~ conditional medical
965 release under s. 945.0911, or conditional aging inmate release
966 under s. 945.0912 ~~s. 947.149~~. However, if the court determines
967 that, in addition to committing any act specified in this
968 paragraph:

969 a. The person intentionally killed an individual or
970 counseled, commanded, induced, procured, or caused the
971 intentional killing of an individual and such killing was the
972 result; or

973 b. The person's conduct in committing that act led to a
974 natural, though not inevitable, lethal result,
975
976 such person commits the capital felony of trafficking in
977 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
978 person sentenced for a capital felony under this paragraph shall
979 also be sentenced to pay the maximum fine provided under
980 subparagraph 1.

981 3. Any person who knowingly brings into this state 300
982 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
983 and who knows that the probable result of such importation would
984 be the death of any person, commits capital importation of



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985 cocaine, a capital felony punishable as provided in ss. 775.082
986 and 921.142. Any person sentenced for a capital felony under
987 this paragraph shall also be sentenced to pay the maximum fine
988 provided under subparagraph 1.

989 (c)1. A person who knowingly sells, purchases,
990 manufactures, delivers, or brings into this state, or who is
991 knowingly in actual or constructive possession of, 4 grams or
992 more of any morphine, opium, hydromorphone, or any salt,
993 derivative, isomer, or salt of an isomer thereof, including
994 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
995 (3)(c)4., or 4 grams or more of any mixture containing any such
996 substance, but less than 30 kilograms of such substance or
997 mixture, commits a felony of the first degree, which felony
998 shall be known as "trafficking in illegal drugs," punishable as
999 provided in s. 775.082, s. 775.083, or s. 775.084. If the
1000 quantity involved:

1001 a. Is 4 grams or more, but less than 14 grams, such person
1002 shall be sentenced to a mandatory minimum term of imprisonment
1003 of 3 years and shall be ordered to pay a fine of \$50,000.

1004 b. Is 14 grams or more, but less than 28 grams, such person
1005 shall be sentenced to a mandatory minimum term of imprisonment
1006 of 15 years and shall be ordered to pay a fine of \$100,000.

1007 c. Is 28 grams or more, but less than 30 kilograms, such
1008 person shall be sentenced to a mandatory minimum term of
1009 imprisonment of 25 years and shall be ordered to pay a fine of
1010 \$500,000.

1011 2. A person who knowingly sells, purchases, manufactures,
1012 delivers, or brings into this state, or who is knowingly in
1013 actual or constructive possession of, 28 grams or more of



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1014 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
1015 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
1016 grams or more of any mixture containing any such substance,
1017 commits a felony of the first degree, which felony shall be
1018 known as "trafficking in hydrocodone," punishable as provided in
1019 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

1020 a. Is 28 grams or more, but less than 50 grams, such person
1021 shall be sentenced to a mandatory minimum term of imprisonment
1022 of 3 years and shall be ordered to pay a fine of \$50,000.

1023 b. Is 50 grams or more, but less than 100 grams, such
1024 person shall be sentenced to a mandatory minimum term of
1025 imprisonment of 7 years and shall be ordered to pay a fine of
1026 \$100,000.

1027 c. Is 100 grams or more, but less than 300 grams, such
1028 person shall be sentenced to a mandatory minimum term of
1029 imprisonment of 15 years and shall be ordered to pay a fine of
1030 \$500,000.

1031 d. Is 300 grams or more, but less than 30 kilograms, such
1032 person shall be sentenced to a mandatory minimum term of
1033 imprisonment of 25 years and shall be ordered to pay a fine of
1034 \$750,000.

1035 3. A person who knowingly sells, purchases, manufactures,
1036 delivers, or brings into this state, or who is knowingly in
1037 actual or constructive possession of, 7 grams or more of
1038 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
1039 thereof, or 7 grams or more of any mixture containing any such
1040 substance, commits a felony of the first degree, which felony
1041 shall be known as "trafficking in oxycodone," punishable as
1042 provided in s. 775.082, s. 775.083, or s. 775.084. If the



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1043 quantity involved:

- 1044 a. Is 7 grams or more, but less than 14 grams, such person
1045 shall be sentenced to a mandatory minimum term of imprisonment
1046 of 3 years and shall be ordered to pay a fine of \$50,000.
- 1047 b. Is 14 grams or more, but less than 25 grams, such person
1048 shall be sentenced to a mandatory minimum term of imprisonment
1049 of 7 years and shall be ordered to pay a fine of \$100,000.
- 1050 c. Is 25 grams or more, but less than 100 grams, such
1051 person shall be sentenced to a mandatory minimum term of
1052 imprisonment of 15 years and shall be ordered to pay a fine of
1053 \$500,000.
- 1054 d. Is 100 grams or more, but less than 30 kilograms, such
1055 person shall be sentenced to a mandatory minimum term of
1056 imprisonment of 25 years and shall be ordered to pay a fine of
1057 \$750,000.
- 1058 4.a. A person who knowingly sells, purchases, manufactures,
1059 delivers, or brings into this state, or who is knowingly in
1060 actual or constructive possession of, 4 grams or more of:
- 1061 (I) Alfentanil, as described in s. 893.03(2)(b)1.;
1062 (II) Carfentanil, as described in s. 893.03(2)(b)6.;
1063 (III) Fentanyl, as described in s. 893.03(2)(b)9.;
1064 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;
1065 (V) A fentanyl derivative, as described in s.
1066 893.03(1)(a)62.;
- 1067 (VI) A controlled substance analog, as described in s.
1068 893.0356, of any substance described in sub-sub-subparagraphs
1069 (I)-(V); or
1070 (VII) A mixture containing any substance described in sub-
1071 sub-subparagraphs (I)-(VI),



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- 1072
1073 commits a felony of the first degree, which felony shall be
1074 known as "trafficking in fentanyl," punishable as provided in s.
1075 775.082, s. 775.083, or s. 775.084.
- 1076 b. If the quantity involved under sub-subparagraph a.:
- 1077 (I) Is 4 grams or more, but less than 14 grams, such person
1078 shall be sentenced to a mandatory minimum term of imprisonment
1079 of 3 years, and shall be ordered to pay a fine of \$50,000.
- 1080 (II) Is 14 grams or more, but less than 28 grams, such
1081 person shall be sentenced to a mandatory minimum term of
1082 imprisonment of 15 years, and shall be ordered to pay a fine of
1083 \$100,000.
- 1084 (III) Is 28 grams or more, such person shall be sentenced
1085 to a mandatory minimum term of imprisonment of 25 years, and
1086 shall be ordered to pay a fine of \$500,000.
- 1087 5. A person who knowingly sells, purchases, manufactures,
1088 delivers, or brings into this state, or who is knowingly in
1089 actual or constructive possession of, 30 kilograms or more of
1090 any morphine, opium, oxycodone, hydrocodone, codeine,
1091 hydromorphone, or any salt, derivative, isomer, or salt of an
1092 isomer thereof, including heroin, as described in s.
1093 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
1094 more of any mixture containing any such substance, commits the
1095 first degree felony of trafficking in illegal drugs. A person
1096 who has been convicted of the first degree felony of trafficking
1097 in illegal drugs under this subparagraph shall be punished by
1098 life imprisonment and is ineligible for any form of
1099 discretionary early release except pardon or executive clemency,
1100 ~~or~~ conditional medical release under s. 945.0911, or conditional



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1101 aging inmate release under s. 945.0912 ~~s. 947.149~~. However, if
1102 the court determines that, in addition to committing any act
1103 specified in this paragraph:

1104 a. The person intentionally killed an individual or
1105 counseled, commanded, induced, procured, or caused the
1106 intentional killing of an individual and such killing was the
1107 result; or

1108 b. The person's conduct in committing that act led to a
1109 natural, though not inevitable, lethal result,

1110

1111 such person commits the capital felony of trafficking in illegal
1112 drugs, punishable as provided in ss. 775.082 and 921.142. A
1113 person sentenced for a capital felony under this paragraph shall
1114 also be sentenced to pay the maximum fine provided under
1115 subparagraph 1.

1116 6. A person who knowingly brings into this state 60
1117 kilograms or more of any morphine, opium, oxycodone,
1118 hydrocodone, codeine, hydromorphone, or any salt, derivative,
1119 isomer, or salt of an isomer thereof, including heroin, as
1120 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
1121 60 kilograms or more of any mixture containing any such
1122 substance, and who knows that the probable result of such
1123 importation would be the death of a person, commits capital
1124 importation of illegal drugs, a capital felony punishable as
1125 provided in ss. 775.082 and 921.142. A person sentenced for a
1126 capital felony under this paragraph shall also be sentenced to
1127 pay the maximum fine provided under subparagraph 1.

1128 (g)1. Any person who knowingly sells, purchases,
1129 manufactures, delivers, or brings into this state, or who is



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1130 knowingly in actual or constructive possession of, 4 grams or
1131 more of flunitrazepam or any mixture containing flunitrazepam as
1132 described in s. 893.03(1)(a) commits a felony of the first
1133 degree, which felony shall be known as "trafficking in
1134 flunitrazepam," punishable as provided in s. 775.082, s.
1135 775.083, or s. 775.084. If the quantity involved:

1136 a. Is 4 grams or more but less than 14 grams, such person
1137 shall be sentenced to a mandatory minimum term of imprisonment
1138 of 3 years, and the defendant shall be ordered to pay a fine of
1139 \$50,000.

1140 b. Is 14 grams or more but less than 28 grams, such person
1141 shall be sentenced to a mandatory minimum term of imprisonment
1142 of 7 years, and the defendant shall be ordered to pay a fine of
1143 \$100,000.

1144 c. Is 28 grams or more but less than 30 kilograms, such
1145 person shall be sentenced to a mandatory minimum term of
1146 imprisonment of 25 calendar years and pay a fine of \$500,000.

1147 2. Any person who knowingly sells, purchases, manufactures,
1148 delivers, or brings into this state or who is knowingly in
1149 actual or constructive possession of 30 kilograms or more of
1150 flunitrazepam or any mixture containing flunitrazepam as
1151 described in s. 893.03(1)(a) commits the first degree felony of
1152 trafficking in flunitrazepam. A person who has been convicted of
1153 the first degree felony of trafficking in flunitrazepam under
1154 this subparagraph shall be punished by life imprisonment and is
1155 ineligible for any form of discretionary early release except
1156 pardon or executive clemency, ~~or~~ conditional medical release
1157 under s. 945.0911, or conditional aging inmate release under s.
1158 945.0912 ~~s. 947.149~~. However, if the court determines that, in



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1159 addition to committing any act specified in this paragraph:

1160 a. The person intentionally killed an individual or
1161 counseled, commanded, induced, procured, or caused the
1162 intentional killing of an individual and such killing was the
1163 result; or

1164 b. The person's conduct in committing that act led to a
1165 natural, though not inevitable, lethal result,

1166

1167 such person commits the capital felony of trafficking in
1168 flunitrazepam, punishable as provided in ss. 775.082 and
1169 921.142. Any person sentenced for a capital felony under this
1170 paragraph shall also be sentenced to pay the maximum fine
1171 provided under subparagraph 1.

1172 (3) Notwithstanding ~~the provisions of~~ s. 948.01, with
1173 respect to any person who is found to have violated this
1174 section, adjudication of guilt or imposition of sentence may
1175 ~~shall~~ not be suspended, deferred, or withheld, nor shall such
1176 person be eligible for parole before ~~prior to~~ serving the
1177 mandatory minimum term of imprisonment prescribed by this
1178 section. A person sentenced to a mandatory minimum term of
1179 imprisonment under this section is not eligible for any form of
1180 discretionary early release, except pardon or executive
1181 clemency, ~~or~~ conditional medical release under s. 945.0911 ~~or~~
1182 947.149, or conditional aging inmate release under s. 945.0912,
1183 before ~~prior to~~ serving the mandatory minimum term of
1184 imprisonment.

1185 (6) Notwithstanding any provision of this section, a court
1186 may impose a sentence for a violation of this section other than
1187 the mandatory minimum term of imprisonment and mandatory fine if



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1188 the court finds on the record that all of the following
1189 circumstances exist:

1190 (a) The person did not engage in a continuing criminal
1191 enterprise as defined in s. 893.20(1).

1192 (b) The person did not use or threaten violence or use a
1193 weapon during the commission of the crime.

1194 (c) The person did not cause a death or serious bodily
1195 injury.

1196 Section 9. Section 921.002, Florida Statutes, is amended to
1197 read:

1198 921.002 The Public Safety Criminal Punishment Code.—The
1199 Public Safety Code applies ~~Criminal Punishment Code shall apply~~
1200 to all felony offenses, except capital felonies, committed on or
1201 after October 1, 1998.

1202 (1) The provision of criminal penalties and of limitations
1203 upon the application of such penalties is a matter of
1204 predominantly substantive law and, as such, is a matter properly
1205 addressed by the Legislature. The Legislature, in the exercise
1206 of its authority and responsibility to establish sentencing
1207 criteria, to provide for the imposition of criminal penalties,
1208 and to make the best use of state prisons so that violent
1209 criminal offenders are appropriately incarcerated, has
1210 determined that it is in the best interest of the state to
1211 develop, implement, and revise a sentencing policy. The Public
1212 Safety Criminal Punishment Code embodies the principles that:

1213 (a) Sentencing is neutral with respect to race, gender, and
1214 social and economic status.

1215 (b) The primary purpose of sentencing is public safety ~~to~~
1216 ~~punish the offender~~. Rehabilitation is a desired goal of the



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1217 criminal justice system but is subordinate to the goal of public
1218 safety punishment.

1219 (c) The penalty imposed is commensurate with the severity
1220 of the primary offense and the circumstances surrounding the
1221 primary offense.

1222 (d) The severity of the sentence increases with the length
1223 and nature of the offender's prior record.

1224 (e) The sentence imposed by the sentencing judge reflects
1225 the length of actual time to be served, shortened only by the
1226 application of incentive and meritorious gain-time as provided
1227 by law, and may not be shortened if the defendant would
1228 consequently serve less than 85 percent of his or her term of
1229 imprisonment as provided in s. 944.275(4). ~~The provisions of~~
1230 Chapter 947, relating to parole, does shall not apply to persons
1231 sentenced under the Public Safety Criminal Punishment Code.

1232 (f) Departures below the lowest permissible sentence
1233 established by the code must be articulated in writing by the
1234 trial court judge and made only when circumstances or factors
1235 reasonably justify the mitigation of the sentence. The level of
1236 proof necessary to establish facts that support a departure from
1237 the lowest permissible sentence is a preponderance of the
1238 evidence.

1239 (g) The trial court judge may impose a sentence up to and
1240 including the statutory maximum for any offense, including an
1241 offense that is before the court due to a violation of probation
1242 or community control.

1243 (h) A sentence may be appealed on the basis that it departs
1244 from the Public Safety Criminal Punishment Code only if the
1245 sentence is below the lowest permissible sentence or as



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1246 enumerated in s. 924.06(1).

1247 (i) Use of incarcerative sanctions is prioritized toward
1248 offenders convicted of serious offenses and certain offenders
1249 who have long prior records, in order to maximize the finite
1250 capacities of state and local correctional facilities.

1251 (2) When a defendant is before the court for sentencing for
1252 more than one felony and the felonies were committed under more
1253 than one version or revision of the former sentencing guidelines
1254 or the code, each felony shall be sentenced under the guidelines
1255 or the code in effect at the time the particular felony was
1256 committed. This subsection does not apply to sentencing for any
1257 capital felony.

1258 (3) A court may impose a departure below the lowest
1259 permissible sentence based upon circumstances or factors that
1260 reasonably justify the mitigation of the sentence in accordance
1261 with s. 921.0026. The level of proof necessary to establish
1262 facts supporting the mitigation of a sentence is a preponderance
1263 of the evidence. When multiple reasons exist to support the
1264 mitigation, the mitigation shall be upheld when at least one
1265 circumstance or factor justifies the mitigation regardless of
1266 the presence of other circumstances or factors found not to
1267 justify mitigation. Any sentence imposed below the lowest
1268 permissible sentence must be explained in writing by the trial
1269 court judge.

1270 (4) (a) The Department of Corrections shall report on trends
1271 in sentencing practices and sentencing score thresholds and
1272 provide an analysis on the sentencing factors considered by the
1273 courts and shall submit this information to the Legislature by
1274 October 1 of each year.



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1275 (b) The Criminal Justice Estimating Conference, with the
1276 assistance of the Department of Corrections, shall estimate the
1277 impact of any proposed change to the Public Safety Criminal
1278 ~~Punishment~~ Code on future rates of incarceration and on the
1279 prison population. The Criminal Justice Estimating Conference
1280 shall base its projections on historical data concerning
1281 sentencing practices which have been accumulated by the
1282 Department of Corrections and other relevant data from other
1283 state agencies and records of the Department of Corrections
1284 which disclose the average time served for offenses covered by
1285 any proposed changes to the Public Safety Criminal Punishment
1286 Code.

1287 (c) In order to produce projects that are either required
1288 by law or requested by the Legislature to assist the Legislature
1289 in making modifications to the Public Safety Criminal Punishment
1290 Code, the Department of Corrections is authorized to collect and
1291 evaluate Public Safety Criminal Punishment Code scoresheets from
1292 each of the judicial circuits after sentencing. Beginning in
1293 1999, by October 1 of each year, the Department of Corrections
1294 shall provide an annual report to the Legislature that shows the
1295 rate of compliance of each judicial circuit in providing
1296 scoresheets to the department.

1297 Section 10. Paragraph (a) of subsection (2) of section
1298 921.1402, Florida Statutes, is amended, and subsection (4) of
1299 that section is reenacted, to read:

1300 921.1402 Review of sentences for persons convicted of
1301 specified offenses committed while under the age of 18 years.—

1302 (2) (a) A juvenile offender sentenced under s.
1303 775.082(1)(b)1. is entitled to a review of his or her sentence



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1304 after 25 years. However, a juvenile offender is not entitled to
1305 review if he or she has previously been convicted of committing
1306 ~~one of the following offenses~~, or of conspiracy to commit ~~one of~~
1307 ~~the following offenses~~, murder if the murder offense for which
1308 the person was previously convicted was part of a separate
1309 criminal transaction or episode than the murder ~~that~~ which
1310 resulted in the sentence under s. 775.082(1)(b)1.+

- 1311 ~~1. Murder;~~
- 1312 ~~2. Manslaughter;~~
- 1313 ~~3. Sexual battery;~~
- 1314 ~~4. Armed burglary;~~
- 1315 ~~5. Armed robbery;~~
- 1316 ~~6. Armed carjacking;~~
- 1317 ~~7. Home invasion robbery;~~
- 1318 ~~8. Human trafficking for commercial sexual activity with a~~
1319 ~~child under 18 years of age;~~
- 1320 ~~9. False imprisonment under s. 787.02(3)(a); or~~
- 1321 ~~10. Kidnapping.~~

1322 (4) A juvenile offender seeking sentence review pursuant to
1323 subsection (2) must submit an application to the court of
1324 original jurisdiction requesting that a sentence review hearing
1325 be held. The juvenile offender must submit a new application to
1326 the court of original jurisdiction to request subsequent
1327 sentence review hearings pursuant to paragraph (2)(d). The
1328 sentencing court shall retain original jurisdiction for the
1329 duration of the sentence for this purpose.

1330 Section 11. Section 921.14021, Florida Statutes, is created
1331 to read:

1332 921.14021 Retroactive application relating to s. 921.1402;



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1333 legislative intent; review of sentence.—

1334 (1) It is the intent of the Legislature to retroactively
1335 apply the amendments made to s. 921.1402 which took effect
1336 October 1, 2020, only as provided in this section, to juvenile
1337 offenders convicted of a capital offense and sentenced under s.
1338 775.082(1)(b)1. who have been ineligible for sentence review
1339 hearings because of a previous conviction of an offense
1340 enumerated in s. 921.1402(2)(a), thereby providing such juvenile
1341 offenders with an opportunity for consideration by a court and
1342 an opportunity for release if deemed appropriate under law.

1343 (2) A juvenile offender, as defined in s. 921.1402, who was
1344 convicted of a capital offense and sentenced under s.
1345 775.082(1)(b)1., and who was ineligible for a sentence review
1346 hearing pursuant to s. 921.1402(2)(a)2.-10. as it existed before
1347 October 1, 2020, is entitled to a review of his or her sentence
1348 after 25 years or, if on October 1, 2020, 25 years have already
1349 passed since the sentencing, immediately.

1350 Section 12. Section 921.1403, Florida Statutes, is created
1351 to read:

1352 921.1403 Review of sentences for persons convicted of
1353 specified offenses committed while under 25 years of age.—

1354 (1) It is the intent of the Legislature to retroactively
1355 apply the amendments to this section which took effect October
1356 1, 2020.

1357 (2) As used in this section, the term "young adult
1358 offender" means a person who committed an offense before he or
1359 she reached 25 years of age and for which he or she is sentenced
1360 to a term of years in the custody of the Department of
1361 Corrections, regardless of the date of sentencing.



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1362 (3) A young adult offender is not entitled to a sentence
1363 review under this section if he or she has previously been
1364 convicted of committing, or of conspiring to commit, murder if
1365 the murder offense for which the person was previously convicted
1366 was part of a separate criminal transaction or episode than that
1367 which resulted in the sentence under s. 775.082(3)(a)1., 2., 3.,
1368 4., or 6. or (b)1.

1369 (4)(a)1. A young adult offender who is convicted of an
1370 offense that is a life felony, that is punishable by a term of
1371 years not exceeding life imprisonment, or that was reclassified
1372 as a life felony and he or she is sentenced to a term of more
1373 than 20 years under s. 775.082(3)(a)1., 2., 3., 4., or 6., is
1374 entitled to a review of his or her sentence after 20 years.

1375 2. This paragraph does not apply to a person who is
1376 eligible for sentencing under s. 775.082(3)(a)5. or s.
1377 775.082(3)(c).

1378 (b) A young adult offender who is convicted of an offense
1379 that is a felony of the first degree or that was reclassified as
1380 a felony of the first degree and he or she is sentenced to a
1381 term of more than 15 years under s. 775.082(3)(b)1. is entitled
1382 to a review of his or her sentence after 15 years.

1383 (5) The Department of Corrections must notify a young adult
1384 offender in writing of his or her eligibility to request a
1385 sentence review hearing 18 months before the young adult
1386 offender is entitled to a sentence review hearing or notify him
1387 or her immediately in writing if the offender is eligible as of
1388 October 1, 2020.

1389 (6) A young adult offender seeking a sentence review
1390 hearing under this section must submit an application to the



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1391 court of original jurisdiction requesting that a sentence review
1392 hearing be held. The young adult offender must submit a new
1393 application to the court of original jurisdiction to request a
1394 subsequent sentence review hearing pursuant to subsection (8).
1395 The sentencing court shall retain original jurisdiction for the
1396 duration of the sentence for this purpose.

1397 (7) A young adult offender who is eligible for a sentence
1398 review hearing under this section is entitled to be represented
1399 by counsel, and the court shall appoint a public defender to
1400 represent the young adult offender if he or she cannot afford an
1401 attorney.

1402 (8) If the young adult offender seeking sentence review
1403 under paragraph (4) (a) or (4) (b) is not resentenced at the
1404 initial sentence review hearing, he or she is eligible for one
1405 subsequent review hearing 5 years after the initial review
1406 hearing.

1407 (9) Upon receiving an application from an eligible young
1408 adult offender, the original sentencing court must hold a
1409 sentence review hearing to determine whether to modify the young
1410 adult offender's sentence. When determining if it is appropriate
1411 to modify the young adult offender's sentence, the court must
1412 consider any factor it deems appropriate, including, but not
1413 limited to:

1414 (a) Whether the young adult offender demonstrates maturity
1415 and rehabilitation.

1416 (b) Whether the young adult offender remains at the same
1417 level of risk to society as he or she did at the time of the
1418 initial sentencing.

1419 (c) The opinion of the victim or the victim's next of kin.



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1420 The absence of the victim or the victim's next of kin from the
1421 sentence review hearing may not be a factor in the determination
1422 of the court under this section. The court must allow the victim
1423 or victim's next of kin to be heard in person, in writing, or by
1424 electronic means. If the victim or the victim's next of kin
1425 chooses not to participate in the hearing, the court may
1426 consider previous statements made by the victim or the victim's
1427 next of kin during the trial, initial sentencing phase, or
1428 previous sentencing review hearings.

1429 (d) Whether the young adult offender was a relatively minor
1430 participant in the criminal offense or whether he or she acted
1431 under extreme duress or under the domination of another person.

1432 (e) Whether the young adult offender has shown sincere and
1433 sustained remorse for the criminal offense.

1434 (f) Whether the young adult offender's age, maturity, or
1435 psychological development at the time of the offense affected
1436 his or her behavior.

1437 (g) Whether the young adult offender has successfully
1438 obtained a high school equivalency diploma or completed another
1439 educational, technical, work, vocational, or self-rehabilitation
1440 program, if such a program is available.

1441 (h) Whether the young adult offender was a victim of
1442 sexual, physical, or emotional abuse before he or she committed
1443 the offense.

1444 (i) The results of any mental health assessment, risk
1445 assessment, or evaluation of the young adult offender as to
1446 rehabilitation.

1447 (10) (a) If the court determines at a sentence review
1448 hearing that the young adult offender who is seeking sentence



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1449 review under paragraph (4) (a) has been rehabilitated and is
1450 reasonably believed to be fit to reenter society, the court may
1451 modify the sentence and impose a term of probation of at least 5
1452 years.

1453 (b) If the court determines at a sentence review hearing
1454 that the young adult offender who is seeking sentence review
1455 under paragraph (4) (b) has been rehabilitated and is reasonably
1456 believed to be fit to reenter society, the court may modify the
1457 sentence and impose a term of probation of at least 3 years.

1458 (c) If the court determines that the young adult offender
1459 seeking sentence review under paragraph (4) (a) or (4) (b) has not
1460 demonstrated rehabilitation or is not fit to reenter society,
1461 the court must issue a written order stating the reasons why the
1462 sentence is not being modified.

1463 Section 13. Effective July 1, 2020, section 925.11, Florida
1464 Statutes, is amended to read:

1465 925.11 Postsentencing forensic analysis DNA testing.-

1466 (1) DEFINITIONS.—As used in this section, the term:

1467 (a) "Forensic analysis" means the process by which a
1468 forensic or scientific technique is applied to evidence or
1469 biological material to identify the perpetrator of, or an
1470 accomplice to, a crime. The term includes, but is not limited
1471 to, deoxyribonucleic acid (DNA) testing.

1472 (b) "Petitioner" means a defendant who has been convicted
1473 of and sentenced for a felony.

1474 (2) (1) PETITION FOR EXAMINATION.—

1475 (a) 1- A person who has entered a plea of guilty or nolo
1476 contendere to a felony before July 1, 2020, or who has been
1477 tried and found guilty of committing a felony and has been



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1478 sentenced by a court established by the laws of this state may
1479 petition that court to order the forensic analysis examination
1480 of physical evidence collected at the time of the investigation
1481 of the crime for which he or she has been sentenced which may
1482 result in evidence material to the identity of the perpetrator
1483 of, or an accomplice to, the crime that resulted in the person's
1484 conviction that may contain DNA (deoxyribonucleic acid) and that
1485 would exonerate that person or mitigate the sentence that person
1486 received.

1487 2. A person who has entered a plea of guilty or nolo
1488 contendere to a felony prior to July 1, 2006, and has been
1489 sentenced by a court established by the laws of this state may
1490 petition that court to order the examination of physical
1491 evidence collected at the time of the investigation of the crime
1492 for which he or she has been sentenced that may contain DNA
1493 (deoxyribonucleic acid) and that would exonerate that person.

1494 (b) A petition for postsentencing forensic analysis DNA
1495 testing under paragraph (a) may be filed or considered at any
1496 time following the date that the judgment and sentence in the
1497 case becomes final.

1498 (3) (2) METHOD FOR SEEKING POSTSENTENCING FORENSIC ANALYSIS
1499 DNA TESTING.—

1500 (a) A The petition for postsentencing forensic analysis DNA
1501 testing must be made under oath by the sentenced defendant and
1502 must include all the following:

1503 1. A statement of the facts relied on in support of the
1504 petition, including a description of the physical evidence
1505 containing DNA to be tested and, if known, the present location
1506 or the last known location of the evidence and how it was



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1507 originally obtained;

1508 2. A statement that the evidence was not previously
1509 ~~subjected to forensic analysis tested for DNA~~ or a statement
1510 that the results of any previous ~~forensic analysis DNA testing~~
1511 were inconclusive and that subsequent scientific developments in
1512 ~~forensic analysis DNA testing techniques~~ would likely produce
1513 ~~evidence material to a definitive result establishing that the~~
1514 ~~identity of the perpetrator of, or an accomplice to, petitioner~~
1515 ~~is not the person who committed the crime;~~

1516 3. A statement that the ~~petitioner sentenced defendant~~ is
1517 innocent and how the ~~forensic analysis DNA testing~~ requested by
1518 the ~~petitioner~~ may result in evidence that is material to
1519 ~~petition will exonerate the identity of the perpetrator of, or~~
1520 ~~an accomplice to, the defendant of the crime for which the~~
1521 ~~defendant was sentenced or will mitigate the sentence received~~
1522 ~~by the defendant for that crime;~~

1523 4. A statement that identification of the ~~petitioner~~
1524 ~~defendant~~ is a genuinely disputed issue in the case, and why it
1525 is an issue;

1526 5. ~~A statement that the petitioner will comply with any~~
1527 ~~court order to provide a biological sample for the purpose of~~
1528 ~~conducting requested forensic analysis and acknowledging such~~
1529 ~~analysis could produce exculpatory evidence or evidence~~
1530 ~~confirming the petitioner's identity as the perpetrator of, or~~
1531 ~~an accomplice to, the crime or a separate crime;~~

1532 ~~6.5-~~ Any other facts relevant to the petition; ~~and~~

1533 ~~7.6-~~ A certificate that a copy of the petition has been
1534 served on the prosecuting authority; ~~and~~

1535 8. The petitioner's sworn statement attesting to the



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1536 contents of the petition.

1537 (b) Upon receiving the petition, the clerk of the court
1538 shall file it and deliver the court file to the assigned judge.

1539 (c) The court shall review the petition and deny it if it
1540 is insufficient. If the petition is sufficient, the prosecuting
1541 authority shall be ordered to respond to the petition within 30
1542 days.

1543 (d) Upon receiving the response of the prosecuting
1544 authority, the court shall review the response and enter an
1545 order on the merits of the petition or set the petition for a
1546 hearing.

1547 (e) Counsel may be appointed to assist the petitioner
1548 ~~sentenced defendant~~ if the petition proceeds to a hearing and if
1549 the court determines that the assistance of counsel is necessary
1550 and makes the requisite finding of indigency.

1551 (f) The court shall make all the following findings when
1552 ruling on the petition:

1553 1. Whether the petitioner sentenced defendant has shown
1554 that ~~the~~ physical evidence that may be subjected to forensic
1555 analysis contain DNA still exists;

1556 2. Whether the results of forensic analysis DNA testing of
1557 that physical evidence would be admissible at trial and whether
1558 there exists reliable proof to establish that the evidence has
1559 not been materially altered and would be admissible at a future
1560 hearing; and

1561 3. Whether there is a reasonable probability the forensic
1562 analysis may result in evidence that is material to the identity
1563 of the perpetrator of, or an accomplice to, the crime there is a
1564 reasonable probability that the sentenced defendant would have



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1565 ~~been acquitted or would have received a lesser sentence if the~~
1566 ~~DNA evidence had been admitted at trial.~~

1567 (g) If the court orders forensic analysis ~~DNA testing~~ of
1568 the physical evidence, the cost of such analysis testing may be
1569 assessed against the petitioner ~~sentenced defendant~~ unless he or
1570 she is indigent. If the petitioner ~~sentenced defendant~~ is
1571 indigent, the state shall bear the cost of the forensic analysis
1572 ~~DNA testing~~ ordered by the court, unless specified otherwise in
1573 accordance with paragraph (i).

1574 (h) Except as provided in paragraph (i), any forensic
1575 analysis ~~DNA testing~~ ordered by the court shall be performed
1576 carried out by the Department of Law Enforcement or its
1577 designee, as provided in s. 943.3251.

1578 (i) The court may order forensic analysis to be performed
1579 by a private laboratory and may assess the cost of such analysis
1580 against the petitioner if:

1581 1. The prosecuting authority and the petitioner mutually
1582 select a private laboratory to perform the forensic analysis;

1583 2. The petitioner makes a sufficient showing that the
1584 forensic analysis ordered by the court is of such a nature that
1585 it cannot be performed by the Department of Law Enforcement or
1586 its designee; or

1587 3. The petitioner makes a sufficient showing that the
1588 forensic analysis will be significantly delayed because of a
1589 state laboratory backlog.

1590 (j) Before the court may order forensic analysis to be
1591 performed by a private laboratory, the petitioner shall certify
1592 to the court that the private laboratory is:

1593 1. Accredited by an accreditation body that is a signatory



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1594 to the International Laboratory Accreditation Cooperation Mutual
1595 Recognition Agreement; and

1596 2. Designated by the Federal Bureau of Investigation as
1597 possessing an accreditation that includes DNA testing and the
1598 laboratory is compliant with Federal Bureau of Investigation
1599 quality assurance standards adopted in accordance with 34 U.S.C.
1600 s. 12591, if DNA testing is requested.

1601 (k) If the court orders forensic analysis in the form of
1602 DNA testing and the resulting DNA sample meets statewide DNA
1603 database submission standards established by the Department of
1604 Law Enforcement, the department must perform a DNA database
1605 search. A private laboratory ordered to perform forensic
1606 analysis under paragraph (i) must cooperate with the prosecuting
1607 authority and the Department of Law Enforcement for the purpose
1608 of carrying out this requirement.

1609 1. The department shall compare any DNA profiles obtained
1610 from the testing to:

1611 a. DNA profiles of known offenders maintained in the
1612 statewide DNA database under s. 943.325;

1613 b. DNA profiles from unsolved crimes maintained in the
1614 statewide DNA database under s. 943.325; and

1615 c. Any local DNA databases maintained by a law enforcement
1616 agency in the judicial circuit in which the petitioner was
1617 convicted.

1618 2. If the testing complies with Federal Bureau of
1619 Investigation requirements and the data meets national DNA index
1620 system criteria, the department shall request the national DNA
1621 index system to search its database of DNA profiles using any
1622 profiles obtained from the testing.



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1623 (1)(i) The results of the forensic analysis and the results
1624 of any search of the combined DNA index system and statewide and
1625 local DNA databases ~~DNA testing~~ ordered by the court shall be
1626 provided to the court, the petitioner sentenced defendant, and
1627 the prosecuting authority. The petitioner or the state may use
1628 the information for any lawful purpose.

1629 (4)(3) RIGHT TO APPEAL; REHEARING.—

1630 (a) An appeal from the court's order on the petition for
1631 postsentencing forensic analysis ~~DNA testing~~ may be taken by any
1632 adversely affected party.

1633 (b) An order denying relief shall include a statement that
1634 the petitioner sentenced defendant has the right to appeal
1635 within 30 days after the order denying relief is entered.

1636 (c) The petitioner sentenced defendant may file a motion
1637 for rehearing of any order denying relief within 15 days after
1638 service of the order denying relief. The time for filing an
1639 appeal shall be tolled until an order on the motion for
1640 rehearing has been entered.

1641 (d) The clerk of the court shall serve on all parties a
1642 copy of any order rendered with a certificate of service,
1643 including the date of service.

1644 (5)(4) PRESERVATION OF EVIDENCE.—

1645 (a) Governmental entities that may be in possession of any
1646 physical evidence in the case, including, but not limited to,
1647 any investigating law enforcement agency, the clerk of the
1648 court, the prosecuting authority, or the Department of Law
1649 Enforcement shall maintain any physical evidence collected at
1650 the time of the crime for which a postsentencing forensic
1651 analysis ~~testing of DNA~~ may be requested.



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1652 (b) In a case in which the death penalty is imposed, the
1653 evidence shall be maintained for 60 days after execution of the
1654 sentence. In all other cases, a governmental entity may dispose
1655 of the physical evidence if the term of the sentence imposed in
1656 the case has expired and no other provision of law or rule
1657 requires that the physical evidence be preserved or retained.

1658 (c) If physical evidence requested for forensic analysis,
1659 last known to be in possession of a governmental entity, is
1660 reported to be missing or destroyed in violation of this
1661 section, the court may order the evidence custodian or other
1662 relevant official to conduct a physical search for the evidence.
1663 If a search is ordered, the governmental entity must produce a
1664 report containing all of the following information and it must
1665 be provided to the court, the petitioner, and the prosecuting
1666 authority:

1667 1. The nature of the search conducted;

1668 2. The date the search was conducted;

1669 3. The results of the search;

1670 4. Any records showing the physical evidence was lost or
1671 destroyed; and

1672 5. The signature of the person who supervised the search,
1673 attesting to the accuracy of the contents of the report.

1674 Section 14. Effective July 1, 2020, section 925.12, Florida
1675 Statutes, is amended to read:

1676 925.12 Forensic analysis ~~DNA testing~~; defendants entering
1677 pleas.—

1678 (1) For defendants who have entered a plea of guilty or
1679 nolo contendere to a felony on or after July 1, 2006, but before
1680 July 1, 2020, a defendant may petition for postsentencing



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1681 ~~forensic analysis DNA testing~~ under s. 925.11 under the
1682 following circumstances:

1683 (a) The facts on which the petition is predicated were
1684 unknown to the petitioner or the petitioner's attorney at the
1685 time the plea was entered and could not have been ascertained by
1686 the exercise of due diligence; or

1687 (b) The physical evidence for which forensic analysis DNA
1688 testing is sought was not disclosed to the defense by the state
1689 before prior to the entry of the plea by the petitioner.

1690 (2) For defendants who have entered a plea of guilty or
1691 nolo contendere to a felony on or after July 1, 2020, a
1692 defendant may petition for postsentencing forensic analysis
1693 under s. 925.11 under the following circumstances:

1694 (a) The facts on which the petition is predicated were
1695 unknown to the petitioner or the petitioner's attorney at the
1696 time the plea was entered and could not have been ascertained by
1697 the exercise of due diligence; or

1698 (b) The physical evidence for which forensic analysis is
1699 sought was not disclosed to the defense by the state before the
1700 entry of the plea by the petitioner.

1701 (3)(2) For defendants seeking to enter a plea of guilty or
1702 nolo contendere to a felony on or after July 1, 2020 ~~July 1,~~
1703 ~~2006~~, the court shall inquire of the defendant and of counsel
1704 for the defendant and the state as to physical evidence
1705 ~~containing DNA~~ known to exist that, if subjected to forensic
1706 analysis, could produce evidence that is material to the
1707 identification of the perpetrator of, or an accomplice to, the
1708 crime before ~~could exonerate the defendant prior to~~ accepting a
1709 plea of guilty or nolo contendere. If no such physical evidence



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1710 ~~containing DNA that could exonerate the defendant~~ is known to
1711 exist, the court may proceed with consideration of accepting the
1712 plea. If such physical evidence ~~containing DNA that could~~
1713 ~~exonerate the defendant~~ is known to exist, the court may
1714 postpone the proceeding on the defendant's behalf and order
1715 forensic analysis DNA testing upon motion of counsel specifying
1716 the physical evidence to be tested.

1717 (4)(3) It is the intent of the Legislature that the Supreme
1718 Court adopt rules of procedure consistent with this section for
1719 a court, before prior to the acceptance of a plea, to make an
1720 inquiry into all of the following matters:

1721 (a) Whether counsel for the defense has reviewed the
1722 discovery disclosed by the state and whether such discovery
1723 included a listing or description of physical items of evidence.

1724 (b) Whether the nature of the evidence against the
1725 defendant disclosed through discovery has been reviewed with the
1726 defendant.

1727 (c) Whether the defendant or counsel for the defendant is
1728 aware of any physical evidence disclosed by the state for which
1729 forensic analysis could produce a result material to the
1730 identification of the perpetrator of, or an accomplice to, the
1731 crime ~~DNA testing may exonerate the defendant.~~

1732 (d) Whether the state is aware of any physical evidence for
1733 which forensic analysis could produce a result material to the
1734 identification of the perpetrator of, or an accomplice to, the
1735 crime ~~DNA testing may exonerate the defendant.~~

1736 (5)(4) It is the intent of the Legislature that the
1737 postponement of the proceedings by the court on the defendant's
1738 behalf under subsection (3) (2) constitute an extension



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1739 attributable to the defendant for purposes of the defendant's
1740 right to a speedy trial.

1741 Section 15. Effective upon the same date that SB 1506 or
1742 similar legislation takes effect, only if such legislation is
1743 adopted in the same legislative session or an extension thereof
1744 and becomes a law, section 943.0587, Florida Statutes, is
1745 created to read:

1746 943.0587 Driving while license suspended, revoked,
1747 canceled, or disqualified expunction.-

1748 (1) DEFINITIONS.-As used in this section, the term:

1749 (a) "Former s. 322.34" is a reference to s. 322.34 as it
1750 existed at any time before its amendment by chapter 2019-167,
1751 Laws of Florida.

1752 (b) "New s. 322.34" is a reference to s. 322.34 as it
1753 exists after the amendments made by chapter 2019-167, Laws of
1754 Florida, became effective.

1755 (c) "Expunction" has the same meaning and effect as in s.
1756 943.0585.

1757 (2) ELIGIBILITY.-Notwithstanding any other law, a person is
1758 eligible to petition a court to expunge a criminal history
1759 record for a conviction under former s. 322.34 if:

1760 (a) The person received a withholding of adjudication or
1761 adjudication of guilt for a violation of former s. 322.34 for
1762 driving while license suspended, revoked, canceled, or
1763 disqualified and whose conviction would not be classified as a
1764 felony under new s. 322.34; and

1765 (b) The person has never been convicted of a felony other
1766 than for the felony offenses of the former s. 322.34 for driving
1767 while license suspended, revoked, canceled, or disqualified.



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1768 (3) CERTIFICATE OF ELIGIBILITY.-Before petitioning a court
1769 to expunge a criminal history record under this section, a
1770 person seeking to expunge a criminal history record must apply
1771 to the department for a certificate of eligibility for
1772 expunction. The department shall adopt rules to establish
1773 procedures for applying for and issuing a certificate of
1774 eligibility for expunction.

1775 (a) The department shall issue a certificate of eligibility
1776 for expunction to a person who is the subject of a criminal
1777 history record under this section if that person:

1778 1. Satisfies the eligibility criteria in subsection (2);

1779 2. Has submitted to the department a written certified
1780 statement from the appropriate state attorney or statewide
1781 prosecutor which confirms the criminal history record complies
1782 with the criteria in subsection (2);

1783 3. Has submitted to the department a certified copy of the
1784 disposition of the charge or charges to which the petition to
1785 expunge pertains; and

1786 4. Remits a \$75 processing fee to the department for
1787 placement in the Department of Law Enforcement Operating Trust
1788 Fund, unless the executive director waives such fee.

1789 (b) A certificate of eligibility for expunction is valid
1790 for 12 months after the date stamped on the certificate when
1791 issued by the department. After that time, the petitioner must
1792 reapply to the department for a new certificate of eligibility.
1793 The petitioner's status and the law in effect at the time of the
1794 renewal application determine the petitioner's eligibility.

1795 (4) PETITION.-Each petition to expunge a criminal history
1796 record must be accompanied by the following:



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1797 (a) A valid certificate of eligibility issued by the
1798 department.
1799 (b) The petitioner's sworn statement that he or she:
1800 1. Satisfies the eligibility requirements for expunction in
1801 subsection (2); and
1802 2. Is eligible for expunction to the best of his or her
1803 knowledge.
1804 (5) PENALTIES.—A person who knowingly provides false
1805 information on such sworn statement commits a felony of the
1806 third degree, punishable as provided in s. 775.082, s. 775.083,
1807 or s. 775.084.
1808 (6) COURT AUTHORITY.—
1809 (a) The courts of this state have jurisdiction over their
1810 own procedures, including the maintenance, expunction, and
1811 correction of judicial records containing criminal history
1812 information to the extent that such procedures are not
1813 inconsistent with the conditions, responsibilities, and duties
1814 established by this section.
1815 (b) A court of competent jurisdiction shall order a
1816 criminal justice agency to expunge the criminal history record
1817 of a person who complies with the requirements of this section.
1818 The court may not order a criminal justice agency to expunge a
1819 criminal history record under this section until the person
1820 seeking to expunge a criminal history record has applied for and
1821 received a certificate of eligibility under subsection (3).
1822 (c) Expunction granted under this section does not prevent
1823 the person who receives such relief from petitioning for the
1824 expunction or sealing of a later criminal history record, as
1825 provided for in ss. 943.0583, 943.0585, and 943.059, if the



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1826 person is otherwise eligible under those sections.
1827 (7) PROCESSING OF A PETITION OR AN ORDER.—
1828 (a) In a judicial proceeding under this section, a copy of
1829 the completed petition to expunge shall be served upon the
1830 appropriate state attorney or the statewide prosecutor and upon
1831 the arresting agency; however, it is not necessary to make any
1832 agency other than the state a party. The appropriate state
1833 attorney or the statewide prosecutor and the arresting agency
1834 may respond to the court regarding the completed petition to
1835 expunge.
1836 (b) If relief is granted by the court, the clerk of the
1837 court shall certify copies of the order to the appropriate state
1838 attorney or the statewide prosecutor and the arresting agency.
1839 The arresting agency shall forward the order to any other agency
1840 to which the arresting agency disseminated the criminal history
1841 record information to which the order pertains. The department
1842 shall forward the order to expunge to the Federal Bureau of
1843 Investigation. The clerk of the court shall certify a copy of
1844 the order to any other agency which the records of the court
1845 reflect has received the criminal history record from the court.
1846 (c) The department or any other criminal justice agency is
1847 not required to act on an order to expunge entered by a court
1848 when such order does not comply with the requirements of this
1849 section. Upon receipt of such an order, the department must
1850 notify the issuing court, the appropriate state attorney or
1851 statewide prosecutor, the petitioner or the petitioner's
1852 attorney, and the arresting agency of the reason for
1853 noncompliance. The appropriate state attorney or statewide
1854 prosecutor shall take action within 60 days to correct the



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1855 record and petition the court to void the order. No cause of
1856 action, including contempt of court, shall arise against any
1857 criminal justice agency for failure to comply with an order to
1858 expunge when the petitioner for such order failed to obtain the
1859 certificate of eligibility as required by this section or such
1860 order does not otherwise comply with the requirements of this
1861 section.

1862 (8) EFFECT OF EXPUNCTION ORDER.-

1863 (a) The person who is the subject of a criminal history
1864 record that is expunged under this section may lawfully deny or
1865 fail to acknowledge the arrests and convictions covered by the
1866 expunged record, except when the person who is the subject of
1867 the record:

1868 1. Is a candidate for employment with a criminal justice
1869 agency;

1870 2. Is a defendant in a criminal prosecution;

1871 3. Concurrently or subsequently petitions for relief under
1872 this section, s. 943.0583, s. 943.0585, or s. 943.059;

1873 4. Is a candidate for admission to The Florida Bar;

1874 5. Is seeking to be employed or licensed by or to contract
1875 with the Department of Children and Families, the Division of
1876 Vocational Rehabilitation of the Department of Education, the
1877 Agency for Health Care Administration, the Agency for Persons
1878 with Disabilities, the Department of Health, the Department of
1879 Elderly Affairs, or the Department of Juvenile Justice or to be
1880 employed or used by such contractor or licensee in a sensitive
1881 position having direct contact with children, the disabled, or
1882 the elderly;

1883 6. Is seeking to be employed or licensed by the Department



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1884 of Education, any district school board, any university
1885 laboratory school, any charter school, any private or parochial
1886 school, or any local governmental entity that licenses child
1887 care facilities;

1888 7. Is seeking to be licensed by the Division of Insurance
1889 Agent and Agency Services within the Department of Financial
1890 Services; or

1891 8. Is seeking to be appointed as a guardian pursuant to s.
1892 744.3125.

1893 (b) Subject to the exceptions in paragraph (a), a person
1894 who has been granted an expunction under this section may not be
1895 held under any law of this state to commit perjury or to be
1896 otherwise liable for giving a false statement by reason of such
1897 person's failure to recite or acknowledge an expunged criminal
1898 history record.

1899 Section 16. Effective July 1, 2020, subsections (6) and
1900 (14) of section 943.325, Florida Statutes, are amended to read:
1901 943.325 DNA database.-

1902 (6) SAMPLES.-The statewide DNA database may contain DNA
1903 data obtained from the following types of biological samples:

1904 (a) Crime scene samples.

1905 (b) Samples obtained from qualifying offenders required by
1906 this section to provide a biological sample for DNA analysis and
1907 inclusion in the statewide DNA database.

1908 (c) Samples lawfully obtained during the course of a
1909 criminal investigation.

1910 (d) Samples from deceased victims or suspects that were
1911 lawfully obtained during the course of a criminal investigation.

1912 (e) Samples from unidentified human remains.



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1913 (f) Samples from persons reported missing.
1914 (g) Samples voluntarily contributed by relatives of missing
1915 persons.

1916 (h) Samples obtained from DNA analysis ordered under s.
1917 925.11 or s. 925.12.

1918 (i) ~~(h)~~ Other samples approved by the department.

1919 (14) RESULTS.—The results of a DNA analysis and the
1920 comparison of analytic results shall be released only to
1921 criminal justice agencies as defined in s. 943.045 at the
1922 request of the agency or as required by s. 925.11 or s. 925.12.
1923 Otherwise, such information is confidential and exempt from s.
1924 119.07(1) and s. 24(a), Art. I of the State Constitution.

1925 Section 17. Effective July 1, 2020, section 943.3251,
1926 Florida Statutes, is amended to read:
1927 943.3251 Postsentencing forensic analysis and DNA database
1928 searches ~~DNA testing.~~—

1929 (1) When a court orders postsentencing forensic analysis
1930 ~~DNA testing~~ of physical evidence, pursuant to s. 925.11, the
1931 Florida Department of Law Enforcement, or its designee, or a
1932 private laboratory shall carry out the analysis. If the forensic
1933 analysis produces a DNA sample meeting statewide DNA database
1934 submission standards, the department shall conduct a DNA
1935 database search ~~testing.~~

1936 (2) The cost of forensic analysis and any database search
1937 ~~such testing~~ may be assessed against the petitioner sentenced
1938 defendant, pursuant to s. 925.11, unless he or she is indigent.

1939 (3) The results of postsentencing forensic analysis and any
1940 database search ~~DNA testing~~ shall be provided to the court, the
1941 petitioner sentenced defendant, and the prosecuting authority.



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1942 Section 18. Paragraph (a) of subsection (7) of section
1943 944.705, Florida Statutes, is amended to read:

1944 944.705 Release orientation program.—

1945 (7) (a) The department shall notify every inmate in the
1946 inmate's release documents:

1947 1. Of all outstanding terms of the inmate's sentence at the
1948 time of release to assist the inmate in determining his or her
1949 status with regard to the completion of all terms of sentence,
1950 as that term is defined in s. 98.0751. This subparagraph does
1951 not apply to inmates who are being released from the custody of
1952 the department to any type of supervision monitored by the
1953 department;

1954 2. Of the dates of admission to and release from the
1955 custody of the department, including the total length of the
1956 term of imprisonment for which he or she is being released; and

1957 3. ~~2.~~ In not less than 18-point type, that the inmate may be
1958 sentenced pursuant to s. 775.082(9) if the inmate commits any
1959 felony offense described in s. 775.082(9) within 3 years after
1960 the inmate's release. This notice must be prefaced by the word
1961 "WARNING" in boldfaced type.

1962 Section 19. Section 945.0911, Florida Statutes, is created
1963 to read:

1964 945.0911 Conditional medical release.—

1965 (1) FINDINGS.—The Legislature finds that the number of
1966 inmates with terminal medical conditions or who are suffering
1967 from severe debilitating or incapacitating medical conditions
1968 who are incarcerated in the state's prisons has grown
1969 significantly in recent years. Further, the Legislature finds
1970 that the condition of inmates who are terminally ill or



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1971 suffering from a debilitating or incapacitating condition may be
1972 exacerbated by imprisonment due to the stress linked to prison
1973 life. The Legislature also finds that recidivism rates are
1974 greatly reduced with inmates suffering from such medical
1975 conditions who are released into the community. Therefore, the
1976 Legislature finds that it is of great public importance to find
1977 a compassionate solution to the challenges presented by the
1978 imprisonment of inmates who are terminally ill or are suffering
1979 from a debilitating or incapacitating condition while also
1980 ensuring that the public safety of Florida's communities remains
1981 protected.

1982 (2) CREATION.—There is established a conditional medical
1983 release program within the department for the purpose of
1984 determining whether release is appropriate for eligible inmates,
1985 supervising the released inmates, and conducting revocation
1986 hearings as provided for in this section. The establishment of
1987 the conditional medical release program must include a panel of
1988 at least three people appointed by the secretary or his or her
1989 designee for the purpose of determining the appropriateness of
1990 conditional medical release and conducting revocation hearings
1991 on the inmate releases.

1992 (3) DEFINITIONS.—As used in this section, the term:

1993 (a) "Inmate with a debilitating illness" means an inmate
1994 who is determined to be suffering from a significant terminal or
1995 nonterminal condition, disease, or syndrome that has rendered
1996 the inmate so physically or cognitively impaired, debilitated,
1997 or incapacitated as to create a reasonable probability that the
1998 inmate does not constitute a danger to himself or herself or to
1999 others.



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2000 (b) "Permanently incapacitated inmate" means an inmate who
2001 has a condition caused by injury, disease, or illness which, to
2002 a reasonable degree of medical certainty, renders the inmate
2003 permanently and irreversibly physically incapacitated to the
2004 extent that the inmate does not constitute a danger to himself
2005 or herself or to others.

2006 (c) "Terminally ill inmate" means an inmate who has a
2007 condition caused by injury, disease, or illness which, to a
2008 reasonable degree of medical certainty, renders the inmate
2009 terminally ill to the extent that there can be no recovery,
2010 death is expected within 12 months, and the inmate does not
2011 constitute a danger to himself or herself or to others.

2012 (4) ELIGIBILITY.—An inmate is eligible for consideration
2013 for release under the conditional medical release program when
2014 the inmate, because of an existing medical or physical
2015 condition, is determined by the department to be an inmate with
2016 a debilitating illness, a permanently incapacitated inmate, or a
2017 terminally ill inmate. Notwithstanding any other law, an inmate
2018 who meets this eligibility criteria may be released from the
2019 custody of the department pursuant to this section before
2020 satisfying 85 percent of his or her term of imprisonment.

2021 (5) REFERRAL FOR CONSIDERATION.—

2022 (a)1. Notwithstanding any provision to the contrary, any
2023 inmate in the custody of the department who meets one or more of
2024 the eligibility requirements under subsection (4) must be
2025 considered for conditional medical release.

2026 2. The authority to grant conditional medical release rests
2027 solely with the department. An inmate does not have a right to
2028 release or to a medical evaluation to determine eligibility for



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2029 release pursuant to this section.

2030 (b) The department must identify inmates who may be
2031 eligible for conditional medical release based upon available
2032 medical information. In considering an inmate for conditional
2033 medical release, the department may require additional medical
2034 evidence, including examinations of the inmate, or any other
2035 additional investigations the department deems necessary for
2036 determining the appropriateness of the eligible inmate's
2037 release.

2038 (c) The department must refer an inmate to the panel
2039 established under subsection (2) for review and determination of
2040 conditional medical release upon his or her identification as
2041 potentially eligible for release pursuant to this section.

2042 (d) If the case that resulted in the inmate's commitment to
2043 the department involved a victim, and the victim specifically
2044 requested notification pursuant to s. 16, Art. I of the State
2045 Constitution, the department must notify the victim of the
2046 inmate's referral to the panel immediately upon identification
2047 of the inmate as potentially eligible for release under this
2048 section. Additionally, the victim must be afforded the right to
2049 be heard regarding the release of the inmate.

2050 (6) DETERMINATION OF RELEASE.—

2051 (a) The panel established in subsection (2) must conduct a
2052 hearing to determine whether conditional medical release is
2053 appropriate for the inmate. Before the hearing, the director of
2054 inmate health services or his or her designee must review any
2055 relevant information, including, but not limited to, medical
2056 evidence, and provide the panel with a recommendation regarding
2057 the appropriateness of releasing the inmate pursuant to this



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2058 section. The hearing must be conducted by the panel:

2059 1. By April 1, 2021, if the inmate is immediately eligible
2060 for consideration for the conditional medical release program
2061 when this section took effect on October 1, 2020.

2062 2. By July 1, 2021, if the inmate becomes eligible for
2063 consideration for the conditional medical release program after
2064 October 1, 2020, but before July 1, 2021.

2065 3. Within 45 days after receiving the referral if the
2066 inmate becomes eligible for conditional medical release any time
2067 on or after July 1, 2021.

2068 (b) A majority of the panel members must agree that the
2069 inmate is appropriate for release pursuant to this section. If
2070 conditional medical release is approved, the inmate must be
2071 released by the department to the community within a reasonable
2072 amount of time with necessary release conditions imposed
2073 pursuant to subsection (7).

2074 (c)1. An inmate who is denied conditional medical release
2075 by the panel may have the decision reviewed by the department's
2076 general counsel and chief medical officer, who must make a
2077 recommendation to the secretary. The secretary must review all
2078 relevant information and make a final decision about the
2079 appropriateness of conditional medical release pursuant to this
2080 section. The decision of the secretary is a final administrative
2081 decision not subject to appeal.

2082 2. An inmate who requests to have the decision reviewed in
2083 accordance with this paragraph must do so in a manner prescribed
2084 by rule. An inmate who is denied conditional medical release may
2085 be subsequently reconsidered for such release in a manner
2086 prescribed by department rule.



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2087 (7) RELEASE CONDITIONS.—

2088 (a) An inmate granted release pursuant to this section is
2089 released for a period equal to the length of time remaining on
2090 his or her term of imprisonment on the date the release is
2091 granted. Such inmate is considered a medical releasee upon
2092 release from the department into the community. The medical
2093 releasee must comply with all reasonable conditions of release
2094 the department imposes, which must include, at a minimum:

2095 1. Periodic medical evaluations at intervals determined by
2096 the department at the time of release.

2097 2. Supervision by an officer trained to handle special
2098 offender caseloads.

2099 3. Active electronic monitoring, if such monitoring is
2100 determined to be necessary to ensure the safety of the public
2101 and the medical releasee's compliance with release conditions.

2102 4. Any conditions of community control provided for in s.
2103 948.101.

2104 5. Any other conditions the department deems appropriate to
2105 ensure the safety of the community and compliance by the medical
2106 releasee.

2107 (b) A medical releasee is considered to be in the custody,
2108 supervision, and control of the department, which, for purposes
2109 of this section, does not create a duty for the department to
2110 provide the medical releasee with medical care upon release into
2111 the community. The medical releasee remains eligible to earn or
2112 lose gain-time in accordance with s. 944.275 and department
2113 rule. The medical releasee may not be counted in the prison
2114 system population, and the medical releasee's approved
2115 community-based housing location may not be counted in the



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2116 capacity figures for the prison system.

2117 (8) REVOCATION HEARING AND RECOMMITMENT.—

2118 (a)1. If the medical releasee's supervision officer or a
2119 duly authorized representative of the department discovers that
2120 the medical or physical condition of the medical releasee has
2121 improved to the extent that she or he would no longer be
2122 eligible for release under this section, the conditional medical
2123 release may be revoked. The department may order, as prescribed
2124 by department rule, that the medical releasee be returned to the
2125 custody of the department for a conditional medical release
2126 revocation hearing or may allow the medical releasee to remain
2127 in the community pending the revocation hearing. If the
2128 department elects to order the medical releasee to be returned
2129 to custody pending the revocation hearing, the officer or duly
2130 authorized representative may cause a warrant to be issued for
2131 the arrest of the medical releasee.

2132 2. A medical releasee may admit to the allegation of
2133 improved medical or physical condition or may elect to proceed
2134 to a revocation hearing. The revocation hearing must be
2135 conducted by the panel established in subsection (2). Before a
2136 revocation hearing pursuant to this paragraph, the director of
2137 inmate health services or his or her designee must review any
2138 medical evidence pertaining to the medical releasee and provide
2139 the panel with a recommendation regarding the medical releasee's
2140 improvement and current medical or physical condition.

2141 3. A majority of the panel members must agree that
2142 revocation is appropriate for the medical releasee's conditional
2143 medical release to be revoked. If conditional medical release is
2144 revoked due to improvement in his or her medical or physical



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2145 condition, the medical releasee must be recommitted to the
2146 department to serve the balance of his or her sentence in an
2147 institution designated by the department with credit for the
2148 time served on conditional medical release and without
2149 forfeiture of any gain-time accrued before recommitment. If the
2150 medical releasee whose conditional medical release is revoked
2151 due to an improvement in his or her medical or physical
2152 condition would otherwise be eligible for parole or any other
2153 release program, he or she may be considered for such release
2154 program pursuant to law.

2155 4. A medical releasee whose conditional medical release is
2156 revoked pursuant to this paragraph may have the decision
2157 reviewed by the department's general counsel and chief medical
2158 officer, who must make a recommendation to the secretary. The
2159 secretary must review all relevant information and make a final
2160 decision about the appropriateness of the revocation of
2161 conditional medical release pursuant to this paragraph. The
2162 decision of the secretary is a final administrative decision not
2163 subject to appeal.

2164 (b)1. The medical releasee's conditional medical release
2165 may also be revoked for violation of any release conditions the
2166 department establishes, including, but not limited to, a new
2167 violation of law. The department may terminate the medical
2168 releasee's conditional medical release and return him or her to
2169 the same or another institution designated by the department.

2170 2. If a duly authorized representative of the department
2171 has reasonable grounds to believe that a medical releasee has
2172 violated the conditions of his or her release in a material
2173 respect, such representative may cause a warrant to be issued



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2174 for the arrest of the medical releasee. A law enforcement
2175 officer or a probation officer may arrest the medical releasee
2176 without a warrant in accordance with s. 948.06 if there are
2177 reasonable grounds to believe he or she has violated the terms
2178 and conditions of his or her conditional medical release. The
2179 law enforcement officer must report the medical releasee's
2180 alleged violations to the supervising probation office or the
2181 department's emergency action center for initiation of
2182 revocation proceedings as prescribed by the department by rule.
2183 3. If the basis of the violation of release conditions is
2184 related to a new violation of law, the medical releasee must be
2185 detained without bond until his or her initial appearance, at
2186 which a judicial determination of probable cause is made. If the
2187 judge determines that there was no probable cause for the
2188 arrest, the medical releasee may be released. If the judge
2189 determines that there was probable cause for the arrest, the
2190 judge's determination also constitutes reasonable grounds to
2191 believe that the medical releasee violated the conditions of the
2192 conditional medical release.

2193 4. The department must order that the medical releasee
2194 subject to revocation under this paragraph be returned to
2195 department custody for a conditional medical release revocation
2196 hearing. A medical releasee may admit to the alleged violation
2197 of the conditions of conditional medical release or may elect to
2198 proceed to a revocation hearing. The revocation hearing must be
2199 conducted by the panel established in subsection (2).

2200 5. A majority of the panel members must agree that
2201 revocation is appropriate for the medical releasee's conditional
2202 medical release to be revoked. If conditional medical release is



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2203 revoked pursuant to this paragraph, the medical releasee must
2204 serve the balance of his or her sentence in an institution
2205 designated by the department with credit for the actual time
2206 served on conditional medical release. The releasee's gain-time
2207 accrued before recommitment may be forfeited pursuant to s.
2208 944.28(1). If the medical releasee whose conditional medical
2209 release is revoked subject to this paragraph would otherwise be
2210 eligible for parole or any other release program, he or she may
2211 be considered for such release program pursuant to law.
2212 6. A medical releasee whose conditional medical release has
2213 been revoked pursuant to this paragraph may have the revocation
2214 reviewed by the department's general counsel, who must make a
2215 recommendation to the secretary. The secretary must review all
2216 relevant information and make a final decision about the
2217 appropriateness of the revocation of conditional medical release
2218 pursuant to this paragraph. The decision of the secretary is a
2219 final administrative decision not subject to appeal.
2220 (c)1. If the medical releasee subject to revocation under
2221 paragraph (a) or paragraph (b) elects to proceed with a hearing,
2222 the medical releasee must be informed orally and in writing of
2223 the following:
2224 a. The alleged basis for the pending revocation proceeding
2225 against the releasee.
2226 b. The releasee's right to be represented by counsel.
2227 However, this sub-subparagraph does not create a right to
2228 publicly funded legal counsel.
2229 c. The releasee's right to be heard in person.
2230 d. The releasee's right to secure, present, and compel the
2231 attendance of witnesses relevant to the proceeding.



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2232 e. The releasee's right to produce documents on his or her
2233 own behalf.
2234 f. The releasee's right of access to all evidence used to
2235 support the revocation proceeding against the releasee and to
2236 confront and cross-examine adverse witnesses.
2237 g. The releasee's right to waive the hearing.
2238 2. If the panel approves the revocation of the medical
2239 releasee's conditional medical release under paragraph (a) or
2240 paragraph (b), the panel must provide a written statement as to
2241 evidence relied on and reasons for revocation.
2242 (d) A medical releasee whose conditional medical release is
2243 revoked and who is recommitted to the department under this
2244 subsection must comply with the 85 percent requirement in
2245 accordance with ss. 921.002 and 944.275 upon recommitment.
2246 (9) SPECIAL REQUIREMENTS UPON AN INMATE'S DIAGNOSIS OF A
2247 TERMINAL CONDITION.—
2248 (a) If an inmate is diagnosed with a terminal medical
2249 condition that makes him or her eligible for consideration for
2250 release under paragraph (3)(c) while in the custody of the
2251 department, subject to confidentiality requirements, the
2252 department must:
2253 1. Notify the inmate's family or next of kin and attorney,
2254 if applicable, of such diagnosis within 72 hours after the
2255 diagnosis.
2256 2. Provide the inmate's family, including extended family,
2257 with an opportunity to visit the inmate in person within 7 days
2258 after the diagnosis.
2259 3. Initiate a review for conditional medical release as
2260 provided for in this section immediately upon the diagnosis.



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2261 (b) If the inmate has mental and physical capacity, he or
2262 she must consent to release of confidential information for the
2263 department to comply with the notification requirements required
2264 in this subsection.

2265 (10) SOVEREIGN IMMUNITY.—Unless otherwise provided by law
2266 and in accordance with s. 13, Art. X of the State Constitution,
2267 members of the panel established in subsection (2) who are
2268 involved with decisions that grant or revoke conditional medical
2269 release are provided immunity from liability for actions that
2270 directly relate to such decisions.

2271 (11) RULEMAKING AUTHORITY.—The department may adopt rules
2272 as necessary to implement this section.

2273 Section 20. Section 945.0912, Florida Statutes, is created
2274 to read:

2275 945.0912 Conditional aging inmate release.—

2276 (1) FINDINGS.—The Legislature finds that the number of
2277 aging inmates incarcerated in the state’s prisons has grown
2278 significantly in recent years. Further, the Legislature finds
2279 that imprisonment tends to exacerbate the effects of aging due
2280 to histories of substance abuse and inadequate preventive care
2281 before imprisonment and stress linked to prison life. The
2282 Legislature also finds that recidivism rates are greatly reduced
2283 with older inmates who are released into the community.
2284 Therefore, the Legislature finds that it is of great public
2285 importance to find a compassionate solution to the challenges
2286 presented by the imprisonment of aging inmates while also
2287 ensuring that the public safety of Florida’s communities remains
2288 protected.

2289 (2) CREATION.—There is established a conditional aging



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2290 inmate release program within the department for the purpose of
2291 determining eligible inmates who are appropriate for such
2292 release, supervising the released inmates, and conducting
2293 revocation hearings as provided for in this section. The program
2294 must include a panel of at least three people appointed by the
2295 secretary or his or her designee for the purpose of determining
2296 the appropriateness of conditional aging inmate release and
2297 conducting revocation hearings on the inmate releases.

2298 (3) ELIGIBILITY.—

2299 (a) An inmate is eligible for consideration for release
2300 under the conditional aging inmate release program when the
2301 inmate has reached 65 years of age and has served at least 10
2302 years on his or her term of imprisonment. Notwithstanding any
2303 other provision of law, an inmate who meets the above criteria
2304 may be released from the custody of the department pursuant to
2305 this section before satisfying 85 percent of his or her term of
2306 imprisonment.

2307 (b) An inmate may not be considered for release through the
2308 conditional aging inmate release program if he or she has ever
2309 been found guilty of, regardless of adjudication, or entered a
2310 plea of nolo contendere or guilty to, or has been adjudicated
2311 delinquent for committing:

2312 1. Any offense classified as a capital felony, life felony,
2313 or first degree felony punishable by a term of years not
2314 exceeding life imprisonment.

2315 2. Any violation of law that resulted in the killing of a
2316 human being.

2317 3. Any felony offense that serves as a predicate to
2318 registration as a sexual offender in accordance with s.



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2319 943.0435; or

2320 4. Any similar offense committed in another jurisdiction
2321 which would be an offense listed in this paragraph if it had
2322 been committed in violation of the laws of this state.

2323 (c) An inmate who has previously been released on any form
2324 of conditional or discretionary release and who was recommitted
2325 to the department as a result of a finding that he or she
2326 subsequently violated the terms of such conditional or
2327 discretionary release may not be considered for release through
2328 the program.

2329 (4) REFERRAL FOR CONSIDERATION.-

2330 (a)1. Notwithstanding any provision to the contrary, an
2331 inmate in the custody of the department who is eligible for
2332 consideration pursuant to subsection (3) must be considered for
2333 the conditional aging inmate release program.

2334 2. The authority to grant conditional aging inmate release
2335 rests solely with the department. An inmate does not have a
2336 right to such release.

2337 (b) The department must identify inmates who may be
2338 eligible for the conditional aging inmate release program. In
2339 considering an inmate for conditional aging inmate release, the
2340 department may require the production of additional evidence or
2341 any other additional investigations that the department deems
2342 necessary for determining the appropriateness of the eligible
2343 inmate's release.

2344 (c) The department must refer an inmate to the panel
2345 established under subsection (2) for review and determination of
2346 conditional aging inmate release upon his or her identification
2347 as potentially eligible for release pursuant to this section.



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2348 (d) If the case that resulted in the inmate's commitment to
2349 the department involved a victim, and the victim specifically
2350 requested notification pursuant to s. 16, Art. I of the State
2351 Constitution, the department must notify the victim, in a manner
2352 prescribed by rule, of the inmate's referral to the panel
2353 immediately upon identification of the inmate as potentially
2354 eligible for release under this section. Additionally, the
2355 victim must be afforded the right to be heard regarding the
2356 release of the inmate.

2357 (5) DETERMINATION OF RELEASE.-

2358 (a) The panel established in subsection (2) must conduct a
2359 hearing to determine whether the inmate is appropriate for
2360 conditional aging inmate release. The hearing must be conducted
2361 by the panel:

2362 1. By April 1, 2021, if the inmate is immediately eligible
2363 for consideration for the conditional aging inmate release
2364 program when this section took effect on October 1, 2020.

2365 2. By July 1, 2021, if the inmate becomes eligible for
2366 consideration for the conditional aging inmate release program
2367 after October 1, 2020, but before July 1, 2021.

2368 3. Within 45 days after receiving the referral if the
2369 inmate becomes eligible for conditional aging inmate release any
2370 time on or after July 1, 2021.

2371 (b) A majority of the panel members must agree that the
2372 inmate is appropriate for release pursuant to this section. If
2373 conditional aging inmate release is approved, the inmate must be
2374 released by the department to the community within a reasonable
2375 amount of time with necessary release conditions imposed
2376 pursuant to subsection (6).



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2377 (c)1. An inmate who is denied conditional aging inmate
2378 release by the panel may have the decision reviewed by the
2379 department's general counsel, who must make a recommendation to
2380 the secretary. The secretary must review all relevant
2381 information and make a final decision about the appropriateness
2382 of conditional aging inmate release pursuant to this section.
2383 The decision of the secretary is a final administrative decision
2384 not subject to appeal.

2385 2. An inmate who requests to have the decision reviewed in
2386 accordance with this paragraph must do so in a manner prescribed
2387 by rule. An inmate who is denied conditional aging inmate
2388 release may be subsequently reconsidered for such release in a
2389 manner prescribed by rule.

2390 (6) RELEASE CONDITIONS.-

2391 (a) An inmate granted release pursuant to this section is
2392 released for a period equal to the length of time remaining on
2393 his or her term of imprisonment on the date the release is
2394 granted. Such inmate is considered an aging releasee upon
2395 release from the department into the community. The aging
2396 releasee must comply with all reasonable conditions of release
2397 the department imposes, which must include, at a minimum:

2398 1. Supervision by an officer trained to handle special
2399 offender caseloads.

2400 2. Active electronic monitoring, if such monitoring is
2401 determined to be necessary to ensure the safety of the public
2402 and the aging releasee's compliance with release conditions.

2403 3. Any conditions of community control provided for in s.
2404 948.101.

2405 4. Any other conditions the department deems appropriate to



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2406 ensure the safety of the community and compliance by the aging
2407 releasee.

2408 (b) An aging releasee is considered to be in the custody,
2409 supervision, and control of the department, which, for purposes
2410 of this section, does not create a duty for the department to
2411 provide the aging releasee with medical care upon release into
2412 the community. The aging releasee remains eligible to earn or
2413 lose gain-time in accordance with s. 944.275 and department
2414 rule. The aging releasee may not be counted in the prison system
2415 population, and the aging releasee's approved community-based
2416 housing location may not be counted in the capacity figures for
2417 the prison system.

2418 (7) REVOCATION HEARING AND RECOMMITMENT.-

2419 (a)1. An aging releasee's conditional aging inmate release
2420 may be revoked for a violation of any condition of the release
2421 established by the department, including, but not limited to, a
2422 new violation of law. The department may terminate the aging
2423 releasee's conditional aging inmate release and return him or
2424 her to the same or another institution designated by the
2425 department.

2426 2. If a duly authorized representative of the department
2427 has reasonable grounds to believe that an aging releasee has
2428 violated the conditions of his or her release in a material
2429 respect, such representative may cause a warrant to be issued
2430 for the arrest of the aging releasee. A law enforcement officer
2431 or a probation officer may arrest the aging releasee without a
2432 warrant in accordance with s. 948.06, if there are reasonable
2433 grounds to believe he or she has violated the terms and
2434 conditions of his or her conditional aging inmate release. The



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2435 law enforcement officer must report the aging releasee's alleged
2436 violations to the supervising probation office or the
2437 department's emergency action center for initiation of
2438 revocation proceedings as prescribed by the department by rule.

2439 3. If the basis of the violation of release conditions is
2440 related to a new violation of law, the aging releasee must be
2441 detained without bond until his or her initial appearance, at
2442 which a judicial determination of probable cause is made. If the
2443 judge determines that there was no probable cause for the
2444 arrest, the aging releasee may be released. If the judge
2445 determines that there was probable cause for the arrest, the
2446 judge's determination also constitutes reasonable grounds to
2447 believe that the aging releasee violated the conditions of the
2448 release.

2449 4. The department must order that the aging releasee
2450 subject to revocation under this subsection be returned to
2451 department custody for a conditional aging inmate release
2452 revocation hearing as prescribed by rule. An aging releasee may
2453 admit to the alleged violation of the conditions of conditional
2454 aging inmate release or may elect to proceed to a revocation
2455 hearing.

2456 5. A majority of the panel members must agree that
2457 revocation is appropriate for the aging releasee's conditional
2458 aging inmate release to be revoked. If conditional aging inmate
2459 release is revoked pursuant to this subsection, the aging
2460 releasee must serve the balance of his or her sentence in an
2461 institution designated by the department with credit for the
2462 actual time served on conditional aging inmate release. However,
2463 the aging releasee's gain-time accrued before recommitment may



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2464 be forfeited pursuant to s. 944.28(1). An aging releasee whose
2465 conditional aging inmate release is revoked and is recommitted
2466 to the department under this subsection must comply with the 85
2467 percent requirement in accordance with ss. 921.002 and 944.275.
2468 If the aging releasee whose conditional aging inmate release is
2469 revoked subject to this subsection would otherwise be eligible
2470 for parole or any other release program, he or she may be
2471 considered for such release program pursuant to law.

2472 6. An aging releasee whose release has been revoked
2473 pursuant to this subsection may have the revocation reviewed by
2474 the department's general counsel, who must make a recommendation
2475 to the secretary. The secretary must review all relevant
2476 information and make a final decision about the appropriateness
2477 of the revocation of conditional aging inmate release pursuant
2478 to this subsection. The decision of the secretary is a final
2479 administrative decision not subject to appeal.

2480 (b) If the aging releasee subject to revocation under this
2481 subsection elects to proceed with a hearing, the aging releasee
2482 must be informed orally and in writing of the following:

2483 1. The alleged violation with which the releasee is
2484 charged.

2485 2. The releasee's right to be represented by counsel.
2486 However, this subparagraph does not create a right to publicly
2487 funded legal counsel.

2488 3. The releasee's right to be heard in person.

2489 4. The releasee's right to secure, present, and compel the
2490 attendance of witnesses relevant to the proceeding.

2491 5. The releasee's right to produce documents on his or her
2492 own behalf.



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2493 6. The releasee's right of access to all evidence used
2494 against the releasee and to confront and cross-examine adverse
2495 witnesses.

2496 7. The releasee's right to waive the hearing.

2497 (c) If the panel approves the revocation of the aging
2498 releasee's conditional aging inmate release, the panel must
2499 provide a written statement as to evidence relied on and reasons
2500 for revocation.

2501 (8) SOVEREIGN IMMUNITY.—Unless otherwise provided by law
2502 and in accordance with s. 13, Art. X of the State Constitution,
2503 members of the panel established in subsection (2) who are
2504 involved with decisions that grant or revoke conditional aging
2505 inmate release are provided immunity from liability for actions
2506 that directly relate to such decisions.

2507 (9) RULEMAKING AUTHORITY.—The department may adopt rules as
2508 necessary to implement this section.

2509 Section 21. Section 947.149, Florida Statutes, is repealed.

2510 Section 22. Effective upon this act becoming a law,
2511 paragraph (f) of subsection (2) of section 948.06, Florida
2512 Statutes, is amended to read:

2513 948.06 Violation of probation or community control;
2514 revocation; modification; continuance; failure to pay
2515 restitution or cost of supervision.—

2516 (2)

2517 (f)1. Except as provided in subparagraph 3. or upon waiver
2518 by the probationer, the court shall modify or continue a
2519 probationary term upon finding a probationer in violation when
2520 all any of the following apply applies:

2521 a. The term of supervision is probation.



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2522 b. The probationer does not qualify as a violent felony
2523 offender of special concern, as defined in paragraph (8) (b).

2524 c. The violation is a low-risk technical violation, as
2525 defined in paragraph (9) (b).

2526 d. The court has not previously found the probationer in
2527 violation of his or her probation pursuant to a filed violation
2528 of probation affidavit during the current term of supervision. A
2529 probationer who has successfully completed sanctions through the
2530 alternative sanctioning program is eligible for mandatory
2531 modification or continuation of his or her probation.

2532 2. Upon modifying probation under subparagraph 1., the
2533 court may include in the sentence a maximum of 90 days in county
2534 jail as a special condition of probation.

2535 3. Notwithstanding s. 921.0024, if a probationer has less
2536 than 90 days of supervision remaining on his or her term of
2537 probation and meets the criteria for mandatory modification or
2538 continuation in subparagraph 1., the court may revoke probation
2539 and sentence the probationer to a maximum of 90 days in county
2540 jail.

2541 4. For purposes of imposing a jail sentence under this
2542 paragraph only, the court may grant credit only for time served
2543 in the county jail since the probationer's most recent arrest
2544 for the violation. However, the court may not order the
2545 probationer to a total term of incarceration greater than the
2546 maximum provided by s. 775.082.

2547 Section 23. Section 951.30, Florida Statutes, is created to
2548 read:

2549 951.30 Release documents; requirement.—The administrator of
2550 a county detention facility must provide to each inmate upon



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2551 release from the custody of the facility a written document
2552 detailing the total length of the term of imprisonment from
2553 which he or she is being released, including the specific dates
2554 of his or her admission to and release from the custody of the
2555 facility.

2556 Section 24. Effective July 1, 2020, section 961.02, Florida
2557 Statutes, is amended to read:

2558 961.02 Definitions.—As used in ss. 961.01-961.07, the term:

2559 (1) "Act" means the Victims of Wrongful Incarceration
2560 Compensation Act.

2561 (2) "Department" means the Department of Legal Affairs.

2562 (3) "Division" means the Division of Administrative
2563 Hearings.

2564 ~~(4) "Eligible for compensation" means that a person meets~~
2565 ~~the definition of the term "wrongfully incarcerated person" and~~
2566 ~~is not disqualified from seeking compensation under the criteria~~
2567 ~~prescribed in s. 961.04.~~

2568 ~~(4)(5) "Entitled to compensation" means that a person meets~~
2569 ~~the definition of the term "eligible for compensation" and~~
2570 satisfies the application requirements prescribed in s. 961.05,
2571 and may receive compensation pursuant to s. 961.06.

2572 ~~(6) "Violent felony" means a felony listed in s.~~
2573 ~~775.084(1)(c)1. or s. 948.06(8)(c).~~

2574 ~~(5)(7) "Wrongfully incarcerated person" means a person~~
2575 whose felony conviction and sentence have been vacated by a
2576 court of competent jurisdiction and who is the subject of an
2577 order issued by the original sentencing court pursuant to s.
2578 961.03 finding that the person did not commit the act or offense
2579 that served as the basis for the conviction and incarceration



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2580 and that the person did not aid, abet, or act as an accomplice
2581 or accessory to a person who committed the act or offense.

2582 Section 25. Effective July 1, 2020, section 961.03, Florida
2583 Statutes, is amended to read:

2584 961.03 Determination of status as a wrongfully incarcerated
2585 person, ~~determination of eligibility for compensation.~~—

2586 (1) (a) In order to meet the definition of a "wrongfully
2587 incarcerated person," and ~~"eligible for compensation,"~~ upon
2588 entry of an order, based upon exonerating evidence, vacating a
2589 conviction and sentence, a person must set forth the claim of
2590 wrongful incarceration under oath and with particularity by
2591 filing a petition with the original sentencing court, with a
2592 copy of the petition and proper notice to the prosecuting
2593 authority in the underlying felony for which the person was
2594 incarcerated. At a minimum, the petition must:

2595 1. state that verifiable and substantial evidence of actual
2596 innocence exists and state with particularity the nature and
2597 significance of the verifiable and substantial evidence of
2598 actual innocence, ~~and~~

2599 ~~2. State that the person is not disqualified, under the~~
2600 ~~provisions of s. 961.04, from seeking compensation under this~~
2601 ~~act.~~

2602 (b) The person must file the petition with the court:

2603 1. Within 2 years after the order vacating a conviction and
2604 sentence becomes final and the criminal charges against the
2605 person are dismissed or the person is retried and found not
2606 guilty, if the person's conviction and sentence is vacated on or
2607 after July 1, 2020.

2608 2. By July 1, 2022, if the person's conviction and sentence



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2609 was vacated and the criminal charges against the person were
2610 dismissed or the person was retried and found not guilty after
2611 January 1, 2006, but before July 1, 2020, and he or she
2612 previously filed a claim under this section, which was dismissed
2613 or did not file a claim under this section because:

2614 a. The date when the criminal charges against the person
2615 were dismissed or the date the person was acquitted upon retrial
2616 occurred more than 90 days after the date of the final order
2617 vacating the conviction and sentence; or

2618 b. The claim would have previously been barred under former
2619 s. 961.04, Florida Statutes 2020.

2620 1. Within 90 days after the order vacating a conviction and
2621 sentence becomes final if the person's conviction and sentence
2622 is vacated on or after July 1, 2008.

2623 2. By July 1, 2010, if the person's conviction and sentence
2624 was vacated by an order that became final prior to July 1, 2008.

2625 (c) A deceased person's heirs, successors, or assigns do
2626 not have standing to file a claim on the deceased person's
2627 behalf under this act.

2628 (2) The prosecuting authority must respond to the petition
2629 within 30 days. The prosecuting authority may respond:

2630 (a) By certifying to the court that, based upon the
2631 petition and verifiable and substantial evidence of actual
2632 innocence, no further criminal proceedings in the case at bar
2633 can or will be initiated by the prosecuting authority ~~and~~, that
2634 no questions of fact remain as to the petitioner's wrongful
2635 incarceration, ~~and that the petitioner is not ineligible from~~
2636 ~~seeking compensation under the provisions of s. 961.04; or~~

2637 (b) By contesting the nature, significance, or effect of



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2638 the evidence of actual innocence, or the facts related to the
2639 petitioner's alleged wrongful incarceration, ~~or whether the~~
2640 ~~petitioner is ineligible from seeking compensation under the~~
2641 ~~provisions of s. 961.04.~~

2642 (3) If the prosecuting authority responds as set forth in
2643 paragraph (2) (a), the original sentencing court, based upon the
2644 evidence of actual innocence, the prosecuting authority's
2645 certification, and upon the court's finding that the petitioner
2646 has presented clear and convincing evidence that the petitioner
2647 committed neither the act nor the offense that served as the
2648 basis for the conviction and incarceration, and that the
2649 petitioner did not aid, abet, or act as an accomplice to a
2650 person who committed the act or offense, shall certify to the
2651 department that the petitioner is a wrongfully incarcerated
2652 person as defined by this act. ~~Based upon the prosecuting~~
2653 ~~authority's certification, the court shall also certify to the~~
2654 ~~department that the petitioner is eligible for compensation~~
2655 ~~under the provisions of s. 961.04.~~

2656 (4) ~~(a) If the prosecuting authority responds as set forth~~
2657 ~~in paragraph (2) (b), the original sentencing court shall make a~~
2658 ~~determination from the pleadings and supporting documentation~~
2659 ~~whether, by a preponderance of the evidence, the petitioner is~~
2660 ~~ineligible for compensation under the provisions of s. 961.04,~~
2661 ~~regardless of his or her claim of wrongful incarceration. If the~~
2662 ~~court finds the petitioner ineligible under the provisions of s.~~
2663 ~~961.04, it shall dismiss the petition.~~

2664 ~~(b) If the prosecuting authority responds as set forth in~~
2665 ~~paragraph (2) (b), and the court determines that the petitioner~~
2666 ~~is eligible under the provisions of s. 961.04, but the~~



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2667 ~~prosecuting authority~~ contests the nature, significance or
2668 effect of the evidence of actual innocence, or the facts related
2669 to the petitioner's alleged wrongful incarceration, the court
2670 shall set forth its findings and transfer the petition by
2671 electronic means through the division's website to the division
2672 for findings of fact and a recommended determination of whether
2673 the petitioner has established that he or she is a wrongfully
2674 incarcerated person ~~who is eligible for compensation under this~~
2675 ~~act.~~

2676 (5) Any questions of fact, the nature, significance or
2677 effect of the evidence of actual innocence, ~~and the petitioner's~~
2678 ~~eligibility for compensation under this act~~ must be established
2679 by clear and convincing evidence by the petitioner before an
2680 administrative law judge.

2681 (6) (a) Pursuant to division rules and any additional rules
2682 set forth by the administrative law judge, a hearing shall be
2683 conducted no later than 120 days after the transfer of the
2684 petition.

2685 (b) The prosecuting authority shall appear for the purpose
2686 of contesting, as necessary, the facts, the nature, and
2687 significance or effect of the evidence of actual innocence as
2688 presented by the petitioner.

2689 (c) No later than 45 days after the adjournment of the
2690 hearing, the administrative law judge shall issue an order
2691 setting forth his or her findings and recommendation and shall
2692 file the order with the original sentencing court.

2693 (d) The original sentencing court shall review the findings
2694 and recommendation contained in the order of the administrative
2695 law judge and, within 60 days, shall issue its own order



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2696 adopting or declining to adopt the findings and recommendation
2697 of the administrative law judge.

2698 (7) If the court concludes that the petitioner is a
2699 wrongfully incarcerated person as defined by this act ~~and is~~
2700 ~~eligible for compensation as defined in this act~~, the court
2701 shall include in its order a certification to the department
2702 that:

2703 (a)1. The order of the administrative law judge finds that
2704 the petitioner has met his or her burden of establishing by
2705 clear and convincing evidence that the petitioner committed
2706 neither the act nor the offense that served as the basis for the
2707 conviction and incarceration and that the petitioner did not
2708 aid, abet, or act as an accomplice to a person who committed the
2709 act or offense; or

2710 2. That the court has declined to adopt the findings and
2711 recommendations of the administrative law judge and finds that
2712 the petitioner has met his or her burden of establishing by
2713 clear and convincing evidence that the petitioner committed
2714 neither the act nor the offense that served as the basis for the
2715 conviction and incarceration and that the petitioner did not
2716 aid, abet, or act as an accomplice to a person who committed the
2717 act or offense; and

2718 (b) The original sentencing court determines the findings
2719 and recommendations on which its order is based are supported by
2720 competent, substantial evidence.

2721 (8) The establishment of the method by which a person may
2722 seek the status of a wrongfully incarcerated person ~~and a~~
2723 ~~finding as to eligibility for compensation under this act~~ in no
2724 way creates any rights of due process beyond those set forth



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2725 herein, nor is there created any right to further petition or
2726 appeal beyond the scope of the method set forth herein.

2727 Section 26. Effective July 1, 2020, section 961.04, Florida
2728 Statutes, is repealed.

2729 Section 27. Effective July 1, 2020, subsections (1), (2),
2730 and (3) of section 961.05, Florida Statutes, are amended to
2731 read:

2732 961.05 Application for compensation for wrongful
2733 incarceration; administrative expunction; determination of
2734 entitlement to compensation.-

2735 (1) A wrongfully incarcerated person ~~who is eligible for~~
2736 ~~compensation as defined in this act~~ must initiate his or her
2737 application for compensation as required in this section no more
2738 than 2 years after the original sentencing court enters its
2739 order finding that the person meets the definition of wrongfully
2740 incarcerated person ~~and is eligible for compensation as defined~~
2741 ~~in this act.~~

2742 (2) A wrongfully incarcerated person ~~who is eligible for~~
2743 ~~compensation under the act~~ must apply to the Department of Legal
2744 Affairs. No estate of, or personal representative for, a
2745 decedent is entitled to apply on behalf of the decedent for
2746 compensation for wrongful incarceration.

2747 (3) The application must include:

2748 (a) A certified copy of the order vacating the conviction
2749 and sentence;

2750 (b) A certified copy of the original sentencing court's
2751 order finding the claimant to be a wrongfully incarcerated
2752 person ~~who is eligible for compensation under this act;~~

2753 (c) Certified copies of the original judgment and sentence;



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2754 (d) Documentation demonstrating the length of the sentence
2755 served, including documentation from the Department of
2756 Corrections regarding the person's admission into and release
2757 from the custody of the Department of Corrections;

2758 (e) Positive proof of identification, including two full
2759 sets of fingerprints administered by a law enforcement agency
2760 and a current form of photo identification, demonstrating that
2761 the person seeking compensation is the same individual who was
2762 wrongfully incarcerated;

2763 (f) All supporting documentation of any fine, penalty, or
2764 court costs imposed and paid by the wrongfully incarcerated
2765 person as described in s. 961.06(1)(c); and

2766 (g) All supporting documentation of any reasonable
2767 attorney's fees and expenses as described in s. 961.06(1)(d).

2768 Section 28. Effective July 1, 2020, section 961.06, Florida
2769 Statutes, is amended to read:

2770 961.06 Compensation for wrongful incarceration.-

2771 (1) Except as otherwise provided in this act and subject to
2772 the limitations and procedures prescribed in this section, a
2773 person who is found to be entitled to compensation under the
2774 provisions of this act is entitled to:

2775 (a) Monetary compensation for wrongful incarceration, which
2776 shall be calculated at a rate of \$50,000 for each year of
2777 wrongful incarceration, prorated as necessary to account for a
2778 portion of a year. For persons found to be wrongfully
2779 incarcerated after January 1, 2006 ~~December 31, 2008~~, the Chief
2780 Financial Officer may adjust the annual rate of compensation for
2781 inflation using the change in the December-to-December "Consumer
2782 Price Index for All Urban Consumers" of the Bureau of Labor



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2783 Statistics of the Department of Labor;

2784 (b) A waiver of tuition and fees for up to 120 hours of
2785 instruction at any career center established under s. 1001.44,
2786 any Florida College System institution as defined in s.
2787 1000.21(3), or any state university as defined in s. 1000.21(6),
2788 if the wrongfully incarcerated person meets and maintains the
2789 regular admission requirements of such career center, Florida
2790 College System institution, or state university; remains
2791 registered at such educational institution; and makes
2792 satisfactory academic progress as defined by the educational
2793 institution in which the claimant is enrolled;

2794 (c) The amount of any fine, penalty, or court costs imposed
2795 and paid by the wrongfully incarcerated person;

2796 (d) The amount of any reasonable attorney ~~attorney's~~ fees
2797 and expenses incurred and paid by the wrongfully incarcerated
2798 person in connection with all criminal proceedings and appeals
2799 regarding the wrongful conviction, to be calculated by the
2800 department based upon the supporting documentation submitted as
2801 specified in s. 961.05; and

2802 (e) Notwithstanding any provision to the contrary in s.
2803 943.0583 or s. 943.0585, immediate administrative expunction of
2804 the person's criminal record resulting from his or her wrongful
2805 arrest, wrongful conviction, and wrongful incarceration. The
2806 Department of Legal Affairs and the Department of Law
2807 Enforcement shall, upon a determination that a claimant is
2808 entitled to compensation, immediately take all action necessary
2809 to administratively expunge the claimant's criminal record
2810 arising from his or her wrongful arrest, wrongful conviction,
2811 and wrongful incarceration. All fees for this process shall be



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2812 waived.

2813
2814 The total compensation awarded under paragraphs (a), (c), and
2815 (d) may not exceed \$2 million. No further award for attorney
2816 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses
2817 shall be made by the state.

2818 (2) ~~In calculating monetary compensation under paragraph~~
2819 ~~(1) (a), a wrongfully incarcerated person who is placed on parole~~
2820 ~~or community supervision while serving the sentence resulting~~
2821 ~~from the wrongful conviction and who commits no more than one~~
2822 ~~felony that is not a violent felony which results in revocation~~
2823 ~~of the parole or community supervision is eligible for~~
2824 ~~compensation for the total number of years incarcerated. A~~
2825 ~~wrongfully incarcerated person who commits one violent felony or~~
2826 ~~more than one felony that is not a violent felony that results~~
2827 ~~in revocation of the parole or community supervision is~~
2828 ~~ineligible for any compensation under subsection (1).~~

2829 ~~(3)~~ Within 15 calendar days after issuing notice to the
2830 claimant that his or her claim satisfies all of the requirements
2831 under this act, the department shall notify the Chief Financial
2832 Officer to draw a warrant from the General Revenue Fund or
2833 another source designated by the Legislature in law for the
2834 purchase of an annuity for the claimant based on the total
2835 amount determined by the department under this act.

2836 ~~(3)~~(4) The Chief Financial Officer shall issue payment in
2837 the amount determined by the department to an insurance company
2838 or other financial institution admitted and authorized to issue
2839 annuity contracts in this state to purchase an annuity or
2840 annuities, selected by the wrongfully incarcerated person, for a



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2841 term of not less than 10 years. The Chief Financial Officer is
2842 directed to execute all necessary agreements to implement this
2843 act and to maximize the benefit to the wrongfully incarcerated
2844 person. The terms of the annuity or annuities shall:

2845 (a) Provide that the annuity or annuities may not be sold,
2846 discounted, or used as security for a loan or mortgage by the
2847 wrongfully incarcerated person.

2848 (b) Contain beneficiary provisions for the continued
2849 disbursement of the annuity or annuities in the event of the
2850 death of the wrongfully incarcerated person.

2851 (4)(5) If, at the time monetary compensation is determined
2852 pursuant to subsection (1), a court has previously entered a
2853 monetary judgment in favor of the claimant in a civil action
2854 related to his or her wrongful incarceration, or the claimant
2855 has entered into a settlement agreement with the state or any
2856 political subdivision thereof related to his or her wrongful
2857 incarceration, the amount of the damages in the civil action or
2858 settlement agreement, less any sums paid for attorney fees or
2859 for costs incurred in litigating the civil action or obtaining
2860 the settlement agreement, must be deducted from the total
2861 monetary compensation to which the claimant is entitled under
2862 this section ~~Before the department approves the application for~~
2863 ~~compensation, the wrongfully incarcerated person must sign a~~
2864 ~~release and waiver on behalf of the wrongfully incarcerated~~
2865 ~~person and his or her heirs, successors, and assigns, forever~~
2866 ~~releasing the state or any agency, instrumentality, or any~~
2867 ~~political subdivision thereof, or any other entity subject to s.~~
2868 ~~768.28, from all present or future claims that the wrongfully~~
2869 ~~incarcerated person or his or her heirs, successors, or assigns~~



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2870 ~~may have against such entities arising out of the facts in~~
2871 ~~connection with the wrongful conviction for which compensation~~
2872 ~~is being sought under the act.~~

2873 (5) If subsection (4) does not apply, and if after the time
2874 monetary compensation is determined pursuant to subsection (1)
2875 the court enters a monetary judgment in favor of the claimant in
2876 a civil action related to his or her wrongful incarceration, or
2877 the claimant enters into a settlement agreement with the state
2878 or any political subdivision thereof related to his or her
2879 wrongful incarceration, the claimant must reimburse the state
2880 for the monetary compensation paid under subsection (1), less
2881 any sums paid for attorney fees or costs incurred in litigating
2882 the civil action or obtaining the settlement agreement. The
2883 reimbursement required under this subsection may not exceed the
2884 amount of the monetary award the claimant received for damages
2885 in a civil action or a settlement agreement. The court shall
2886 include in the order of judgment an award to the state of any
2887 amount required to be deducted under this subsection.

2888 (6) (a) The claimant shall notify the department upon filing
2889 a civil action against the state or any political subdivision
2890 thereof in which the claimant is seeking monetary damages
2891 related to the claimant's wrongful incarceration for which he or
2892 she previously received or is applying to receive compensation
2893 under subsection (1). A wrongfully incarcerated person may not
2894 submit an application for compensation under this act if the
2895 person has a lawsuit pending against the state or any agency,
2896 instrumentality, or any political subdivision thereof, or any
2897 other entity subject to the provisions of s. 768.28, in state or
2898 federal court requesting compensation arising out of the facts



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2899 ~~in connection with the claimant's conviction and incarceration.~~

2900 (b) Upon notice of the claimant's civil action, the
2901 department shall file in the case a notice of payment of
2902 monetary compensation to the claimant under subsection (1). The
2903 notice constitutes a lien upon any judgment or settlement
2904 recovered under the civil action that is equal to the sum of
2905 monetary compensation paid to the claimant under subsection (1),
2906 less any attorney fees and litigation costs.

2907 (7) (a) (b) A wrongfully incarcerated person may not submit
2908 an application for compensation under this act if the person is
2909 the subject of a claim bill pending for claims arising out of
2910 the facts in connection with the claimant's conviction and
2911 incarceration.

2912 (b) (e) Once an application is filed under this act, a
2913 wrongfully incarcerated person may not pursue recovery under a
2914 claim bill until the final disposition of the application.

2915 (c) (d) ~~Any amount awarded under this act is intended to~~
2916 ~~provide the sole compensation for any and all present and future~~
2917 ~~claims arising out of the facts in connection with the~~
2918 ~~claimant's conviction and incarceration.~~ Upon notification by
2919 the department that an application meets the requirements of
2920 this act, a wrongfully incarcerated person may not recover under
2921 a claim bill.

2922 (d) (e) Any compensation awarded under a claim bill shall be
2923 the sole redress for claims arising out of the facts in
2924 connection with the claimant's conviction and incarceration and,
2925 upon any award of compensation to a wrongfully incarcerated
2926 person under a claim bill, the person may not receive
2927 compensation under this act.



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2928 (8) (7) Any payment made under this act does not constitute
2929 a waiver of any defense of sovereign immunity or an increase in
2930 the limits of liability on behalf of the state or any person
2931 subject to ~~the provisions of~~ s. 768.28 or other law.

2932 Section 29. Paragraph (a) of subsection (2) and paragraphs
2933 (b) and (c) of subsection (3) of section 1009.21, Florida
2934 Statutes, are amended to read:

2935 1009.21 Determination of resident status for tuition
2936 purposes.—Students shall be classified as residents or
2937 nonresidents for the purpose of assessing tuition in
2938 postsecondary educational programs offered by charter technical
2939 career centers or career centers operated by school districts,
2940 in Florida College System institutions, and in state
2941 universities.

2942 (2) (a) To qualify as a resident for tuition purposes:

2943 1. A person or, if that person is a dependent child, his or
2944 her parent or parents must have established legal residence in
2945 this state and must have maintained legal residence in this
2946 state for at least 12 consecutive months immediately before
2947 ~~prior to~~ his or her initial enrollment in an institution of
2948 higher education. The 12 consecutive months immediately before
2949 enrollment may include time spent incarcerated in a county
2950 detention facility or state correctional facility.

2951 2. Every applicant for admission to an institution of
2952 higher education shall be required to make a statement as to his
2953 or her length of residence in the state and, further, shall
2954 establish that his or her presence or, if the applicant is a
2955 dependent child, the presence of his or her parent or parents in
2956 the state currently is, and during the requisite 12-month



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2957 qualifying period was, for the purpose of maintaining a bona
2958 fide domicile, rather than for the purpose of maintaining a mere
2959 temporary residence or abode incident to enrollment in an
2960 institution of higher education.

2961 (3)

2962 (b) Except as otherwise provided in this section, evidence
2963 of legal residence and its duration shall include clear and
2964 convincing documentation that residency in this state was for a
2965 minimum of 12 consecutive months before ~~prior to~~ a student's
2966 initial enrollment in an institution of higher education. Time
2967 spent incarcerated in a county detention facility or state
2968 correctional facility and any combination of documented time
2969 living in this state before or after incarceration must be
2970 credited toward the residency requirement.

2971 (c) Each institution of higher education shall
2972 affirmatively determine that an applicant who has been granted
2973 admission to that institution as a Florida resident meets the
2974 residency requirements of this section at the time of initial
2975 enrollment. The residency determination must be documented by
2976 the submission of written or electronic verification that
2977 includes two or more of the documents identified in this
2978 paragraph. No single piece of evidence shall be conclusive.

2979 1. The documents must include at least one of the
2980 following:

- 2981 a. A Florida voter's registration card.
- 2982 b. A Florida driver license.
- 2983 c. A State of Florida identification card.
- 2984 d. A Florida vehicle registration.
- 2985 e. Proof of a permanent home in Florida which is occupied



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2986 as a primary residence by the individual or by the individual's
2987 parent if the individual is a dependent child.

2988 f. Proof of a homestead exemption in Florida.

2989 g. Transcripts from a Florida high school for multiple
2990 years if the Florida high school diploma or high school
2991 equivalency diploma was earned within the last 12 months.

2992 h. Proof of permanent full-time employment in Florida for
2993 at least 30 hours per week for a 12-month period.

2994 2. The documents may include one or more of the following:

2995 a. A declaration of domicile in Florida.

2996 b. A Florida professional or occupational license.

2997 c. Florida incorporation.

2998 d. A document evidencing family ties in Florida.

2999 e. Proof of membership in a Florida-based charitable or
3000 professional organization.

3001 f. Any other documentation that supports the student's
3002 request for resident status, including, but not limited to,
3003 utility bills and proof of 12 consecutive months of payments; a
3004 lease agreement and proof of 12 consecutive months of payments;
3005 or an official local, state, federal, or court document
3006 evidencing legal ties to Florida.

3007 Section 30. By July 1, 2020, the Office of Program Policy
3008 and Governmental Accountability (OPPAGA) shall initiate a study
3009 to evaluate the various opportunities available to persons
3010 returning to the community from imprisonment. The study's scope
3011 must include, but need not be limited to, any barriers to such
3012 opportunities; any collateral consequences for persons who are
3013 released from incarceration into the community; and methods for
3014 reducing any collateral consequences identified. OPPAGA shall



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3015 submit a report on the findings of the study to the Governor,
3016 the President of the Senate, the Minority Leader of the Senate,
3017 the Speaker of the House of Representatives, and the Minority
3018 Leader of the House of Representatives by December 31, 2020.

3019 Section 31. Subsection (6) of section 316.1935, Florida
3020 Statutes, is amended to read:

3021 316.1935 Fleeing or attempting to elude a law enforcement
3022 officer; aggravated fleeing or eluding.-

3023 (6) Notwithstanding s. 948.01, a court may not ~~no court may~~
3024 suspend, defer, or withhold adjudication of guilt or imposition
3025 of sentence for any violation of this section. A person
3026 convicted and sentenced to a mandatory minimum term of
3027 incarceration under paragraph (3)(b) or paragraph (4)(b) is not
3028 eligible for statutory gain-time under s. 944.275 or any form of
3029 discretionary early release, other than pardon or executive
3030 clemency, ~~or~~ conditional medical release under s. 945.0911 ~~or~~
3031 ~~947.149~~, or conditional aging inmate release under s. 945.0912,
3032 before ~~prior to~~ serving the mandatory minimum sentence.

3033 Section 32. Paragraph (k) of subsection (4) of section
3034 775.084, Florida Statutes, is amended to read:

3035 775.084 Violent career criminals; habitual felony offenders
3036 and habitual violent felony offenders; three-time violent felony
3037 offenders; definitions; procedure; enhanced penalties or
3038 mandatory minimum prison terms.-

3039 (4)

3040 (k)1. A defendant sentenced under this section as a
3041 habitual felony offender, a habitual violent felony offender, or
3042 a violent career criminal is eligible for gain-time granted by
3043 the Department of Corrections as provided in s. 944.275(4)(b).



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3044 2. For an offense committed on or after October 1, 1995, a
3045 defendant sentenced under this section as a violent career
3046 criminal is not eligible for any form of discretionary early
3047 release, other than pardon or executive clemency, ~~or~~ conditional
3048 medical release under s. 945.0911, or conditional aging inmate
3049 release under s. 945.0912 ~~granted pursuant to s. 947.149.~~

3050 3. For an offense committed on or after July 1, 1999, a
3051 defendant sentenced under this section as a three-time violent
3052 felony offender shall be released only by expiration of sentence
3053 and is ~~shall~~ not be eligible for parole, control release, or any
3054 form of early release.

3055 Section 33. Paragraphs (b) and (c) of subsection (2) and
3056 paragraphs (b) and (c) of subsection (3) of section 775.087,
3057 Florida Statutes, are amended to read:

3058 775.087 Possession or use of weapon; aggravated battery;
3059 felony reclassification; minimum sentence.-

3060 (2)

3061 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
3062 (a)3. does not prevent a court from imposing a longer sentence
3063 of incarceration as authorized by law in addition to the minimum
3064 mandatory sentence, or from imposing a sentence of death
3065 pursuant to other applicable law. Subparagraph (a)1.,
3066 subparagraph (a)2., or subparagraph (a)3. does not authorize a
3067 court to impose a lesser sentence than otherwise required by
3068 law.

3069
3070 Notwithstanding s. 948.01, adjudication of guilt or imposition
3071 of sentence may ~~shall~~ not be suspended, deferred, or withheld,
3072 and the defendant is not eligible for statutory gain-time under



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3073 s. 944.275 or any form of discretionary early release, other
3074 than pardon or executive clemency, ~~or~~ conditional medical
3075 release under s. 945.0911 ~~s. 947.149~~, or conditional aging
3076 inmate release under s. 945.0912, before ~~prior to~~ serving the
3077 minimum sentence.

3078 (c) If the minimum mandatory terms of imprisonment imposed
3079 pursuant to this section exceed the maximum sentences authorized
3080 by s. 775.082, s. 775.084, or the Public Safety Criminal
3081 ~~Punishment~~ Code under chapter 921, then the mandatory minimum
3082 sentence must be imposed. If the mandatory minimum terms of
3083 imprisonment pursuant to this section are less than the
3084 sentences that could be imposed as authorized by s. 775.082, s.
3085 775.084, or the Public Safety Criminal Punishment Code under
3086 chapter 921, then the sentence imposed by the court must include
3087 the mandatory minimum term of imprisonment as required in this
3088 section.

3089 (3)

3090 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
3091 (a)3. does not prevent a court from imposing a longer sentence
3092 of incarceration as authorized by law in addition to the minimum
3093 mandatory sentence, or from imposing a sentence of death
3094 pursuant to other applicable law. Subparagraph (a)1.,
3095 subparagraph (a)2., or subparagraph (a)3. does not authorize a
3096 court to impose a lesser sentence than otherwise required by
3097 law.

3098
3099 Notwithstanding s. 948.01, adjudication of guilt or imposition
3100 of sentence ~~may shall~~ not be suspended, deferred, or withheld,
3101 and the defendant is not eligible for statutory gain-time under



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3102 s. 944.275 or any form of discretionary early release, other
3103 than pardon or executive clemency, ~~or~~ conditional medical
3104 release under s. 945.0911 ~~s. 947.149~~, or conditional aging
3105 inmate release under s. 945.0912, before ~~prior to~~ serving the
3106 minimum sentence.

3107 (c) If the minimum mandatory terms of imprisonment imposed
3108 pursuant to this section exceed the maximum sentences authorized
3109 by s. 775.082, s. 775.084, or the Public Safety Criminal
3110 ~~Punishment~~ Code under chapter 921, then the mandatory minimum
3111 sentence must be imposed. If the mandatory minimum terms of
3112 imprisonment pursuant to this section are less than the
3113 sentences that could be imposed as authorized by s. 775.082, s.
3114 775.084, or the Public Safety Criminal Punishment Code under
3115 chapter 921, then the sentence imposed by the court must include
3116 the mandatory minimum term of imprisonment as required in this
3117 section.

3118 Section 34. Section 782.051, Florida Statutes, is amended
3119 to read:

3120 782.051 Attempted felony murder.—

3121 (1) Any person who perpetrates or attempts to perpetrate
3122 any felony enumerated in s. 782.04(3) and who commits, aids, or
3123 abets an intentional act that is not an essential element of the
3124 felony and that could, but does not, cause the death of another
3125 commits a felony of the first degree, punishable by imprisonment
3126 for a term of years not exceeding life, or as provided in s.
3127 775.082, s. 775.083, or s. 775.084, which is an offense ranked
3128 in level 9 of the Public Safety Criminal Punishment Code. Victim
3129 injury points shall be scored under this subsection.

3130 (2) Any person who perpetrates or attempts to perpetrate



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3131 any felony other than a felony enumerated in s. 782.04(3) and
3132 who commits, aids, or abets an intentional act that is not an
3133 essential element of the felony and that could, but does not,
3134 cause the death of another commits a felony of the first degree,
3135 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
3136 which is an offense ranked in level 8 of the Public Safety
3137 ~~Criminal Punishment~~ Code. Victim injury points shall be scored
3138 under this subsection.

3139 (3) When a person is injured during the perpetration of or
3140 the attempt to perpetrate any felony enumerated in s. 782.04(3)
3141 by a person other than the person engaged in the perpetration of
3142 or the attempt to perpetrate such felony, the person
3143 perpetrating or attempting to perpetrate such felony commits a
3144 felony of the second degree, punishable as provided in s.
3145 775.082, s. 775.083, or s. 775.084, which is an offense ranked
3146 in level 7 of the Public Safety ~~Criminal Punishment~~ Code. Victim
3147 injury points shall be scored under this subsection.

3148 Section 35. Subsection (3) of section 784.07, Florida
3149 Statutes, is amended to read:

3150 784.07 Assault or battery of law enforcement officers,
3151 firefighters, emergency medical care providers, public transit
3152 employees or agents, or other specified officers;
3153 reclassification of offenses; minimum sentences.-

3154 (3) Any person who is convicted of a battery under
3155 paragraph (2) (b) and, during the commission of the offense, such
3156 person possessed:

3157 (a) A "firearm" or "destructive device" as those terms are
3158 defined in s. 790.001, shall be sentenced to a minimum term of
3159 imprisonment of 3 years.



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3160 (b) A semiautomatic firearm and its high-capacity
3161 detachable box magazine, as defined in s. 775.087(3), or a
3162 machine gun as defined in s. 790.001, shall be sentenced to a
3163 minimum term of imprisonment of 8 years.

3164 Notwithstanding s. 948.01, adjudication of guilt or imposition
3165 of sentence ~~may shall~~ not be suspended, deferred, or withheld,
3166 and the defendant is not eligible for statutory gain-time under
3167 s. 944.275 or any form of discretionary early release, other
3168 than pardon or executive clemency, ~~or~~ conditional medical
3169 release under s. 945.0911 ~~s. 947.149~~, or conditional aging
3170 inmate release under s. 945.0912, before ~~prior to~~ serving the
3171 minimum sentence.

3172 Section 36. Subsection (1) of section 790.235, Florida
3173 Statutes, is amended to read:

3174 790.235 Possession of firearm or ammunition by violent
3175 career criminal unlawful; penalty.-

3176 (1) Any person who meets the violent career criminal
3177 criteria under s. 775.084(1) (d), regardless of whether such
3178 person is or has previously been sentenced as a violent career
3179 criminal, who owns or has in his or her care, custody,
3180 possession, or control any firearm, ammunition, or electric
3181 weapon or device, or carries a concealed weapon, including a
3182 tear gas gun or chemical weapon or device, commits a felony of
3183 the first degree, punishable as provided in s. 775.082, s.
3184 775.083, or s. 775.084. A person convicted of a violation of
3185 this section shall be sentenced to a mandatory minimum of 15
3186 years' imprisonment; however, if the person would be sentenced
3187 to a longer term of imprisonment under s. 775.084(4) (d), the
3188



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3189 person must be sentenced under that provision. A person
3190 convicted of a violation of this section is not eligible for any
3191 form of discretionary early release, other than pardon,
3192 executive clemency, ~~or~~ conditional medical release under s.
3193 945.0911, or conditional aging inmate release under s. 945.0912
3194 ~~s. 947.149.~~

3195 Section 37. Subsection (7) of section 794.0115, Florida
3196 Statutes, is amended to read:

3197 794.0115 Dangerous sexual felony offender; mandatory
3198 sentencing.—

3199 (7) A defendant sentenced to a mandatory minimum term of
3200 imprisonment under this section is not eligible for statutory
3201 gain-time under s. 944.275 or any form of discretionary early
3202 release, other than pardon or executive clemency, or conditional
3203 medical release under s. 945.0911 ~~s. 947.149~~, before serving the
3204 minimum sentence.

3205 Section 38. Subsection (3) of section 817.568, Florida
3206 Statutes, is amended to read:

3207 817.568 Criminal use of personal identification
3208 information.—

3209 (3) Neither paragraph (2)(b) nor paragraph (2)(c) prevents
3210 a court from imposing a greater sentence of incarceration as
3211 authorized by law. If the minimum mandatory terms of
3212 imprisonment imposed under paragraph (2)(b) or paragraph (2)(c)
3213 exceed the maximum sentences authorized under s. 775.082, s.
3214 775.084, or the Public Safety ~~Criminal Punishment~~ Code under
3215 chapter 921, the mandatory minimum sentence must be imposed. If
3216 the mandatory minimum terms of imprisonment under paragraph
3217 (2)(b) or paragraph (2)(c) are less than the sentence that could



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3218 be imposed under s. 775.082, s. 775.084, or the Public Safety
3219 ~~Criminal Punishment~~ Code under chapter 921, the sentence imposed
3220 by the court must include the mandatory minimum term of
3221 imprisonment as required by paragraph (2)(b) or paragraph
3222 (2)(c).

3223 Section 39. Paragraph (c) of subsection (3) of section
3224 893.03, Florida Statutes, is amended to read:

3225 893.03 Standards and schedules.—The substances enumerated
3226 in this section are controlled by this chapter. The controlled
3227 substances listed or to be listed in Schedules I, II, III, IV,
3228 and V are included by whatever official, common, usual,
3229 chemical, trade name, or class designated. The provisions of
3230 this section shall not be construed to include within any of the
3231 schedules contained in this section any excluded drugs listed
3232 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
3233 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
3234 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
3235 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
3236 Anabolic Steroid Products."

3237 (3) SCHEDULE III.—A substance in Schedule III has a
3238 potential for abuse less than the substances contained in
3239 Schedules I and II and has a currently accepted medical use in
3240 treatment in the United States, and abuse of the substance may
3241 lead to moderate or low physical dependence or high
3242 psychological dependence or, in the case of anabolic steroids,
3243 may lead to physical damage. The following substances are
3244 controlled in Schedule III:

3245 (c) Unless specifically excepted or unless listed in
3246 another schedule, any material, compound, mixture, or



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3247 preparation containing limited quantities of any of the
3248 following controlled substances or any salts thereof:
3249 1. Not more than 1.8 grams of codeine per 100 milliliters
3250 or not more than 90 milligrams per dosage unit, with an equal or
3251 greater quantity of an isoquinoline alkaloid of opium.
3252 2. Not more than 1.8 grams of codeine per 100 milliliters
3253 or not more than 90 milligrams per dosage unit, with recognized
3254 therapeutic amounts of one or more active ingredients which are
3255 not controlled substances.
3256 3. Not more than 300 milligrams of hydrocodone per 100
3257 milliliters or not more than 15 milligrams per dosage unit, with
3258 a fourfold or greater quantity of an isoquinoline alkaloid of
3259 opium.
3260 4. Not more than 300 milligrams of hydrocodone per 100
3261 milliliters or not more than 15 milligrams per dosage unit, with
3262 recognized therapeutic amounts of one or more active ingredients
3263 that are not controlled substances.
3264 5. Not more than 1.8 grams of dihydrocodeine per 100
3265 milliliters or not more than 90 milligrams per dosage unit, with
3266 recognized therapeutic amounts of one or more active ingredients
3267 which are not controlled substances.
3268 6. Not more than 300 milligrams of ethylmorphine per 100
3269 milliliters or not more than 15 milligrams per dosage unit, with
3270 one or more active, nonnarcotic ingredients in recognized
3271 therapeutic amounts.
3272 7. Not more than 50 milligrams of morphine per 100
3273 milliliters or per 100 grams, with recognized therapeutic
3274 amounts of one or more active ingredients which are not
3275 controlled substances.



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3276
3277 For purposes of charging a person with a violation of s. 893.135
3278 involving any controlled substance described in subparagraph 3.
3279 or subparagraph 4., the controlled substance is a Schedule III
3280 controlled substance pursuant to this paragraph but the weight
3281 of the controlled substance per milliliters or per dosage unit
3282 is not relevant to the charging of a violation of s. 893.135.
3283 The weight of the controlled substance shall be determined
3284 pursuant to s. 893.135(7) ~~s. 893.135(6)~~.
3285 Section 40. Paragraph (d) of subsection (8) of section
3286 893.13, Florida Statutes, is amended to read:
3287 893.13 Prohibited acts; penalties.—
3288 (8)
3289 (d) Notwithstanding paragraph (c), if a prescribing
3290 practitioner has violated paragraph (a) and received \$1,000 or
3291 more in payment for writing one or more prescriptions or, in the
3292 case of a prescription written for a controlled substance
3293 described in s. 893.135, has written one or more prescriptions
3294 for a quantity of a controlled substance which, individually or
3295 in the aggregate, meets the threshold for the offense of
3296 trafficking in a controlled substance under s. 893.135, the
3297 violation is reclassified as a felony of the second degree and
3298 ranked in level 4 of the Public Safety Criminal Punishment Code.
3299 Section 41. Subsection (2) of section 893.20, Florida
3300 Statutes, is amended to read:
3301 893.20 Continuing criminal enterprise.—
3302 (2) A person who commits the offense of engaging in a
3303 continuing criminal enterprise commits ~~is guilty of~~ a life
3304 felony, punishable pursuant to the Public Safety Criminal



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3305 ~~Punishment~~ Code and by a fine of \$500,000.

3306 Section 42. Paragraph (f) of subsection (5) of section

3307 910.035, Florida Statutes, is amended to read:

3308 910.035 Transfer from county for plea, sentence, or

3309 participation in a problem-solving court.—

3310 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

3311 (f) Upon successful completion of the problem-solving court

3312 program, the jurisdiction to which the case has been transferred

3313 shall dispose of the case. If the defendant does not complete

3314 the problem-solving court program successfully, the jurisdiction

3315 to which the case has been transferred shall dispose of the case

3316 within the guidelines of the Public Safety ~~Criminal Punishment~~

3317 Code.

3318 Section 43. Section 921.0022, Florida Statutes, is amended

3319 to read:

3320 921.0022 Public Safety ~~Criminal Punishment~~ Code; offense

3321 severity ranking chart.—

3322 (1) The offense severity ranking chart must be used with

3323 the Public Safety ~~Criminal Punishment~~ Code worksheet to compute

3324 a sentence score for each felony offender whose offense was

3325 committed on or after October 1, 1998.

3326 (2) The offense severity ranking chart has 10 offense

3327 levels, ranked from least severe, which are level 1 offenses, to

3328 most severe, which are level 10 offenses, and each felony

3329 offense is assigned to a level according to the severity of the

3330 offense. For purposes of determining which felony offenses are

3331 specifically listed in the offense severity ranking chart and

3332 which severity level has been assigned to each of these

3333 offenses, the numerical statutory references in the left column



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3334 of the chart and the felony degree designations in the middle

3335 column of the chart are controlling; the language in the right

3336 column of the chart is provided solely for descriptive purposes.

3337 Reclassification of the degree of the felony through the

3338 application of s. 775.0845, s. 775.085, s. 775.0861, s.

3339 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or

3340 any other law that provides an enhanced penalty for a felony

3341 offense, to any offense listed in the offense severity ranking

3342 chart in this section shall not cause the offense to become

3343 unlisted and is not subject to ~~the provisions of~~ s. 921.0023.

3344 (3) OFFENSE SEVERITY RANKING CHART

3345 (a) LEVEL 1

3346

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|--|
| 24.118(3)(a) | 3rd | Counterfeit or altered state lottery ticket. |
| 212.054(2)(b) | 3rd | Discretionary sales surtax; limitations, administration, and collection. |
| 212.15(2)(b) | 3rd | Failure to remit sales taxes, amount \$1,000 or more but less than \$20,000. |
| 316.1935(1) | 3rd | Fleeing or attempting to elude law enforcement |



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officer.

3351

319.30(5)

3rd

Sell, exchange, give away certificate of title or identification number plate.

3352

319.35(1)(a)

3rd

Tamper, adjust, change, etc., an odometer.

3353

320.26(1)(a)

3rd

Counterfeit, manufacture, or sell registration license plates or validation stickers.

3354

322.212
(1)(a)-(c)

3rd

Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.

3355

322.212(4)

3rd

Supply or aid in supplying unauthorized driver license or identification card.

3356

322.212(5)(a)

3rd

False application for driver license or identification card.

3357

414.39(3)(a)

3rd

Fraudulent misappropriation



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of public assistance funds by employee/official, value more than \$200.

3358

443.071(1)

3rd

False statement or representation to obtain or increase reemployment assistance benefits.

3359

509.151(1)

3rd

Defraud an innkeeper, food or lodging value \$1,000 or more.

3360

517.302(1)

3rd

Violation of the Florida Securities and Investor Protection Act.

3361

713.69

3rd

Tenant removes property upon which lien has accrued, value \$1,000 or more.

3362

812.014(3)(c)

3rd

Petit theft (3rd conviction); theft of any property not specified in subsection (2).

3363

812.081(2)

3rd

Unlawfully makes or causes to be made a reproduction of a trade secret.



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3364 815.04(5)(a) 3rd Offense against intellectual
property (i.e., computer
3365 817.52(2) 3rd Hiring with intent to
defraud, motor vehicle
3366 817.569(2) 3rd Use of public record or
public records information
or providing false
information to facilitate
3367 826.01 3rd Bigamy.
3368 828.122(3) 3rd Fighting or baiting animals.
3369 831.04(1) 3rd Any erasure, alteration,
etc., of any replacement
deed, map, plat, or other
document listed in s. 92.28.
3370 831.31(1)(a) 3rd Sell, deliver, or possess
counterfeit controlled
substances, all but s.
3371 893.03(5) drugs.



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832.041(1) 3rd Stopping payment with intent
to defraud \$150 or more.
3372 832.05(2)(b) & 3rd Knowing, making, issuing
(4)(c) worthless checks \$150 or
more or obtaining property
in return for worthless
check \$150 or more.
3373 838.15(2) 3rd Commercial bribe receiving.
3374 838.16 3rd Commercial bribery.
3375 843.18 3rd Fleeing by boat to elude a
law enforcement officer.
3376 847.011(1)(a) 3rd Sell, distribute, etc.,
obscene, lewd, etc.,
material (2nd conviction).
3377 849.09(1)(a)-(d) 3rd Lottery; set up, promote,
etc., or assist therein,
conduct or advertise drawing
for prizes, or dispose of
property or money by means
of lottery.
3378 849.23 3rd Gambling-related machines;
"common offender" as to



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| | | | |
|------|---------------------|---------------|--|
| 3379 | | | property rights. |
| 3380 | 849.25(2) | 3rd | Engaging in bookmaking. |
| 3381 | 860.08 | 3rd | Interfere with a railroad signal. |
| 3382 | 860.13(1) (a) | 3rd | Operate aircraft while under the influence. |
| 3383 | 893.13(2) (a)2. | 3rd | Purchase of cannabis. |
| 3384 | 893.13(6) (a) | 3rd | Possession of cannabis (more than 20 grams). |
| 3385 | 934.03(1) (a) | 3rd | Intercepts, or procures any other person to intercept, any wire or oral communication. |
| 3386 | | | |
| 3387 | | | |
| 3388 | (b) LEVEL 2 | | |
| 3389 | Florida Statute | Felony Degree | Description |
| 3390 | 379.2431 (1) (e) 3. | 3rd | Possession of 11 or fewer marine turtle eggs |



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| 3391 | | | in violation of the Marine Turtle Protection Act. |
| 3392 | 379.2431 (1) (e) 4. | 3rd | Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act. |
| 3393 | 403.413(6) (c) | 3rd | Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste. |
| 3394 | 517.07(2) | 3rd | Failure to furnish a prospectus meeting requirements. |
| 3395 | 590.28(1) | 3rd | Intentional burning of lands. |
| | 784.05(3) | 3rd | Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death. |



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| 3396 | 787.04(1) | 3rd | In violation of court order, take, entice, etc., minor beyond state limits. |
| 3397 | 806.13(1)(b)3. | 3rd | Criminal mischief; damage \$1,000 or more to public communication or any other public service. |
| 3398 | 810.061(2) | 3rd | Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary. |
| 3399 | 810.09(2)(e) | 3rd | Trespassing on posted commercial horticulture property. |
| 3400 | 812.014(2)(c)1. | 3rd | Grand theft, 3rd degree; \$750 or more but less than \$5,000. |
| 3401 | 812.014(2)(d) | 3rd | Grand theft, 3rd degree; \$100 or more but less than \$750, taken from unenclosed curtilage of |



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|------|-----------------|-----|---|
| 3402 | | | dwelling. |
| | 812.015(7) | 3rd | Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure. |
| 3403 | 817.234(1)(a)2. | 3rd | False statement in support of insurance claim. |
| 3404 | 817.481(3)(a) | 3rd | Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300. |
| 3405 | 817.52(3) | 3rd | Failure to redeliver hired vehicle. |
| 3406 | 817.54 | 3rd | With intent to defraud, obtain mortgage note, etc., by false representation. |
| 3407 | 817.60(5) | 3rd | Dealing in credit cards of another. |
| 3408 | | | |



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| 817.60(6)(a) | 3rd | Forgery; purchase goods, services with false card. | |
| 3409 | | | |
| 817.61 | 3rd | Fraudulent use of credit cards over \$100 or more within 6 months. | |
| 3410 | | | |
| 826.04 | 3rd | Knowingly marries or has sexual intercourse with person to whom related. | |
| 3411 | | | |
| 831.01 | 3rd | Forgery. | |
| 3412 | | | |
| 831.02 | 3rd | Uttering forged instrument; utters or publishes alteration with intent to defraud. | |
| 3413 | | | |
| 831.07 | 3rd | Forging bank bills, checks, drafts, or promissory notes. | |
| 3414 | | | |
| 831.08 | 3rd | Possessing 10 or more forged notes, bills, checks, or drafts. | |
| 3415 | | | |
| 831.09 | 3rd | Uttering forged notes, bills, checks, drafts, | |



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| 3416 | | | or promissory notes. |
| 831.11 | 3rd | Bringing into the state forged bank bills, checks, drafts, or notes. | |
| 3417 | | | |
| 832.05(3)(a) | 3rd | Cashing or depositing item with intent to defraud. | |
| 3418 | | | |
| 843.08 | 3rd | False personation. | |
| 3419 | | | |
| 893.13(2)(a)2. | 3rd | Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis. | |
| 3420 | | | |
| 893.147(2) | 3rd | Manufacture or delivery of drug paraphernalia. | |
| 3421 | | | |
| 3422 | | | |
| 3423 | | | |
| 3424 | | (c) LEVEL 3 | |
| 3425 | | | |



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| | Florida Statute | Felony Degree | Description |
|------|-------------------|---------------|---|
| 3426 | 119.10(2)(b) | 3rd | Unlawful use of confidential information from police reports. |
| 3427 | 316.066(3)(b)-(d) | 3rd | Unlawfully obtaining or using confidential crash reports. |
| 3428 | 316.193(2)(b) | 3rd | Felony DUI, 3rd conviction. |
| 3429 | 316.1935(2) | 3rd | Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated. |
| 3430 | 319.30(4) | 3rd | Possession by junkyard of motor vehicle with identification number plate removed. |
| 3431 | 319.33(1)(a) | 3rd | Alter or forge any certificate of title to a motor vehicle or mobile home. |



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| | 319.33(1)(c) | 3rd | Procure or pass title on stolen vehicle. |
| 3433 | 319.33(4) | 3rd | With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration. |
| 3434 | 327.35(2)(b) | 3rd | Felony BUI. |
| 3435 | 328.05(2) | 3rd | Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels. |
| 3436 | 328.07(4) | 3rd | Manufacture, exchange, or possess vessel with counterfeit or wrong ID number. |
| 3437 | 376.302(5) | 3rd | Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund. |
| 3438 | 379.2431(1)(e)5. | 3rd | Taking, disturbing, mutilating, destroying, |



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causing to be destroyed,
transferring, selling,
offering to sell,
molesting, or harassing
marine turtles, marine
turtle eggs, or marine
turtle nests in violation
of the Marine Turtle
Protection Act.

3439

379.2431
(1) (e) 6.

3rd

Possessing any marine
turtle species or
hatchling, or parts
thereof, or the nest of any
marine turtle species
described in the Marine
Turtle Protection Act.

3440

379.2431
(1) (e) 7.

3rd

Soliciting to commit or
conspiring to commit a
violation of the Marine
Turtle Protection Act.

3441

400.9935(4) (a)
or (b)

3rd

Operating a clinic, or
offering services requiring
licensure, without a
license.

3442

400.9935(4) (e)

3rd

Filing a false license



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application or other
required information or
failing to report
information.

3443

440.1051(3)

3rd

False report of workers'
compensation fraud or
retaliation for making such
a report.

3444

501.001(2) (b)

2nd

Tampers with a consumer
product or the container
using materially
false/misleading
information.

3445

624.401(4) (a)

3rd

Transacting insurance
without a certificate of
authority.

3446

624.401(4) (b)1.

3rd

Transacting insurance
without a certificate of
authority; premium
collected less than
\$20,000.

3447

626.902(1) (a) &
(b)

3rd

Representing an
unauthorized insurer.

3448



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| 3449 | 697.08 | 3rd | Equity skimming. |
| | 790.15(3) | 3rd | Person directs another to discharge firearm from a vehicle. |
| 3450 | 806.10(1) | 3rd | Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting. |
| 3451 | 806.10(2) | 3rd | Interferes with or assaults firefighter in performance of duty. |
| 3452 | 810.09(2)(c) | 3rd | Trespass on property other than structure or conveyance armed with firearm or dangerous weapon. |
| 3453 | 812.014(2)(c)2. | 3rd | Grand theft; \$5,000 or more but less than \$10,000. |
| 3454 | 812.0145(2)(c) | 3rd | Theft from person 65 years of age or older; \$300 or more but less than \$10,000. |
| 3455 | 812.015(8)(b) | 3rd | Retail theft with intent to |



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| | | | sell; conspires with others. |
| 3456 | 815.04(5)(b) | 2nd | Computer offense devised to defraud or obtain property. |
| 3457 | 817.034(4)(a)3. | 3rd | Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000. |
| 3458 | 817.233 | 3rd | Burning to defraud insurer. |
| 3459 | 817.234 (8)(b) & (c) | 3rd | Unlawful solicitation of persons involved in motor vehicle accidents. |
| 3460 | 817.234(11)(a) | 3rd | Insurance fraud; property value less than \$20,000. |
| 3461 | 817.236 | 3rd | Filing a false motor vehicle insurance application. |
| 3462 | 817.2361 | 3rd | Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card. |



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| 3463 | 817.413(2) | 3rd | Sale of used goods of \$1,000 or more as new. |
| 3464 | 831.28(2)(a) | 3rd | Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud. |
| 3465 | 831.29 | 2nd | Possession of instruments for counterfeiting driver licenses or identification cards. |
| 3466 | 838.021(3)(b) | 3rd | Threatens unlawful harm to public servant. |
| 3467 | 843.19 | 2nd | Injure, disable, or kill police, fire, or SAR canine or police horse. |
| 3468 | 860.15(3) | 3rd | Overcharging for repairs and parts. |
| 3469 | 870.01(2) | 3rd | Riot; inciting or encouraging. |



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|------|----------------|-----|---|
| 3471 | 893.13(1)(a)2. | 3rd | Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs). |
| 3472 | 893.13(1)(d)2. | 2nd | Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university. |
| 3473 | 893.13(1)(f)2. | 2nd | Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility. |
| | 893.13(4)(c) | 3rd | Use or hire of minor; |



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deliver to minor other
controlled substances.

3474

893.13(6)(a) 3rd Possession of any
controlled substance other
than felony possession of
cannabis.

3475

893.13(7)(a)8. 3rd Withhold information from
practitioner regarding
previous receipt of or
prescription for a
controlled substance.

3476

893.13(7)(a)9. 3rd Obtain or attempt to obtain
controlled substance by
fraud, forgery,
misrepresentation, etc.

3477

893.13(7)(a)10. 3rd Affix false or forged label
to package of controlled
substance.

3478

893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required
by chapter 893.

3479

893.13(8)(a)1. 3rd Knowingly assist a patient,



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other person, or owner of
an animal in obtaining a
controlled substance
through deceptive, untrue,
or fraudulent
representations in or
related to the
practitioner's practice.

3480

893.13(8)(a)2. 3rd Employ a trick or scheme in
the practitioner's practice
to assist a patient, other
person, or owner of an
animal in obtaining a
controlled substance.

3481

893.13(8)(a)3. 3rd Knowingly write a
prescription for a
controlled substance for a
fictitious person.

3482

893.13(8)(a)4. 3rd Write a prescription for a
controlled substance for a
patient, other person, or
an animal if the sole
purpose of writing the
prescription is a monetary
benefit for the
practitioner.



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| 3483 | 918.13(1) (a) | 3rd | Alter, destroy, or conceal investigation evidence. |
| 3484 | 944.47 (1) (a) 1. & 2. | 3rd | Introduce contraband to correctional facility. |
| 3485 | 944.47(1) (c) | 2nd | Possess contraband while upon the grounds of a correctional institution. |
| 3486 | 985.721 | 3rd | Escapes from a juvenile facility (secure detention or residential commitment facility). |
| 3487 | | | |
| 3488 | | | |
| 3489 | | | |
| 3490 | (d) LEVEL 4 | | |
| 3491 | Florida Statute | Felony Degree | Description |
| 3492 | 316.1935(3) (a) | 2nd | Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol |



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| | | | vehicle with siren and lights activated. |
| 3493 | 499.0051(1) | 3rd | Failure to maintain or deliver transaction history, transaction information, or transaction statements. |
| 3494 | 499.0051(5) | 2nd | Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs. |
| 3495 | 517.07(1) | 3rd | Failure to register securities. |
| 3496 | 517.12(1) | 3rd | Failure of dealer, associated person, or issuer of securities to register. |
| 3497 | 784.07(2) (b) | 3rd | Battery of law enforcement officer, firefighter, etc. |
| 3498 | 784.074(1) (c) | 3rd | Battery of sexually violent predators |



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facility staff.

3499

784.075 3rd Battery on detention or
commitment facility
staff.

3500

784.078 3rd Battery of facility
employee by throwing,
tossing, or expelling
certain fluids or
materials.

3501

784.08(2)(c) 3rd Battery on a person 65
years of age or older.

3502

784.081(3) 3rd Battery on specified
official or employee.

3503

784.082(3) 3rd Battery by detained
person on visitor or
other detainee.

3504

784.083(3) 3rd Battery on code
inspector.

3505

784.085 3rd Battery of child by
throwing, tossing,
projecting, or expelling
certain fluids or



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materials.

3506

787.03(1) 3rd Interference with
custody; wrongly takes
minor from appointed
guardian.

3507

787.04(2) 3rd Take, entice, or remove
child beyond state
limits with criminal
intent pending custody
proceedings.

3508

787.04(3) 3rd Carrying child beyond
state lines with
criminal intent to avoid
producing child at
custody hearing or
delivering to designated
person.

3509

787.07 3rd Human smuggling.

3510

790.115(1) 3rd Exhibiting firearm or
weapon within 1,000 feet
of a school.

3511

790.115(2)(b) 3rd Possessing electric
weapon or device,



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destructive device, or
other weapon on school
property.

3512

790.115(2)(c)

3rd

Possessing firearm on
school property.

3513

800.04(7)(c)

3rd

Lewd or lascivious
exhibition; offender
less than 18 years.

3514

810.02(4)(a)

3rd

Burglary, or attempted
burglary, of an
unoccupied structure;
unarmed; no assault or
battery.

3515

810.02(4)(b)

3rd

Burglary, or attempted
burglary, of an
unoccupied conveyance;
unarmed; no assault or
battery.

3516

810.06

3rd

Burglary; possession of
tools.

3517

810.08(2)(c)

3rd

Trespass on property,
armed with firearm or
dangerous weapon.



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3518

812.014(2)(c)3.

3rd

Grand theft, 3rd degree
\$10,000 or more but less
than \$20,000.

3519

812.014
(2)(c)4.-10.

3rd

Grand theft, 3rd degree;
specified items.

3520

812.0195(2)

3rd

Dealing in stolen
property by use of the
Internet; property
stolen \$300 or more.

3521

817.505(4)(a)

3rd

Patient brokering.

3522

817.563(1)

3rd

Sell or deliver
substance other than
controlled substance
agreed upon, excluding
s. 893.03(5) drugs.

3523

817.568(2)(a)

3rd

Fraudulent use of
personal identification
information.

3524

817.625(2)(a)

3rd

Fraudulent use of
scanning device,
skimming device, or
reencoder.



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| 3525 | 576-04137-20 | | |
| | 817.625(2)(c) | 3rd | Possess, sell, or deliver skimming device. |
| 3526 | 828.125(1) | 2nd | Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle. |
| 3527 | 837.02(1) | 3rd | Perjury in official proceedings. |
| 3528 | 837.021(1) | 3rd | Make contradictory statements in official proceedings. |
| 3529 | 838.022 | 3rd | Official misconduct. |
| 3530 | 839.13(2)(a) | 3rd | Falsifying records of an individual in the care and custody of a state agency. |
| 3531 | 839.13(2)(c) | 3rd | Falsifying records of the Department of Children and Families. |



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| | 843.021 | 3rd | Possession of a concealed handcuff key by a person in custody. |
| 3533 | 843.025 | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 3534 | 843.15(1)(a) | 3rd | Failure to appear while on bail for felony (bond estreature or bond jumping). |
| 3535 | 847.0135(5)(c) | 3rd | Lewd or lascivious exhibition using computer; offender less than 18 years. |
| 3536 | 874.05(1)(a) | 3rd | Encouraging or recruiting another to join a criminal gang. |
| 3537 | 893.13(2)(a)1. | 2nd | Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. |



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| 3538 | | | drugs). |
| | 914.14(2) | 3rd | Witnesses accepting bribes. |
| 3539 | | | |
| | 914.22(1) | 3rd | Force, threaten, etc., witness, victim, or informant. |
| 3540 | | | |
| | 914.23(2) | 3rd | Retaliation against a witness, victim, or informant, no bodily injury. |
| 3541 | | | |
| | 918.12 | 3rd | Tampering with jurors. |
| 3542 | | | |
| | 934.215 | 3rd | Use of two-way communications device to facilitate commission of a crime. |
| 3543 | | | |
| | 944.47(1)(a)6. | 3rd | Introduction of contraband (cellular telephone or other portable communication device) into correctional institution. |
| 3544 | | | |



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| | 951.22(1)(h), (j) & (k) | 3rd | Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility. |
| 3545 | | | |
| 3546 | | | |
| 3547 | | | |
| 3548 | (e) LEVEL 5 | | |
| 3549 | | | |
| | Florida Statute | Felony Degree | Description |
| 3550 | | | |
| | 316.027(2)(a) | 3rd | Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene. |
| 3551 | | | |
| | 316.1935(4)(a) | 2nd | Aggravated fleeing or eluding. |
| 3552 | | | |
| | 316.80(2) | 2nd | Unlawful conveyance of fuel; obtaining fuel fraudulently. |
| 3553 | | | |



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322.34(6) 3rd Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

3554

327.30(5) 3rd Vessel accidents involving personal injury; leaving scene.

3555

379.365(2)(c)1. 3rd Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged,



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counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

3556

379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

3557

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

3558

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing HIV positive.

3559

440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

3560

440.105(5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.



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440.381(2) 3rd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

3562 624.401(4)(b)2. 2nd Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

3563 626.902(1)(c) 2nd Representing an unauthorized insurer; repeat offender.

3564 790.01(2) 3rd Carrying a concealed firearm.

3565 790.162 2nd Threat to throw or discharge destructive device.

3566 790.163(1) 2nd False report of bomb, explosive, weapon of



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mass destruction, or use of firearms in violent manner.

3567 790.221(1) 2nd Possession of short-barreled shotgun or machine gun.

3568 790.23 2nd Felons in possession of firearms, ammunition, or electronic weapons or devices.

3569 796.05(1) 2nd Live on earnings of a prostitute; 1st offense.

3570 800.04(6)(c) 3rd Lewd or lascivious conduct; offender less than 18 years of age.

3571 800.04(7)(b) 2nd Lewd or lascivious exhibition; offender 18 years of age or older.

3572 806.111(1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

3573



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|--------------|---------------------------|-----|--|
| 576-04137-20 | | | |
| 3574 | 812.0145 (2) (b) | 2nd | Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000. |
| | 812.015 (8) (a) & (c)-(e) | 3rd | Retail theft; property stolen is valued at \$750 or more and one or more specified acts. |
| 3575 | 812.019(1) | 2nd | Stolen property; dealing in or trafficking in. |
| 3576 | 812.131 (2) (b) | 3rd | Robbery by sudden snatching. |
| 3577 | 812.16(2) | 3rd | Owning, operating, or conducting a chop shop. |
| 3578 | 817.034 (4) (a) 2. | 2nd | Communications fraud, value \$20,000 to \$50,000. |
| 3579 | 817.234 (11) (b) | 2nd | Insurance fraud; property value \$20,000 or more but less than \$100,000. |
| 3580 | 817.2341 (1), | 3rd | Filing false financial |



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| | (2) (a) & (3) (a) | | statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity. |
| 3581 | 817.568 (2) (b) | 2nd | Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons. |
| 3582 | 817.611 (2) (a) | 2nd | Traffic in or possess 5 to 14 counterfeit credit cards or related documents. |
| 3583 | 817.625 (2) (b) | 2nd | Second or subsequent fraudulent use of scanning device, skimming device, or |



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reencoder.

3584

825.1025(4)

3rd

Lewd or lascivious
exhibition in the
presence of an elderly
person or disabled
adult.

3585

827.071(4)

2nd

Possess with intent to
promote any photographic
material, motion
picture, etc., which
includes sexual conduct
by a child.

3586

827.071(5)

3rd

Possess, control, or
intentionally view any
photographic material,
motion picture, etc.,
which includes sexual
conduct by a child.

3587

828.12(2)

3rd

Tortures any animal with
intent to inflict
intense pain, serious
physical injury, or
death.

3588

839.13(2)(b)

2nd

Falsifying records of an



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individual in the care
and custody of a state
agency involving great
bodily harm or death.

3589

843.01

3rd

Resist officer with
violence to person;
resist arrest with
violence.

3590

847.0135(5)(b)

2nd

Lewd or lascivious
exhibition using
computer; offender 18
years or older.

3591

847.0137
(2) & (3)

3rd

Transmission of
pornography by
electronic device or
equipment.

3592

847.0138
(2) & (3)

3rd

Transmission of material
harmful to minors to a
minor by electronic
device or equipment.

3593

874.05(1)(b)

2nd

Encouraging or
recruiting another to
join a criminal gang;
second or subsequent



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offense.

3594

874.05(2)(a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

3595

893.13(1)(a)1.

2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

3596

893.13(1)(c)2.

2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.



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3597

893.13(1)(d)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.

3598

893.13(1)(e)2.

2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

3599

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within



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1,000 feet of public
housing facility.

3600

893.13(4)(b)

2nd

Use or hire of minor;
deliver to minor other
controlled substance.

3601

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

3602

3603

3604

3605

3606

(f) LEVEL 6

Florida
Statute

Felony
Degree

Description

3607

316.027(2)(b)

2nd

Leaving the scene of a
crash involving serious
bodily injury.

3608

316.193(2)(b)

3rd

Felony DUI, 4th or
subsequent conviction.

3609

400.9935(4)(c)

2nd

Operating a clinic, or
offering services
requiring licensure,



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without a license.

3610

499.0051(2)

2nd

Knowing forgery of
transaction history,
transaction information,
or transaction
statement.

3611

499.0051(3)

2nd

Knowing purchase or
receipt of prescription
drug from unauthorized
person.

3612

499.0051(4)

2nd

Knowing sale or transfer
of prescription drug to
unauthorized person.

3613

775.0875(1)

3rd

Taking firearm from law
enforcement officer.

3614

784.021(1)(a)

3rd

Aggravated assault;
deadly weapon without
intent to kill.

3615

784.021(1)(b)

3rd

Aggravated assault;
intent to commit felony.

3616

784.041

3rd

Felony battery; domestic
battery by



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strangulation.

3617

784.048(3)

3rd

Aggravated stalking;
credible threat.

3618

784.048(5)

3rd

Aggravated stalking of
person under 16.

3619

784.07(2)(c)

2nd

Aggravated assault on
law enforcement officer.

3620

784.074(1)(b)

2nd

Aggravated assault on
sexually violent
predators facility
staff.

3621

784.08(2)(b)

2nd

Aggravated assault on a
person 65 years of age
or older.

3622

784.081(2)

2nd

Aggravated assault on
specified official or
employee.

3623

784.082(2)

2nd

Aggravated assault by
detained person on
visitor or other
detainee.

3624



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784.083(2)

2nd

Aggravated assault on
code inspector.

3625

787.02(2)

3rd

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

3626

790.115(2)(d)

2nd

Discharging firearm or
weapon on school
property.

3627

790.161(2)

2nd

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

3628

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.

3629

790.19

2nd

Shooting or throwing
deadly missiles into
dwellings, vessels, or
vehicles.



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| 3630 | 576-04137-20 | | |
| | 794.011(8)(a) | 3rd | Solicitation of minor to participate in sexual activity by custodial adult. |
| 3631 | 794.05(1) | 2nd | Unlawful sexual activity with specified minor. |
| 3632 | 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. |
| 3633 | 800.04(6)(b) | 2nd | Lewd or lascivious conduct; offender 18 years of age or older. |
| 3634 | 806.031(2) | 2nd | Arson resulting in great bodily harm to firefighter or any other person. |
| 3635 | 810.02(3)(c) | 2nd | Burglary of occupied structure; unarmed; no assault or battery. |
| 3636 | | | |



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| | 576-04137-20 | | |
| | 810.145(8)(b) | 2nd | Video voyeurism; certain minor victims; 2nd or subsequent offense. |
| 3637 | 812.014(2)(b)1. | 2nd | Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree. |
| 3638 | 812.014(6) | 2nd | Theft; property stolen \$3,000 or more; coordination of others. |
| 3639 | 812.015(9)(a) | 2nd | Retail theft; property stolen \$750 or more; second or subsequent conviction. |
| 3640 | 812.015(9)(b) | 2nd | Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others. |
| 3641 | 812.13(2)(c) | 2nd | Robbery, no firearm or other weapon (strong-arm robbery). |
| 3642 | 817.4821(5) | 2nd | Possess cloning |



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paraphernalia with
intent to create cloned
cellular telephones.

3643

817.505(4)(b)

2nd

Patient brokering; 10 or
more patients.

3644

825.102(1)

3rd

Abuse of an elderly
person or disabled
adult.

3645

825.102(3)(c)

3rd

Neglect of an elderly
person or disabled
adult.

3646

825.1025(3)

3rd

Lewd or lascivious
molestation of an
elderly person or
disabled adult.

3647

825.103(3)(c)

3rd

Exploiting an elderly
person or disabled adult
and property is valued
at less than \$10,000.

3648

827.03(2)(c)

3rd

Abuse of a child.

3649

827.03(2)(d)

3rd

Neglect of a child.

3650



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827.071(2) & (3)

2nd

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

3651

836.05

2nd

Threats; extortion.

3652

836.10

2nd

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

3653

843.12

3rd

Aids or assists person
to escape.

3654

847.011

3rd

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

3655

847.012

3rd

Knowingly using a minor
in the production of
materials harmful to
minors.

3656

847.0135(2)

3rd

Facilitates sexual
conduct of or with a



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| | | | minor or the visual depiction of such conduct. |
| 3657 | 914.23 | 2nd | Retaliation against a witness, victim, or informant, with bodily injury. |
| 3658 | 944.35(3)(a)2. | 3rd | Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm. |
| 3659 | 944.40 | 2nd | Escapes. |
| 3660 | 944.46 | 3rd | Harboring, concealing, aiding escaped prisoners. |
| 3661 | 944.47(1)(a)5. | 2nd | Introduction of contraband (firearm, weapon, or explosive) into correctional facility. |



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| 3662 | 951.22(1)(i) | 3rd | Firearm or weapon introduced into county detention facility. |
| 3663 | | | |
| 3664 | | | |
| 3665 | | | |
| 3666 | (g) LEVEL 7 | | |
| 3667 | | | |
| | Florida Statute | Felony Degree | Description |
| 3668 | 316.027(2)(c) | 1st | Accident involving death, failure to stop; leaving scene. |
| 3669 | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily injury. |
| 3670 | 316.1935(3)(b) | 1st | Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated. |



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| 3671 | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious bodily injury. |
| 3672 | 402.319(2) | 2nd | Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death. |
| 3673 | 409.920 (2)(b)1.a. | 3rd | Medicaid provider fraud; \$10,000 or less. |
| 3674 | 409.920 (2)(b)1.b. | 2nd | Medicaid provider fraud; more than \$10,000, but less than \$50,000. |
| 3675 | 456.065(2) | 3rd | Practicing a health care profession without a license. |
| 3676 | 456.065(2) | 2nd | Practicing a health care profession without a license which results in serious bodily injury. |
| 3677 | 458.327(1) | 3rd | Practicing medicine without a license. |



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| 3678 | 459.013(1) | 3rd | Practicing osteopathic medicine without a license. |
| 3679 | 460.411(1) | 3rd | Practicing chiropractic medicine without a license. |
| 3680 | 461.012(1) | 3rd | Practicing podiatric medicine without a license. |
| 3681 | 462.17 | 3rd | Practicing naturopathy without a license. |
| 3682 | 463.015(1) | 3rd | Practicing optometry without a license. |
| 3683 | 464.016(1) | 3rd | Practicing nursing without a license. |
| 3684 | 465.015(2) | 3rd | Practicing pharmacy without a license. |
| 3685 | 466.026(1) | 3rd | Practicing dentistry or dental hygiene without a license. |
| 3686 | | | |



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| 576-04137-20 | | | |
| 3687 | 467.201 | 3rd | Practicing midwifery without a license. |
| | 468.366 | 3rd | Delivering respiratory care services without a license. |
| 3688 | 483.828(1) | 3rd | Practicing as clinical laboratory personnel without a license. |
| 3689 | 483.901(7) | 3rd | Practicing medical physics without a license. |
| 3690 | 484.013(1)(c) | 3rd | Preparing or dispensing optical devices without a prescription. |
| 3691 | 484.053 | 3rd | Dispensing hearing aids without a license. |
| 3692 | 494.0018(2) | 1st | Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims. |
| 3693 | | | |



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| | 560.123(8)(b)1. | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business. |
| 3694 | 560.125(5)(a) | 3rd | Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000. |
| 3695 | 655.50(10)(b)1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution. |
| 3696 | 775.21(10)(a) | 3rd | Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations. |
| 3697 | 775.21(10)(b) | 3rd | Sexual predator working where children regularly congregate. |
| 3698 | 775.21(10)(g) | 3rd | Failure to report or |



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providing false
information about a sexual
predator; harbor or
conceal a sexual predator.

3699

782.051(3)

2nd

Attempted felony murder of
a person by a person other
than the perpetrator or
the perpetrator of an
attempted felony.

3700

782.07(1)

2nd

Killing of a human being
by the act, procurement,
or culpable negligence of
another (manslaughter).

3701

782.071

2nd

Killing of a human being
or unborn child by the
operation of a motor
vehicle in a reckless
manner (vehicular
homicide).

3702

782.072

2nd

Killing of a human being
by the operation of a
vessel in a reckless
manner (vessel homicide).

3703

784.045(1)(a)1.

2nd

Aggravated battery;



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intentionally causing
great bodily harm or
disfigurement.

3704

784.045(1)(a)2.

2nd

Aggravated battery; using
deadly weapon.

3705

784.045(1)(b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

3706

784.048(4)

3rd

Aggravated stalking;
violation of injunction or
court order.

3707

784.048(7)

3rd

Aggravated stalking;
violation of court order.

3708

784.07(2)(d)

1st

Aggravated battery on law
enforcement officer.

3709

784.074(1)(a)

1st

Aggravated battery on
sexually violent predators
facility staff.

3710

784.08(2)(a)

1st

Aggravated battery on a
person 65 years of age or
older.

3711



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| 3712 | 784.081(1) | 1st | Aggravated battery on specified official or employee. |
| 3713 | 784.082(1) | 1st | Aggravated battery by detained person on visitor or other detainee. |
| 3714 | 784.083(1) | 1st | Aggravated battery on code inspector. |
| 3715 | 787.06(3)(a)2. | 1st | Human trafficking using coercion for labor and services of an adult. |
| 3716 | 787.06(3)(e)2. | 1st | Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state. |
| 3717 | 790.07(4) | 1st | Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2). |
| | 790.16(1) | 1st | Discharge of a machine gun under specified |



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| 3718 | | | circumstances. |
| 3719 | 790.165(2) | 2nd | Manufacture, sell, possess, or deliver hoax bomb. |
| 3720 | 790.165(3) | 2nd | Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony. |
| 3721 | 790.166(3) | 2nd | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction. |
| 3722 | 790.166(4) | 2nd | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony. |
| 3723 | 790.23 | 1st,PBL | Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04. |



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| | 794.08(4) | 3rd | Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age. |
| 3724 | | | |
| | 796.05(1) | 1st | Live on earnings of a prostitute; 2nd offense. |
| 3725 | | | |
| | 796.05(1) | 1st | Live on earnings of a prostitute; 3rd and subsequent offense. |
| 3726 | | | |
| | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age. |
| 3727 | | | |
| | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older. |
| 3728 | | | |
| | 800.04(5)(e) | 1st | Lewd or lascivious molestation; victim 12 |



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| | | | | years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense. |
| 3729 | | | | |
| | 806.01(2) | 2nd | Maliciously damage structure by fire or explosive. | |
| 3730 | | | | |
| | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; unarmed; no assault or battery. | |
| 3731 | | | | |
| | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; unarmed; no assault or battery. | |
| 3732 | | | | |
| | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; unarmed; no assault or battery. | |
| 3733 | | | | |
| | 810.02(3)(e) | 2nd | Burglary of authorized emergency vehicle. | |
| 3734 | | | | |
| | 812.014(2)(a)1. | 1st | Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; | |



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property stolen while causing other property damage; 1st degree grand theft.

3735

812.014(2)(b)2.

2nd

Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

3736

812.014(2)(b)3.

2nd

Property stolen, emergency medical equipment; 2nd degree grand theft.

3737

812.014(2)(b)4.

2nd

Property stolen, law enforcement equipment from authorized emergency vehicle.

3738

812.0145(2)(a)

1st

Theft from person 65 years of age or older; \$50,000 or more.

3739

812.019(2)

1st

Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

3740



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812.131(2)(a)

2nd

Robbery by sudden snatching.

3741

812.133(2)(b)

1st

Carjacking; no firearm, deadly weapon, or other weapon.

3742

817.034(4)(a)1.

1st

Communications fraud, value greater than \$50,000.

3743

817.234(8)(a)

2nd

Solicitation of motor vehicle accident victims with intent to defraud.

3744

817.234(9)

2nd

Organizing, planning, or participating in an intentional motor vehicle collision.

3745

817.234(11)(c)

1st

Insurance fraud; property value \$100,000 or more.

3746

817.2341
(2)(b) & (3)(b)

1st

Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are



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a significant cause of the
insolvency of that entity.

3747

817.535(2)(a) 3rd Filing false lien or other
unauthorized document.

3748

817.611(2)(b) 2nd Traffic in or possess 15
to 49 counterfeit credit
cards or related
documents.

3749

825.102(3)(b) 2nd Neglecting an elderly
person or disabled adult
causing great bodily harm,
disability, or
disfigurement.

3750

825.103(3)(b) 2nd Exploiting an elderly
person or disabled adult
and property is valued at
\$10,000 or more, but less
than \$50,000.

3751

827.03(2)(b) 2nd Neglect of a child causing
great bodily harm,
disability, or
disfigurement.

3752

827.04(3) 3rd Impregnation of a child



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under 16 years of age by
person 21 years of age or
older.

3753

837.05(2) 3rd Giving false information
about alleged capital
felony to a law
enforcement officer.

3754

838.015 2nd Bribery.

3755

838.016 2nd Unlawful compensation or
reward for official
behavior.

3756

838.021(3)(a) 2nd Unlawful harm to a public
servant.

3757

838.22 2nd Bid tampering.

3758

843.0855(2) 3rd Impersonation of a public
officer or employee.

3759

843.0855(3) 3rd Unlawful simulation of
legal process.

3760

843.0855(4) 3rd Intimidation of a public
officer or employee.

3761



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| 3762 | 847.0135(3) | 3rd | Solicitation of a child, via a computer service, to commit an unlawful sex act. |
| 3763 | 847.0135(4) | 2nd | Traveling to meet a minor to commit an unlawful sex act. |
| 3764 | 872.06 | 2nd | Abuse of a dead human body. |
| 3765 | 874.05(2)(b) | 1st | Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense. |
| 3766 | 874.10 | 1st,PBL | Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity. |
| | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or |



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|--------------|-------------------|-----|--|
| 576-04137-20 | | | (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center. |
| 3767 | 893.13(1)(e)1. | 1st | Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site. |
| 3768 | 893.13(4)(a) | 1st | Use or hire of minor; deliver to minor other controlled substance. |
| 3769 | 893.135(1)(a)1. | 1st | Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs. |
| 3770 | 893.135(1)(b)1.a. | 1st | Trafficking in cocaine, more than 28 grams, less |



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than 200 grams.

3771

893.135 1st Trafficking in illegal
(1) (c) 1.a. drugs, more than 4 grams,
less than 14 grams.

3772

893.135 1st Trafficking in
(1) (c) 2.a. hydrocodone, 28 grams or
more, less than 50 grams.

3773

893.135 1st Trafficking in
(1) (c) 2.b. hydrocodone, 50 grams or
more, less than 100 grams.

3774

893.135 1st Trafficking in oxycodone,
(1) (c) 3.a. 7 grams or more, less than
14 grams.

3775

893.135 1st Trafficking in oxycodone,
(1) (c) 3.b. 14 grams or more, less
than 25 grams.

3776

893.135 1st Trafficking in fentanyl, 4
(1) (c) 4.b. (I) grams or more, less than
14 grams.

3777

893.135 1st Trafficking in
(1) (d) 1.a. phencyclidine, 28 grams or
more, less than 200 grams.



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3778

893.135 (1) (e) 1. 1st Trafficking in
methaqualone, 200 grams or
more, less than 5
kilograms.

3779

893.135 (1) (f) 1. 1st Trafficking in
amphetamine, 14 grams or
more, less than 28 grams.

3780

893.135 1st Trafficking in
(1) (g) 1.a. flunitrazepam, 4 grams or
more, less than 14 grams.

3781

893.135 1st Trafficking in gamma-
(1) (h) 1.a. hydroxybutyric acid (GHB),
1 kilogram or more, less
than 5 kilograms.

3782

893.135 1st Trafficking in 1,4-
(1) (j) 1.a. Butanediol, 1 kilogram or
more, less than 5
kilograms.

3783

893.135 1st Trafficking in
(1) (k) 2.a. Phenethylamines, 10 grams
or more, less than 200
grams.

3784



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| | | | |
|--------------------|-----|----------------------------|--|
| 576-04137-20 | | | |
| 893.135 | 1st | Trafficking in synthetic | |
| (1) (m) 2.a. | | cannabinoids, 280 grams or | |
| 3785 | | more, less than 500 grams. | |
| 893.135 | 1st | Trafficking in synthetic | |
| (1) (m) 2.b. | | cannabinoids, 500 grams or | |
| 3786 | | more, less than 1,000 | |
| | | grams. | |
| 893.135 | 1st | Trafficking in n-benzyl | |
| (1) (n) 2.a. | | phenethylamines, 14 grams | |
| 3787 | | or more, less than 100 | |
| | | grams. | |
| 893.1351 (2) | 2nd | Possession of place for | |
| | | trafficking in or | |
| | | manufacturing of | |
| | | controlled substance. | |
| 3788 | | | |
| 896.101 (5) (a) | 3rd | Money laundering, | |
| | | financial transactions | |
| | | exceeding \$300 but less | |
| | | than \$20,000. | |
| 3789 | | | |
| 896.104 (4) (a) 1. | 3rd | Structuring transactions | |
| | | to evade reporting or | |
| | | registration requirements, | |
| | | financial transactions | |
| | | exceeding \$300 but less | |



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| | | | |
|------------------|-----|----------------------------|----------------|
| 576-04137-20 | | | |
| 3790 | | | than \$20,000. |
| 943.0435 (4) (c) | 2nd | Sexual offender vacating | |
| | | permanent residence; | |
| | | failure to comply with | |
| | | reporting requirements. | |
| 3791 | | | |
| 943.0435 (8) | 2nd | Sexual offender; remains | |
| | | in state after indicating | |
| | | intent to leave; failure | |
| | | to comply with reporting | |
| | | requirements. | |
| 3792 | | | |
| 943.0435 (9) (a) | 3rd | Sexual offender; failure | |
| | | to comply with reporting | |
| | | requirements. | |
| 3793 | | | |
| 943.0435 (13) | 3rd | Failure to report or | |
| | | providing false | |
| | | information about a sexual | |
| | | offender; harbor or | |
| | | conceal a sexual offender. | |
| 3794 | | | |
| 943.0435 (14) | 3rd | Sexual offender; failure | |
| | | to report and reregister; | |
| | | failure to respond to | |
| | | address verification; | |
| | | providing false | |
| | | registration information. | |



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3795

944.607(9) 3rd Sexual offender; failure to comply with reporting requirements.

3796

944.607(10) (a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

3797

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

3798

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

3799

985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

3800

985.4815(12) 3rd Failure to report or providing false information about a sexual



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3801

offender; harbor or conceal a sexual offender.

985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

3802

3803

3804

3805

3806

(h) LEVEL 8

Florida Statute

Felony Degree

Description

3807

316.193 (3) (c) 3.a.

2nd

DUI manslaughter.

3808

316.1935(4) (b)

1st

Aggravated fleeing or attempted eluding with serious bodily injury or death.

3809

327.35(3) (c) 3.

2nd

Vessel BUI manslaughter.

3810

499.0051(6)

1st

Knowing trafficking in contraband prescription



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drugs.

3811

499.0051(7)

1st

Knowing forgery of
prescription labels or
prescription drug labels.

3812

560.123(8)(b)2.

2nd

Failure to report
currency or payment
instruments totaling or
exceeding \$20,000, but
less than \$100,000 by
money transmitter.

3813

560.125(5)(b)

2nd

Money transmitter
business by unauthorized
person, currency or
payment instruments
totaling or exceeding
\$20,000, but less than
\$100,000.

3814

655.50(10)(b)2.

2nd

Failure to report
financial transactions
totaling or exceeding
\$20,000, but less than
\$100,000 by financial
institutions.

3815

777.03(2)(a)

1st

Accessory after the fact,



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capital felony.

3816

782.04(4)

2nd

Killing of human without
design when engaged in
act or attempt of any
felony other than arson,
sexual battery, robbery,
burglary, kidnapping,
aggravated fleeing or
eluding with serious
bodily injury or death,
aircraft piracy, or
unlawfully discharging
bomb.

3817

782.051(2)

1st

Attempted felony murder
while perpetrating or
attempting to perpetrate
a felony not enumerated
in s. 782.04(3).

3818

782.071(1)(b)

1st

Committing vehicular
homicide and failing to
render aid or give
information.

3819

782.072(2)

1st

Committing vessel
homicide and failing to
render aid or give



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information.

3820

787.06(3)(a)1. 1st Human trafficking for labor and services of a child.

3821

787.06(3)(b) 1st Human trafficking using coercion for commercial sexual activity of an adult.

3822

787.06(3)(c)2. 1st Human trafficking using coercion for labor and services of an unauthorized alien adult.

3823

787.06(3)(e)1. 1st Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.

3824

787.06(3)(f)2. 1st Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the



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state.

3825

790.161(3) 1st Discharging a destructive device which results in bodily harm or property damage.

3826

794.011(5)(a) 1st Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.

3827

794.011(5)(b) 2nd Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

3828

794.011(5)(c) 2nd Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.

3829



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| | | | |
|---------------|-----|---|--|
| 576-04137-20 | | | |
| 794.011(5)(d) | 1st | Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense. | |
| 3830 | | | |
| 794.08(3) | 2nd | Female genital mutilation, removal of a victim younger than 18 years of age from this state. | |
| 3831 | | | |
| 800.04(4)(b) | 2nd | Lewd or lascivious battery. | |
| 3832 | | | |
| 800.04(4)(c) | 1st | Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense. | |
| 3833 | | | |
| 806.01(1) | 1st | Maliciously damage dwelling or structure by fire or explosive, believing person in structure. | |
| 3834 | | | |



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|-----------------|---------|---|--|
| 576-04137-20 | | | |
| 810.02(2)(a) | 1st,PBL | Burglary with assault or battery. | |
| 3835 | | | |
| 810.02(2)(b) | 1st,PBL | Burglary; armed with explosives or dangerous weapon. | |
| 3836 | | | |
| 810.02(2)(c) | 1st | Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage. | |
| 3837 | | | |
| 812.014(2)(a)2. | 1st | Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree. | |
| 3838 | | | |
| 812.13(2)(b) | 1st | Robbery with a weapon. | |
| 3839 | | | |
| 812.135(2)(c) | 1st | Home-invasion robbery, no firearm, deadly weapon, or other weapon. | |
| 3840 | | | |
| 817.505(4)(c) | 1st | Patient brokering; 20 or more patients. | |
| 3841 | | | |
| 817.535(2)(b) | 2nd | Filing false lien or other unauthorized | |



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document; second or
subsequent offense.

3842

817.535(3)(a)

2nd

Filing false lien or
other unauthorized
document; property owner
is a public officer or
employee.

3843

817.535(4)(a)1.

2nd

Filing false lien or
other unauthorized
document; defendant is
incarcerated or under
supervision.

3844

817.535(5)(a)

2nd

Filing false lien or
other unauthorized
document; owner of the
property incurs financial
loss as a result of the
false instrument.

3845

817.568(6)

2nd

Fraudulent use of
personal identification
information of an
individual under the age
of 18.

3846

817.611(2)(c)

1st

Traffic in or possess 50



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or more counterfeit
credit cards or related
documents.

3847

825.102(2)

1st

Aggravated abuse of an
elderly person or
disabled adult.

3848

825.1025(2)

2nd

Lewd or lascivious
battery upon an elderly
person or disabled adult.

3849

825.103(3)(a)

1st

Exploiting an elderly
person or disabled adult
and property is valued at
\$50,000 or more.

3850

837.02(2)

2nd

Perjury in official
proceedings relating to
prosecution of a capital
felony.

3851

837.021(2)

2nd

Making contradictory
statements in official
proceedings relating to
prosecution of a capital
felony.

3852

860.121(2)(c)

1st

Shooting at or throwing



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any object in path of
railroad vehicle
resulting in great bodily
harm.

3853

860.16

1st

Aircraft piracy.

3854

893.13(1)(b)

1st

Sell or deliver in excess
of 10 grams of any
substance specified in s.
893.03(1)(a) or (b).

3855

893.13(2)(b)

1st

Purchase in excess of 10
grams of any substance
specified in s.
893.03(1)(a) or (b).

3856

893.13(6)(c)

1st

Possess in excess of 10
grams of any substance
specified in s.
893.03(1)(a) or (b).

3857

893.135(1)(a)2.

1st

Trafficking in cannabis,
more than 2,000 lbs.,
less than 10,000 lbs.

3858

893.135
(1)(b)1.b.

1st

Trafficking in cocaine,
more than 200 grams, less
than 400 grams.



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3859

893.135
(1)(c)1.b.

1st

Trafficking in illegal
drugs, more than 14
grams, less than 28
grams.

3860

893.135
(1)(c)2.c.

1st

Trafficking in
hydrocodone, 100 grams or
more, less than 300
grams.

3861

893.135
(1)(c)3.c.

1st

Trafficking in oxycodone,
25 grams or more, less
than 100 grams.

3862

893.135
(1)(c)4.b.(II)

1st

Trafficking in fentanyl,
14 grams or more, less
than 28 grams.

3863

893.135
(1)(d)1.b.

1st

Trafficking in
phencyclidine, 200 grams
or more, less than 400
grams.

3864

893.135
(1)(e)1.b.

1st

Trafficking in
methaqualone, 5 kilograms
or more, less than 25
kilograms.

3865



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893.135 1st Trafficking in
(1) (f) 1.b. amphetamine, 28 grams or
more, less than 200
grams.
3866
893.135 1st Trafficking in
(1) (g) 1.b. flunitrazepam, 14 grams
or more, less than 28
grams.
3867
893.135 1st Trafficking in gamma-
(1) (h) 1.b. hydroxybutyric acid
(GHB), 5 kilograms or
more, less than 10
kilograms.
3868
893.135 1st Trafficking in 1,4-
(1) (j) 1.b. Butanediol, 5 kilograms
or more, less than 10
kilograms.
3869
893.135 1st Trafficking in
(1) (k) 2.b. Phenethylamines, 200
grams or more, less than
400 grams.
3870
893.135 1st Trafficking in synthetic
(1) (m) 2.c. cannabinoids, 1,000 grams
or more, less than 30



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kilograms.
3871
893.135 1st Trafficking in n-benzyl
(1) (n) 2.b. phenethylamines, 100
grams or more, less than
200 grams.
3872
893.135(1)(3) 1st Possession of a place
used to manufacture
controlled substance when
minor is present or
resides there.
3873
895.03(1) 1st Use or invest proceeds
derived from pattern of
racketeering activity.
3874
895.03(2) 1st Acquire or maintain
through racketeering
activity any interest in
or control of any
enterprise or real
property.
3875
895.03(3) 1st Conduct or participate in
any enterprise through
pattern of racketeering
activity.
3876



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| | | | |
|------|-------------------------------|-----|---|
| 3877 | 576-04137-20 896.101(5)(b) | 2nd | Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000. |
|------|-------------------------------|-----|---|

| | | | |
|------|-----------------|-----|--|
| 3878 | 896.104(4)(a)2. | 2nd | Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000. |
|------|-----------------|-----|--|

3879
3880
3881
3882

(i) LEVEL 9

| Florida Statute | Felony Degree | Description |
|-------------------------------|------------------|--|
| 3883 316.193 (3)(c)3.b. | 1st | DUI manslaughter; failing to render aid or give information. |
| 3884 327.35 (3)(c)3.b. | 1st | BUI manslaughter; failing to render aid or give information. |



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|------|---------------------------------------|-----|---|
| 3886 | 576-04137-20 409.920 (2)(b)1.c. | 1st | Medicaid provider fraud; \$50,000 or more. |
|------|---------------------------------------|-----|---|

| | | | |
|------|-------------|-----|---|
| 3887 | 499.0051(8) | 1st | Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm. |
|------|-------------|-----|---|

| | | | |
|------|-----------------|-----|---|
| 3888 | 560.123(8)(b)3. | 1st | Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter. |
|------|-----------------|-----|---|

| | | | |
|------|---------------|-----|---|
| 3889 | 560.125(5)(c) | 1st | Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000. |
|------|---------------|-----|---|

| | | | |
|------|-----------------|-----|--|
| 3890 | 655.50(10)(b)3. | 1st | Failure to report financial transactions totaling or exceeding \$100,000 by financial institution. |
|------|-----------------|-----|--|

| | | | |
|------|----------|-----|-------------------------|
| 3890 | 775.0844 | 1st | Aggravated white collar |
|------|----------|-----|-------------------------|



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| | | | |
|------|----------------|---------|--|
| 3891 | | | crime. |
| | 782.04(1) | 1st | Attempt, conspire, or solicit to commit premeditated murder. |
| 3892 | | | |
| | 782.04(3) | 1st,PBL | Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies. |
| 3893 | | | |
| | 782.051(1) | 1st | Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3). |
| 3894 | | | |
| | 782.07(2) | 1st | Aggravated manslaughter of an elderly person or disabled adult. |
| 3895 | | | |
| | 787.01(1)(a)1. | 1st,PBL | Kidnapping; hold for ransom or reward or as a shield or hostage. |
| 3896 | | | |



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| | | | |
|------|----------------|---------|--|
| | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit or facilitate commission of any felony. |
| 3897 | | | |
| | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to interfere with performance of any governmental or political function. |
| 3898 | | | |
| | 787.02(3)(a) | 1st,PBL | False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition. |
| 3899 | | | |
| | 787.06(3)(c)1. | 1st | Human trafficking for labor and services of an unauthorized alien child. |
| 3900 | | | |
| | 787.06(3)(d) | 1st | Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien. |
| 3901 | | | |
| | 787.06(3)(f)1. | 1st,PBL | Human trafficking for |



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commercial sexual
activity by the transfer
or transport of any child
from outside Florida to
within the state.

3902

790.161

1st

Attempted capital
destructive device
offense.

3903

790.166(2)

1st,PBL

Possessing, selling,
using, or attempting to
use a weapon of mass
destruction.

3904

794.011(2)

1st

Attempted sexual battery;
victim less than 12 years
of age.

3905

794.011(2)

Life

Sexual battery; offender
younger than 18 years and
commits sexual battery on
a person less than 12
years.

3906

794.011(4)(a)

1st,PBL

Sexual battery, certain
circumstances; victim 12
years of age or older but
younger than 18 years;



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offender 18 years or
older.

3907

794.011(4)(b)

1st

Sexual battery, certain
circumstances; victim and
offender 18 years of age
or older.

3908

794.011(4)(c)

1st

Sexual battery, certain
circumstances; victim 12
years of age or older;
offender younger than 18
years.

3909

794.011(4)(d)

1st,PBL

Sexual battery, certain
circumstances; victim 12
years of age or older;
prior conviction for
specified sex offenses.

3910

794.011(8)(b)

1st,PBL

Sexual battery; engage in
sexual conduct with minor
12 to 18 years by person
in familial or custodial
authority.

3911

794.08(2)

1st

Female genital
mutilation; victim
younger than 18 years of



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age.

3912

800.04(5)(b) Life Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

3913

812.13(2)(a) 1st,PBL Robbery with firearm or other deadly weapon.

3914

812.133(2)(a) 1st,PBL Carjacking; firearm or other deadly weapon.

3915

812.135(2)(b) 1st Home-invasion robbery with weapon.

3916

817.535(3)(b) 1st Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.

3917

817.535(4)(a)2. 1st Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.



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3918

817.535(5)(b) 1st Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.

3919

817.568(7) 2nd, PBL Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

3920

827.03(2)(a) 1st Aggravated child abuse.

3921

847.0145(1) 1st Selling, or otherwise transferring custody or control, of a minor.

3922

847.0145(2) 1st Purchasing, or otherwise obtaining custody or control, of a minor.

3923



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859.01 1st Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.

3924 893.135 1st Attempted capital trafficking offense.

3925 893.135(1)(a)3. 1st Trafficking in cannabis, more than 10,000 lbs.

3926 893.135(1)(b)1.c. 1st Trafficking in cocaine, more than 400 grams, less than 150 kilograms.

3927 893.135(1)(c)1.c. 1st Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

3928 893.135(1)(c)2.d. 1st Trafficking in hydrocodone, 300 grams or more, less than 30 kilograms.

3929 893.135 1st Trafficking in oxycodone,



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(1)(c)3.d. 100 grams or more, less than 30 kilograms.

3930 893.135(1)(c)4.b.(III) 1st Trafficking in fentanyl, 28 grams or more.

3931 893.135(1)(d)1.c. 1st Trafficking in phencyclidine, 400 grams or more.

3932 893.135(1)(e)1.c. 1st Trafficking in methaqualone, 25 kilograms or more.

3933 893.135(1)(f)1.c. 1st Trafficking in amphetamine, 200 grams or more.

3934 893.135(1)(h)1.c. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

3935 893.135(1)(j)1.c. 1st Trafficking in 1,4-Butanediol, 10 kilograms or more.

3936 893.135(1)(k)2.c. 1st Trafficking in Phenethylamines, 400



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grams or more.

3937

893.135
(1)(m)2.d.

1st

Trafficking in synthetic
cannabinoids, 30
kilograms or more.

3938

893.135
(1)(n)2.c.

1st

Trafficking in n-benzyl
phenethylamines, 200
grams or more.

3939

896.101(5)(c)

1st

Money laundering,
financial instruments
totaling or exceeding
\$100,000.

3940

896.104(4)(a)3.

1st

Structuring transactions
to evade reporting or
registration
requirements, financial
transactions totaling or
exceeding \$100,000.

3941

3942

3943

3944

3945

(j) LEVEL 10

Florida
Statute

Felony
Degree

Description

3946



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499.0051(9)

1st

Knowing sale or purchase
of contraband
prescription drugs
resulting in death.

3947

782.04(2)

1st,PBL

Unlawful killing of
human; act is homicide,
unpremeditated.

3948

782.07(3)

1st

Aggravated manslaughter
of a child.

3949

787.01(1)(a)3.

1st,PBL

Kidnapping; inflict
bodily harm upon or
terrorize victim.

3950

787.01(3)(a)

Life

Kidnapping; child under
age 13, perpetrator also
commits aggravated child
abuse, sexual battery,
or lewd or lascivious
battery, molestation,
conduct, or exhibition.

3951

787.06(3)(g)

Life

Human trafficking for
commercial sexual
activity of a child
under the age of 18 or
mentally defective or



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incapacitated person.

3952

787.06(4)(a)

Life

Selling or buying of
minors into human
trafficking.

3953

794.011(3)

Life

Sexual battery; victim
12 years or older,
offender uses or
threatens to use deadly
weapon or physical force
to cause serious injury.

3954

812.135(2)(a)

1st,PBL

Home-invasion robbery
with firearm or other
deadly weapon.

3955

876.32

1st

Treason against the
state.

3956

3957

3958

3959 Section 44. Section 921.0023, Florida Statutes, is amended
3960 to read:

3961 921.0023 Public Safety ~~Criminal Punishment~~ Code; ranking
3962 unlisted felony offenses.—A felony offense committed on or after
3963 October 1, 1998, that is not listed in s. 921.0022 is ranked
3964 with respect to offense severity level by the Legislature,
3965 commensurate with the harm or potential harm that is caused by



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3966 the offense to the community. Until the Legislature specifically
3967 assigns an offense to a severity level in the offense severity
3968 ranking chart, the severity level is within the following
3969 parameters:

3970 (1) A felony of the third degree within offense level 1.

3971 (2) A felony of the second degree within offense level 4.

3972 (3) A felony of the first degree within offense level 7.

3973 (4) A felony of the first degree punishable by life within
3974 offense level 9.

3975 (5) A life felony within offense level 10.

3976 Section 45. Section 921.0024, Florida Statutes, is amended
3977 to read:

3978 921.0024 Public Safety ~~Criminal Punishment~~ Code; worksheet
3979 computations; scoresheets.—

3980 (1) (a) The Public Safety ~~Criminal Punishment~~ Code worksheet
3981 is used to compute the subtotal and total sentence points as
3982 follows:

3983

3984 FLORIDA PUBLIC SAFETY ~~CRIMINAL PUNISHMENT~~ CODE

3985

WORKSHEET

3986

OFFENSE SCORE

3987

3988

Primary Offense

3989

3990

Level

Sentence Points

Total

3991

10

116

=

.....



| Level | Sentence Points | Counts | Total |
|---------------------|-----------------|--------|-------|
| 576-04137-20 | | | |
| 9 | 92 | = | ..... |
| 3992 | | | |
| 8 | 74 | = | ..... |
| 3993 | | | |
| 7 | 56 | = | ..... |
| 3994 | | | |
| 6 | 36 | = | ..... |
| 3995 | | | |
| 5 | 28 | = | ..... |
| 3996 | | | |
| 4 | 22 | = | ..... |
| 3997 | | | |
| 3 | 16 | = | ..... |
| 3998 | | | |
| 2 | 10 | = | ..... |
| 3999 | | | |
| 1 | 4 | = | ..... |
| 4000 | | | |
| 4001 | | | Total |
| 4002 | | | |
| 4003 | | | |
| 4004 | | | |
| 4005 | | | |
| Additional Offenses | | | |
| 4006 | | | |
| 4007 | | | |



| | | | | | | |
|--------------|-----|---|------|---|------|-------|
| 576-04137-20 | | | | | | |
| 10 | 58 | x | .... | = | .... |  |
| 4008 | | | | | | |
| 9 | 46 | x | .... | = | .... |  |
| 4009 | | | | | | |
| 8 | 37 | x | .... | = | .... |  |
| 4010 | | | | | | |
| 7 | 28 | x | .... | = | .... |  |
| 4011 | | | | | | |
| 6 | 18 | x | .... | = | .... |  |
| 4012 | | | | | | |
| 5 | 5.4 | x | .... | = | .... |  |
| 4013 | | | | | | |
| 4 | 3.6 | x | .... | = | .... |  |
| 4014 | | | | | | |
| 3 | 2.4 | x | | = | | |
| 4015 | | | | | | |
| 2 | 1.2 | x | | = | | |
| 4016 | | | | | | |
| 1 | 0.7 | x | | = | | |
| 4017 | | | | | | |
| M | 0.2 | x | | = | | |
| 4018 | | | | | | |
| 4019 | | | | | | Total |
| 4020 | | | | | | |
| 4021 | | | | | | |
| 4022 | | | | | | |
| 4023 | | | | | | |



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Victim Injury

| Level | Sentence Points | | Number | = | Total |
|--------------------------------|--------------------|---|--------|---|-------|
| 2nd degree murder- death | 240 | x | | = | |
| Death | 120 | x | .... | = | .... |
| Severe | 40 | x | .... | = | .... |
| Moderate | 18 | x | | = | |
| Slight | 4 | x | | = | |
| Sexual penetration | 80 | x | | = | |
| Sexual contact | 40 | x | | = | |
| | | | | | Total |



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| | | | | | |
|--------------|---|-----------------|--------|------|-------|
| 4037 | Primary Offense + Additional Offenses + Victim Injury = | | | | |
| 4038 | TOTAL OFFENSE SCORE | | | | |
| 4039 | | | | | |
| 4040 | PRIOR RECORD SCORE | | | | |
| 4041 | | | | | |
| Prior Record | | | | | |
| 4042 | Level | Sentence Points | Number | = | Total |
| 4043 | 10 | 29 | x | .... | .... |
| 4044 | 9 | 23 | x | .... | .... |
| 4045 | 8 | 19 | x | | |
| 4046 | 7 | 14 | x | | |
| 4047 | 6 | 9 | x | | |
| 4048 | 5 | 3.6 | x | | |
| 4049 | 4 | 2.4 | x | | |
| 4050 | 3 | 1.6 | x | | |
| 4051 | 2 | 0.8 | x | | |
| 4052 | 1 | 0.5 | x | | |
| 4053 | | | | | |



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M 0.2 x =

4054

4055

Total

4056

4057

4058

4059

TOTAL OFFENSE SCORE.....

4060

TOTAL PRIOR RECORD SCORE.....

4061

4062

LEGAL STATUS.....

4063

COMMUNITY SANCTION VIOLATION.....

4064

PRIOR SERIOUS FELONY.....

4065

PRIOR CAPITAL FELONY.....

4066

FIREARM OR SEMIAUTOMATIC WEAPON.....

4067

SUBTOTAL.....

4068

4069

PRISON RELEASEE REOFFENDER (no) (yes).....

4070

VIOLENT CAREER CRIMINAL (no) (yes).....

4071

HABITUAL VIOLENT OFFENDER (no) (yes).....

4072

HABITUAL OFFENDER (no) (yes).....

4073

DRUG TRAFFICKER (no) (yes) (x multiplier).....

4074

LAW ENF. PROTECT. (no) (yes) (x multiplier).....

4075

MOTOR VEHICLE THEFT (no) (yes) (x multiplier).....

4076

CRIMINAL GANG OFFENSE (no) (yes) (x multiplier).....

4077

DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)

4078

(x multiplier).....

4079

ADULT-ON-MINOR SEX OFFENSE (no) (yes) (x multiplier).....



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4105
4106
4107
4108

TOTAL SENTENCE POINTS.....

(b) WORKSHEET KEY:

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

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

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

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

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

I. The violation does not include a new felony conviction;

and

II. The community sanction violation is not based solely on



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4109 the probationer or offender's failure to pay costs or fines or
4110 make restitution payments.

4111 b. Twenty-four (24) community sanction violation points are
4112 assessed for the violation and for each successive violation of
4113 felony probation or community control where the violation
4114 includes a new felony conviction.

4115

4116 Multiple counts of community sanction violations before the
4117 sentencing court may shall not be used as a basis for
4118 multiplying the assessment of community sanction violation
4119 points.

4120

4121 Prior serious felony points: If the offender has a primary
4122 offense or any additional offense ranked in level 8, level 9, or
4123 level 10, and one or more prior serious felonies, a single
4124 assessment of thirty (30) points shall be added. For purposes of
4125 this section, a prior serious felony is an offense in the
4126 offender's prior record that is ranked in level 8, level 9, or
4127 level 10 under s. 921.0022 or s. 921.0023 and for which the
4128 offender is serving a sentence of confinement, supervision, or
4129 other sanction or for which the offender's date of release from
4130 confinement, supervision, or other sanction, whichever is later,
4131 is within 3 years before the date the primary offense or any
4132 additional offense was committed.

4133

4134 Prior capital felony points: If the offender has one or more
4135 prior capital felonies in the offender's criminal record, points
4136 shall be added to the subtotal sentence points of the offender
4137 equal to twice the number of points the offender receives for



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4138 the primary offense and any additional offense. A prior capital
4139 felony in the offender's criminal record is a previous capital
4140 felony offense for which the offender has entered a plea of nolo
4141 contendere or guilty or has been found guilty; or a felony in
4142 another jurisdiction which is a capital felony in that
4143 jurisdiction, or would be a capital felony if the offense were
4144 committed in this state.

4145

4146 Possession of a firearm, semiautomatic firearm, or machine gun:
4147 If the offender is convicted of committing or attempting to
4148 commit any felony other than those enumerated in s. 775.087(2)
4149 while having in his or her possession: a firearm as defined in
4150 s. 790.001(6), an additional eighteen (18) sentence points are
4151 assessed; or if the offender is convicted of committing or
4152 attempting to commit any felony other than those enumerated in
4153 s. 775.087(3) while having in his or her possession a
4154 semiautomatic firearm as defined in s. 775.087(3) or a machine
4155 gun as defined in s. 790.001(9), an additional twenty-five (25)
4156 sentence points are assessed.

4157

4158 Sentencing multipliers:

4159

4160 Drug trafficking: If the primary offense is drug trafficking
4161 under s. 893.135, the subtotal sentence points are multiplied,
4162 at the discretion of the court, for a level 7 or level 8
4163 offense, by 1.5. The state attorney may move the sentencing
4164 court to reduce or suspend the sentence of a person convicted of
4165 a level 7 or level 8 offense, if the offender provides
4166 substantial assistance as described in s. 893.135(4).



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4167
4168 Law enforcement protection: If the primary offense is a
4169 violation of the Law Enforcement Protection Act under s.
4170 775.0823(2), (3), or (4), the subtotal sentence points are
4171 multiplied by 2.5. If the primary offense is a violation of s.
4172 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
4173 are multiplied by 2.0. If the primary offense is a violation of
4174 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
4175 Protection Act under s. 775.0823(10) or (11), the subtotal
4176 sentence points are multiplied by 1.5.
4177
4178 Grand theft of a motor vehicle: If the primary offense is grand
4179 theft of the third degree involving a motor vehicle and in the
4180 offender's prior record, there are three or more grand thefts of
4181 the third degree involving a motor vehicle, the subtotal
4182 sentence points are multiplied by 1.5.
4183
4184 Offense related to a criminal gang: If the offender is convicted
4185 of the primary offense and committed that offense for the
4186 purpose of benefiting, promoting, or furthering the interests of
4187 a criminal gang as defined in s. 874.03, the subtotal sentence
4188 points are multiplied by 1.5. If applying the multiplier results
4189 in the lowest permissible sentence exceeding the statutory
4190 maximum sentence for the primary offense under chapter 775, the
4191 court may not apply the multiplier and must sentence the
4192 defendant to the statutory maximum sentence.
4193
4194 Domestic violence in the presence of a child: If the offender is
4195 convicted of the primary offense and the primary offense is a



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4196 crime of domestic violence, as defined in s. 741.28, which was
4197 committed in the presence of a child under 16 years of age who
4198 is a family or household member as defined in s. 741.28(3) with
4199 the victim or perpetrator, the subtotal sentence points are
4200 multiplied by 1.5.
4201
4202 Adult-on-minor sex offense: If the offender was 18 years of age
4203 or older and the victim was younger than 18 years of age at the
4204 time the offender committed the primary offense, and if the
4205 primary offense was an offense committed on or after October 1,
4206 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
4207 violation involved a victim who was a minor and, in the course
4208 of committing that violation, the defendant committed a sexual
4209 battery under chapter 794 or a lewd act under s. 800.04 or s.
4210 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
4211 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
4212 800.04; or s. 847.0135(5), the subtotal sentence points are
4213 multiplied by 2.0. If applying the multiplier results in the
4214 lowest permissible sentence exceeding the statutory maximum
4215 sentence for the primary offense under chapter 775, the court
4216 may not apply the multiplier and must sentence the defendant to
4217 the statutory maximum sentence.
4218 (2) The lowest permissible sentence is the minimum sentence
4219 that may be imposed by the trial court, absent a valid reason
4220 for departure. The lowest permissible sentence is any nonstate
4221 prison sanction in which the total sentence points equals or is
4222 less than 44 points, unless the court determines within its
4223 discretion that a prison sentence, which may be up to the
4224 statutory maximums for the offenses committed, is appropriate.



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4225 When the total sentence points exceeds 44 points, the lowest
4226 permissible sentence in prison months shall be calculated by
4227 subtracting 28 points from the total sentence points and
4228 decreasing the remaining total by 25 percent. The total sentence
4229 points shall be calculated only as a means of determining the
4230 lowest permissible sentence. The permissible range for
4231 sentencing shall be the lowest permissible sentence up to and
4232 including the statutory maximum, as defined in s. 775.082, for
4233 the primary offense and any additional offenses before the court
4234 for sentencing. The sentencing court may impose such sentences
4235 concurrently or consecutively. However, any sentence to state
4236 prison must exceed 1 year. If the lowest permissible sentence
4237 under the code exceeds the statutory maximum sentence as
4238 provided in s. 775.082, the sentence required by the code must
4239 be imposed. If the total sentence points are greater than or
4240 equal to 363, the court may sentence the offender to life
4241 imprisonment. An offender sentenced to life imprisonment under
4242 this section is not eligible for any form of discretionary early
4243 release, except executive clemency, ~~or~~ conditional medical
4244 release under s. 945.0911, or conditional aging inmate release
4245 under s. 945.0912 ~~s. 947.149~~.

4246 (3) A single digitized scoresheet shall be prepared for
4247 each defendant to determine the permissible range for the
4248 sentence that the court may impose, except that if the defendant
4249 is before the court for sentencing for more than one felony and
4250 the felonies were committed under more than one version or
4251 revision of the guidelines or the code, separate digitized
4252 scoresheets must be prepared. The scoresheet or scoresheets must
4253 cover all the defendant's offenses pending before the court for



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4254 sentencing. The state attorney shall prepare the digitized
4255 scoresheet or scoresheets, which must be presented to the
4256 defense counsel for review for accuracy in all cases unless the
4257 judge directs otherwise. The defendant's scoresheet or
4258 scoresheets must be approved and signed by the sentencing judge.

4259 (4) The Department of Corrections, in consultation with the
4260 Office of the State Courts Administrator, state attorneys, and
4261 public defenders, must develop and submit the revised digitized
4262 Public Safety Criminal Punishment Code scoresheet to the Supreme
4263 Court for approval by June 15 of each year, as necessary. The
4264 digitized scoresheet shall have individual, structured data
4265 cells for each data field on the scoresheet. Upon the Supreme
4266 Court's approval of the revised digitized scoresheet, the
4267 Department of Corrections shall produce and provide the revised
4268 digitized scoresheets by September 30 of each year, as
4269 necessary. Digitized scoresheets must include individual data
4270 cells to indicate whether any prison sentence imposed includes a
4271 mandatory minimum sentence or the sentence imposed was a
4272 downward departure from the lowest permissible sentence under
4273 the Public Safety Criminal Punishment Code.

4274 (5) The Department of Corrections shall make available the
4275 digitized Public Safety Criminal Punishment Code scoresheets to
4276 those persons charged with the responsibility for preparing
4277 scoresheets.

4278 (6) The clerk of the circuit court shall transmit a
4279 complete and accurate digitized copy of the Public Safety
4280 Criminal Punishment Code scoresheet used in each sentencing
4281 proceeding to the Department of Corrections. Scoresheets must be
4282 electronically transmitted no less frequently than monthly, by



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4283 the first of each month, and may be sent collectively.
4284 (7) A digitized sentencing scoresheet must be prepared for
4285 every defendant who is sentenced for a felony offense. The
4286 individual offender's digitized Public Safety Criminal
4287 ~~Punishment~~ Code scoresheet and any attachments thereto prepared
4288 pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules
4289 of Criminal Procedure, or any other rule pertaining to the
4290 preparation and submission of felony sentencing scoresheets,
4291 must be included with the uniform judgment and sentence form
4292 provided to the Department of Corrections.
4293 Section 46. Section 921.0025, Florida Statutes, is amended
4294 to read:
4295 921.0025 Adoption and implementation of revised sentencing
4296 scoresheets.—Rules 3.701, 3.702, 3.703, and 3.988, Florida Rules
4297 of Criminal Procedure, as revised by the Supreme Court, and any
4298 other rule pertaining to the preparation and submission of
4299 felony sentencing scoresheets, are adopted and implemented in
4300 accordance with this chapter for application to the Public
4301 Safety Criminal Punishment Code.
4302 Section 47. Paragraph (m) of subsection (2) of section
4303 921.0026, Florida Statutes, is amended to read:
4304 921.0026 Mitigating circumstances.—This section applies to
4305 any felony offense, except any capital felony, committed on or
4306 after October 1, 1998.
4307 (2) Mitigating circumstances under which a departure from
4308 the lowest permissible sentence is reasonably justified include,
4309 but are not limited to:
4310 (m) The defendant's offense is a nonviolent felony, the
4311 defendant's Public Safety Criminal Punishment Code scoresheet



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4312 total sentence points under s. 921.0024 are 60 points or fewer,
4313 and the court determines that the defendant is amenable to the
4314 services of a postadjudicatory treatment-based drug court
4315 program and is otherwise qualified to participate in the program
4316 as part of the sentence. For purposes of this paragraph, the
4317 term "nonviolent felony" has the same meaning as provided in s.
4318 948.08(6).
4319 Section 48. Section 921.0027, Florida Statutes, is amended
4320 to read:
4321 921.0027 Public Safety Criminal Punishment Code and
4322 revisions; applicability.—The Florida Public Safety Criminal
4323 Punishment Code applies to all felonies, except capital
4324 felonies, committed on or after October 1, 1998. Any revision to
4325 the Public Safety Criminal Punishment Code applies to sentencing
4326 for all felonies, except capital felonies, committed on or after
4327 the effective date of the revision. Felonies, except capital
4328 felonies, with continuing dates of enterprise shall be sentenced
4329 under the Public Safety Criminal Punishment Code in effect on
4330 the beginning date of the criminal activity.
4331 Section 49. Subsection (1) of section 924.06, Florida
4332 Statutes, is amended to read:
4333 924.06 Appeal by defendant.—
4334 (1) A defendant may appeal from:
4335 (a) A final judgment of conviction when probation has not
4336 been granted under chapter 948, except as provided in subsection
4337 (3);
4338 (b) An order granting probation under chapter 948;
4339 (c) An order revoking probation under chapter 948;
4340 (d) A sentence, on the ground that it is illegal; or



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4341 (e) A sentence imposed under s. 921.0024 of the Public
4342 Safety Criminal Punishment Code which exceeds the statutory
4343 maximum penalty provided in s. 775.082 for an offense at
4344 conviction, or the consecutive statutory maximums for offenses
4345 at conviction, unless otherwise provided by law.

4346 Section 50. Paragraph (i) of subsection (1) of section
4347 924.07, Florida Statutes, is amended to read:

4348 924.07 Appeal by state.-

4349 (1) The state may appeal from:

4350 (i) A sentence imposed below the lowest permissible
4351 sentence established by the Public Safety Criminal Punishment
4352 Code under chapter 921.

4353 Section 51. Paragraph (c) of subsection (3) and paragraph
4354 (e) of subsection (5) of section 944.17, Florida Statutes, are
4355 amended to read:

4356 944.17 Commitments and classification; transfers.-

4357 (3)

4358 (c)1. When the highest ranking offense for which the
4359 prisoner is convicted is a felony, the trial court shall
4360 sentence the prisoner pursuant to the Public Safety Criminal
4361 Punishment Code in chapter 921.

4362 2. When the highest ranking offense for which the prisoner
4363 is convicted is a misdemeanor, the trial court shall sentence
4364 the prisoner pursuant to s. 775.082(4).

4365 (5) The department shall also refuse to accept a person
4366 into the state correctional system unless the following
4367 documents are presented in a completed form by the sheriff or
4368 chief correctional officer, or a designated representative, to
4369 the officer in charge of the reception process. The department



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4370 may, at its discretion, receive such documents electronically:

4371 (e) A copy of the Public Safety Criminal Punishment Code
4372 scoresheet and any attachments thereto prepared pursuant to Rule
4373 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal
4374 Procedure, or any other rule pertaining to the preparation of
4375 felony sentencing scoresheets.

4376
4377 In addition, the sheriff or other officer having such person in
4378 charge shall also deliver with the foregoing documents any
4379 available presentence investigation reports as described in s.
4380 921.231 and any attached documents. After a prisoner is admitted
4381 into the state correctional system, the department may request
4382 such additional records relating to the prisoner as it considers
4383 necessary from the clerk of the court, the Department of
4384 Children and Families, or any other state or county agency for
4385 the purpose of determining the prisoner's proper custody
4386 classification, gain-time eligibility, or eligibility for early
4387 release programs. An agency that receives such a request from
4388 the department must provide the information requested. The
4389 department may, at its discretion, receive such information
4390 electronically.

4391 Section 52. Paragraph (b) of subsection (7) of section
4392 944.605, Florida Statutes, is amended to read:

4393 944.605 Inmate release; notification; identification card.-
4394 (7)

4395 (b) Paragraph (a) does not apply to inmates who:

4396 1. The department determines have a valid driver license or
4397 state identification card, except that the department shall
4398 provide these inmates with a replacement state identification



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4399 card or replacement driver license, if necessary.
4400 2. Have an active detainer, unless the department
4401 determines that cancellation of the detainer is likely or that
4402 the incarceration for which the detainer was issued will be less
4403 than 12 months in duration.
4404 3. Are released due to an emergency release, ~~or~~ a
4405 conditional medical release under s. 945.0911, or conditional
4406 aging inmate release under s. 945.0912 ~~s. 947.149~~.
4407 4. Are not in the physical custody of the department at or
4408 within 180 days before release.
4409 5. Are subject to sex offender residency restrictions, and
4410 who, upon release under such restrictions, do not have a
4411 qualifying address.
4412 Section 53. Paragraph (b) of subsection (1) of section
4413 944.70, Florida Statutes, is amended to read:
4414 944.70 Conditions for release from incarceration.-
4415 (1)
4416 (b) A person who is convicted of a crime committed on or
4417 after January 1, 1994, may be released from incarceration only:
4418 1. Upon expiration of the person's sentence;
4419 2. Upon expiration of the person's sentence as reduced by
4420 accumulated meritorious or incentive gain-time;
4421 3. As directed by an executive order granting clemency;
4422 4. Upon placement in a conditional release program pursuant
4423 to s. 947.1405, ~~or~~ a conditional medical release program
4424 pursuant to s. 945.0911, or a conditional aging inmate release
4425 program pursuant to s. 945.0912 ~~s. 947.149~~; or
4426 5. Upon the granting of control release, including
4427 emergency control release, pursuant to s. 947.146.



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4428 Section 54. Paragraph (h) of subsection (1) of section
4429 947.13, Florida Statutes, is amended to read:
4430 947.13 Powers and duties of commission.-
4431 (1) The commission shall have the powers and perform the
4432 duties of:
4433 ~~(h) Determining what persons will be released on~~
4434 ~~conditional medical release under s. 947.149, establishing the~~
4435 ~~conditions of conditional medical release, and determining~~
4436 ~~whether a person has violated the conditions of conditional~~
4437 ~~medical release and taking action with respect to such a~~
4438 ~~violation.~~
4439 Section 55. Section 947.141, Florida Statutes, is amended
4440 to read:
4441 947.141 Violations of conditional release, control release,
4442 ~~or conditional medical release~~ or addiction-recovery
4443 supervision.-
4444 (1) If a member of the commission or a duly authorized
4445 representative of the commission has reasonable grounds to
4446 believe that an offender who is on release supervision under s.
4447 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731 has violated
4448 the terms and conditions of the release in a material respect,
4449 such member or representative may cause a warrant to be issued
4450 for the arrest of the releasee; if the offender was found to be
4451 a sexual predator, the warrant must be issued.
4452 (2) Upon the arrest on a felony charge of an offender who
4453 is on release supervision under s. 947.1405, s. 947.146, ~~s.~~
4454 ~~947.149~~, or s. 944.4731, the offender must be detained without
4455 bond until the initial appearance of the offender at which a
4456 judicial determination of probable cause is made. If the trial



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4457 court judge determines that there was no probable cause for the
4458 arrest, the offender may be released. If the trial court judge
4459 determines that there was probable cause for the arrest, such
4460 determination also constitutes reasonable grounds to believe
4461 that the offender violated the conditions of the release. Within
4462 24 hours after the trial court judge's finding of probable
4463 cause, the detention facility administrator or designee shall
4464 notify the commission and the department of the finding and
4465 transmit to each a facsimile copy of the probable cause
4466 affidavit or the sworn offense report upon which the trial court
4467 judge's probable cause determination is based. The offender must
4468 continue to be detained without bond for a period not exceeding
4469 72 hours excluding weekends and holidays after the date of the
4470 probable cause determination, pending a decision by the
4471 commission whether to issue a warrant charging the offender with
4472 violation of the conditions of release. Upon the issuance of the
4473 commission's warrant, the offender must continue to be held in
4474 custody pending a revocation hearing held in accordance with
4475 this section.

4476 (3) Within 45 days after notice to the Florida Commission
4477 on Offender Review of the arrest of a releasee charged with a
4478 violation of the terms and conditions of conditional release,
4479 control release, ~~conditional medical release~~, or addiction-
4480 recovery supervision, the releasee must be afforded a hearing
4481 conducted by a commissioner or a duly authorized representative
4482 thereof. If the releasee elects to proceed with a hearing, the
4483 releasee must be informed orally and in writing of the
4484 following:

4485 (a) The alleged violation with which the releasee is



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4486 charged.
4487 (b) The releasee's right to be represented by counsel.
4488 (c) The releasee's right to be heard in person.
4489 (d) The releasee's right to secure, present, and compel the
4490 attendance of witnesses relevant to the proceeding.
4491 (e) The releasee's right to produce documents on the
4492 releasee's own behalf.
4493 (f) The releasee's right of access to all evidence used
4494 against the releasee and to confront and cross-examine adverse
4495 witnesses.
4496 (g) The releasee's right to waive the hearing.
4497 (4) Within a reasonable time following the hearing, the
4498 commissioner or the commissioner's duly authorized
4499 representative who conducted the hearing shall make findings of
4500 fact in regard to the alleged violation. A panel of no fewer
4501 than two commissioners shall enter an order determining whether
4502 the charge of violation of conditional release, control release,
4503 ~~conditional medical release~~, or addiction-recovery supervision
4504 has been sustained based upon the findings of fact presented by
4505 the hearing commissioner or authorized representative. By such
4506 order, the panel may revoke conditional release, control
4507 release, ~~conditional medical release~~, or addiction-recovery
4508 supervision and thereby return the releasee to prison to serve
4509 the sentence imposed, reinstate the original order granting the
4510 release, or enter such other order as it considers proper.
4511 Effective for inmates whose offenses were committed on or after
4512 July 1, 1995, the panel may order the placement of a releasee,
4513 upon a finding of violation pursuant to this subsection, into a
4514 local detention facility as a condition of supervision.



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4515 (5) Effective for inmates whose offenses were committed on
4516 or after July 1, 1995, notwithstanding the provisions of ss.
4517 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
4518 951.23, or any other law to the contrary, by such order as
4519 provided in subsection (4), the panel, upon a finding of guilt,
4520 may, as a condition of continued supervision, place the releasee
4521 in a local detention facility for a period of incarceration not
4522 to exceed 22 months. Prior to the expiration of the term of
4523 incarceration, or upon recommendation of the chief correctional
4524 officer of that county, the commission shall cause inquiry into
4525 the inmate's release plan and custody status in the detention
4526 facility and consider whether to restore the inmate to
4527 supervision, modify the conditions of supervision, or enter an
4528 order of revocation, thereby causing the return of the inmate to
4529 prison to serve the sentence imposed. The provisions of this
4530 section do not prohibit the panel from entering such other order
4531 or conducting any investigation that it deems proper. The
4532 commission may only place a person in a local detention facility
4533 pursuant to this section if there is a contractual agreement
4534 between the chief correctional officer of that county and the
4535 Department of Corrections. The agreement must provide for a per
4536 diem reimbursement for each person placed under this section,
4537 which is payable by the Department of Corrections for the
4538 duration of the offender's placement in the facility. This
4539 section does not limit the commission's ability to place a
4540 person in a local detention facility for less than 1 year.

4541 (6) Whenever a conditional release, control release,
4542 ~~conditional medical release~~, or addiction-recovery supervision
4543 is revoked by a panel of no fewer than two commissioners and the



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4544 releasee is ordered to be returned to prison, the releasee, by
4545 reason of the misconduct, shall be deemed to have forfeited all
4546 gain-time or commutation of time for good conduct, as provided
4547 for by law, earned up to the date of release. However, if a
4548 conditional medical release is revoked due to the improved
4549 medical or physical condition of the releasee, the releasee
4550 shall not forfeit gain-time accrued before the date of
4551 conditional medical release. This subsection does not deprive
4552 the prisoner of the right to gain-time or commutation of time
4553 for good conduct, as provided by law, from the date of return to
4554 prison.

4555 (7) If a law enforcement officer has probable cause to
4556 believe that an offender who is on release supervision under s.
4557 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731 has violated
4558 the terms and conditions of his or her release by committing a
4559 felony offense, the officer shall arrest the offender without a
4560 warrant, and a warrant need not be issued in the case.

4561 Section 56. Paragraph (a) of subsection (7) of section
4562 948.01, Florida Statutes, is amended to read:

4563 948.01 When court may place defendant on probation or into
4564 community control.-

4565 (7) (a) Notwithstanding s. 921.0024 and effective for
4566 offenses committed on or after July 1, 2009, the sentencing
4567 court may place the defendant into a postadjudicatory treatment-
4568 based drug court program if the defendant's Public Safety
4569 ~~Criminal Punishment~~ Code scoresheet total sentence points under
4570 s. 921.0024 are 60 points or fewer, the offense is a nonviolent
4571 felony, the defendant is amenable to substance abuse treatment,
4572 and the defendant otherwise qualifies under s. 397.334(3). The



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4573 satisfactory completion of the program shall be a condition of
4574 the defendant's probation or community control. As used in this
4575 subsection, the term "nonviolent felony" means a third degree
4576 felony violation under chapter 810 or any other felony offense
4577 that is not a forcible felony as defined in s. 776.08.

4578 Section 57. Section 948.015, Florida Statutes, is amended
4579 to read:

4580 948.015 Presentence investigation reports.—The circuit
4581 court, when the defendant in a criminal case has been found
4582 guilty or has entered a plea of nolo contendere or guilty and
4583 has a lowest permissible sentence under the Public Safety
4584 ~~Criminal Punishment~~ Code of any nonstate prison sanction, may
4585 refer the case to the department for investigation or
4586 recommendation. Upon such referral, the department shall make
4587 the following report in writing at a time specified by the court
4588 before ~~prior to~~ sentencing. The full report must ~~shall~~ include:

4589 (1) A complete description of the situation surrounding the
4590 criminal activity with which the offender has been charged,
4591 including a synopsis of the trial transcript, if one has been
4592 made; nature of the plea agreement, including the number of
4593 counts waived, the pleas agreed upon, the sentence agreed upon,
4594 and any additional terms of agreement; and, at the offender's
4595 discretion, his or her version and explanation of the criminal
4596 activity.

4597 (2) The offender's sentencing status, including whether the
4598 offender is a first offender, a habitual or violent offender, a
4599 youthful offender, or is currently on probation.

4600 (3) The offender's prior record of arrests and convictions.

4601 (4) The offender's educational background.



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4602 (5) The offender's employment background, including any
4603 military record, present employment status, and occupational
4604 capabilities.

4605 (6) The offender's financial status, including total
4606 monthly income and estimated total debts.

4607 (7) The social history of the offender, including his or
4608 her family relationships, marital status, interests, and
4609 activities.

4610 (8) The residence history of the offender.

4611 (9) The offender's medical history and, as appropriate, a
4612 psychological or psychiatric evaluation.

4613 (10) Information about the environments to which the
4614 offender might return or to which the offender could be sent
4615 should a sentence of nonincarceration or community supervision
4616 be imposed by the court, and consideration of the offender's
4617 plan concerning employment supervision and treatment.

4618 (11) Information about any resources available to assist
4619 the offender, such as:

4620 (a) Treatment centers.

4621 (b) Residential facilities.

4622 (c) Career training programs.

4623 (d) Special education programs.

4624 (e) Services that may preclude or supplement commitment to
4625 the department.

4626 (12) The views of the person preparing the report as to the
4627 offender's motivations and ambitions and an assessment of the
4628 offender's explanations for his or her criminal activity.

4629 (13) An explanation of the offender's criminal record, if
4630 any, including his or her version and explanation of any



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4631 previous offenses.

4632 (14) A statement regarding the extent of any victim's loss
4633 or injury.

4634 (15) A recommendation as to disposition by the court. The
4635 department shall make a written determination as to the reasons
4636 for its recommendation, and shall include an evaluation of the
4637 following factors:

4638 (a) The appropriateness or inappropriateness of community
4639 facilities, programs, or services for treatment or supervision
4640 for the offender.

4641 (b) The ability or inability of the department to provide
4642 an adequate level of supervision for the offender in the
4643 community and a statement of what constitutes an adequate level
4644 of supervision.

4645 (c) The existence of other treatment modalities which the
4646 offender could use but which do not exist at present in the
4647 community.

4648 Section 58. Paragraph (j) of subsection (2) of section
4649 948.06, Florida Statutes, is amended to read:

4650 948.06 Violation of probation or community control;
4651 revocation; modification; continuance; failure to pay
4652 restitution or cost of supervision.—

4653 (2)

4654 (j)1. Notwithstanding s. 921.0024 and effective for
4655 offenses committed on or after July 1, 2009, the court may order
4656 the defendant to successfully complete a postadjudicatory
4657 treatment-based drug court program if:

4658 a. The court finds or the offender admits that the offender
4659 has violated his or her community control or probation;



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4660 b. The offender's ~~Public Safety Criminal Punishment Code~~
4661 scoresheet total sentence points under s. 921.0024 are 60 points
4662 or fewer after including points for the violation;

4663 c. The underlying offense is a nonviolent felony. As used
4664 in this subsection, the term "nonviolent felony" means a third
4665 degree felony violation under chapter 810 or any other felony
4666 offense that is not a forcible felony as defined in s. 776.08;

4667 d. The court determines that the offender is amenable to
4668 the services of a postadjudicatory treatment-based drug court
4669 program;

4670 e. The court has explained the purpose of the program to
4671 the offender and the offender has agreed to participate; and

4672 f. The offender is otherwise qualified to participate in
4673 the program under ~~the provisions of~~ s. 397.334(3).

4674 2. After the court orders the modification of community
4675 control or probation, the original sentencing court shall
4676 relinquish jurisdiction of the offender's case to the
4677 postadjudicatory treatment-based drug court program until the
4678 offender is no longer active in the program, the case is
4679 returned to the sentencing court due to the offender's
4680 termination from the program for failure to comply with the
4681 terms thereof, or the offender's sentence is completed.

4682 Section 59. Subsection (1) of section 948.20, Florida
4683 Statutes, is amended to read:

4684 948.20 Drug offender probation.—

4685 (1) If it appears to the court upon a hearing that the
4686 defendant is a chronic substance abuser whose criminal conduct
4687 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent
4688 felony if such nonviolent felony is committed on or after July



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4689 1, 2009, and notwithstanding s. 921.0024, the defendant's Public
4690 Safety Criminal Punishment Code scoresheet total sentence points
4691 are 60 points or fewer, the court may either adjudge the
4692 defendant guilty or stay and withhold the adjudication of guilt.
4693 In either case, the court may also stay and withhold the
4694 imposition of sentence and place the defendant on drug offender
4695 probation or into a postadjudicatory treatment-based drug court
4696 program if the defendant otherwise qualifies. As used in this
4697 section, the term "nonviolent felony" means a third degree
4698 felony violation under chapter 810 or any other felony offense
4699 that is not a forcible felony as defined in s. 776.08.

4700 Section 60. Paragraph (c) of subsection (2) of section
4701 948.51, Florida Statutes, is amended to read:

4702 948.51 Community corrections assistance to counties or
4703 county consortiums.—

4704 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A
4705 county, or a consortium of two or more counties, may contract
4706 with the Department of Corrections for community corrections
4707 funds as provided in this section. In order to enter into a
4708 community corrections partnership contract, a county or county
4709 consortium must have a public safety coordinating council
4710 established under s. 951.26 and must designate a county officer
4711 or agency to be responsible for administering community
4712 corrections funds received from the state. The public safety
4713 coordinating council shall prepare, develop, and implement a
4714 comprehensive public safety plan for the county, or the
4715 geographic area represented by the county consortium, and shall
4716 submit an annual report to the Department of Corrections
4717 concerning the status of the program. In preparing the



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4718 comprehensive public safety plan, the public safety coordinating
4719 council shall cooperate with the juvenile justice circuit
4720 advisory board established under s. 985.664 in order to include
4721 programs and services for juveniles in the plan. To be eligible
4722 for community corrections funds under the contract, the initial
4723 public safety plan must be approved by the governing board of
4724 the county, or the governing board of each county within the
4725 consortium, and the Secretary of Corrections based on the
4726 requirements of this section. If one or more other counties
4727 develop a unified public safety plan, the public safety
4728 coordinating council shall submit a single application to the
4729 department for funding. Continued contract funding shall be
4730 pursuant to subsection (5). The plan for a county or county
4731 consortium must cover at least a 5-year period and must include:

4732 (c) Specific goals and objectives for reducing the
4733 projected percentage of commitments to the state prison system
4734 of persons with low total sentencing scores pursuant to the
4735 Public Safety Criminal Punishment Code.

4736 Section 61. Subsection (3) of section 958.04, Florida
4737 Statutes, is amended to read:

4738 958.04 Judicial disposition of youthful offenders.—

4739 (3) ~~The provisions of~~ This section may shall not be used to
4740 impose a greater sentence than the permissible sentence range as
4741 established by the Public Safety Criminal Punishment Code
4742 pursuant to chapter 921 unless reasons are explained in writing
4743 by the trial court judge which reasonably justify departure. A
4744 sentence imposed outside of the code is subject to appeal
4745 pursuant to s. 924.06 or s. 924.07.

4746 Section 62. Subsection (4) of section 985.465, Florida



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4747 Statutes, is amended to read:

4748 985.465 Juvenile correctional facilities or juvenile
4749 prison.—A juvenile correctional facility or juvenile prison is a
4750 physically secure residential commitment program with a
4751 designated length of stay from 18 months to 36 months, primarily
4752 serving children 13 years of age to 19 years of age or until the
4753 jurisdiction of the court expires. Each child committed to this
4754 level must meet one of the following criteria:

4755 (4) The child is at least 13 years of age at the time of
4756 the disposition for the current offense, the child is eligible
4757 for prosecution as an adult for the current offense, and the
4758 current offense is ranked at level 7 or higher on the Public
4759 Safety Criminal Punishment Code offense severity ranking chart
4760 pursuant to s. 921.0022.

4761 Section 63. Except as otherwise expressly provided in this
4762 act, and except for this section, which shall take effect upon
4763 this act becoming a law, this act shall take effect October 1,
4764 2020.

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 Appropriations

BILL: CS/SB 1308

INTRODUCER: Criminal Justice Committee; and Senators Brandes, Bracy, Powell, and others

SUBJECT: Criminal Justice

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------------|
| 1. | Cox | Jones | CJ | Fav/CS |
| 2. | Forbes | Jameson | ACJ | Recommend: Fav/CS |
| 3. | Forbes | Jameson | AP | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1308 makes a number of changes to the criminal justice system, including:

- Modifying the list of enumerated offenses that exclude juvenile offenders convicted of capital murder from a sentence review hearing in accordance with section. 921.1402, Florida Statutes, enacted subsequent to the *Graham v. Florida* and *Miller v. Alabama* cases, to only murder.
- Retroactively applying the above modification to limit the prior offenses that serve as a bar for certain juvenile offenders to have a sentence review hearing to only murder.
- Providing that juvenile offenders who are no longer barred from a sentence review hearing due to the change to the list of enumerated prior offenses and who have served 25 years of the imprisonment imposed on the effective date of the bill must have a sentence review hearing conducted immediately.
- Providing all other juvenile offenders who are no longer barred from a sentence review hearing due to the change to the list of enumerated prior offenses must be given a sentence review hearing when 25 years of the imprisonment imposed have been served.
- Establishing a sentence review process similar to that created for juvenile offenders pursuant to section 921.1402, Florida Statutes, for “young adult offenders.”
- Defining the term “young adult offender.”
- Allowing certain young adult offenders to request a sentence review hearing with the original sentencing court if specified conditions are met, specifically:

- A young adult offender convicted of a life felony offense, or an offense reclassified as such, who was sentenced to 20 years imprisonment may request a sentence review after 20 years; and
- A young adult offender convicted of a first degree felony offense, or an offense reclassified as such, who was sentenced to 15 years imprisonment may request a sentence review after 15 years.
- Providing an exception to the requirement for prison releasee reoffenders to serve specified amounts of the term of imprisonment and allowing such prison releasee reoffenders that also qualify as juvenile offenders and young adult offenders to have sentence review hearings conducted by the court and be resentenced and released from imprisonment if deemed appropriate.
- Requiring the Department of Corrections (DOC) and county detention facilities to provide documentation to inmates upon release specifying the total length of the term of imprisonment at the time of release.
- Allowing time spent incarcerated in a county detention facility or state correctional facility to apply towards satisfaction of residing for a specified amount of time in Florida for designation as a resident for tuition purposes.
- Requiring the time spent incarcerated in a county detention facility or state correctional facility to be credited toward the residency requirement, with any combination of documented time living in Florida before and after incarceration.
- Requiring the Office of Program Policy and Governmental Accountability (OPPAGA) to conduct a study to evaluate the various opportunities available to persons returning to the community from imprisonment.
- Providing the study's scope and requiring the OPPAGA to submit a report to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives by November 1, 2020.

To the extent that the bill increases the number of certain offenders being released from prison as a result of the sentence review hearings, the Criminal Justice Impact Conference estimates the bill will result in a negative significant prison bed impact. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Criminal Punishment Code

The Criminal Punishment Code (Code) is Florida's primary sentencing policy.¹ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).² 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

¹ 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.

² 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.

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.³ Absent mitigation,⁴ 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.⁵

Juvenile Offenders Convicted of Offenses Punishable by Life without Parole

In recent years, the U.S. Supreme Court issued several decisions addressing the application of the Eighth Amendment's prohibition against cruel and unusual punishment as it relates to the punishment of juvenile offenders.⁶ The first of these was *Roper v. Simmons*,⁷ in which the Court held that juvenile offenders cannot be subject to the death penalty for any offense. More recently, the Court expanded juvenile sentencing doctrine in *Graham v. Florida*⁸ and *Miller v. Alabama*.⁹

³ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁴ 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.

⁵ See s. 775.082, F.S.

⁶ The term "juvenile offender" refers to an offender who was less than 18 years of age at the time the offense was committed for which he or she was sentenced. Most crimes committed by juveniles are dealt with through delinquency proceedings as set forth in ch. 985, F.S. However, the law provides a mechanism for juveniles to be tried and handled as adults. A juvenile who commits a crime while 13 years old or younger may only be tried as an adult if a grand jury indictment is returned. A juvenile who is older than 13 years may be tried as an adult for certain felony offenses if a grand jury indictment is returned, if juvenile court jurisdiction is waived and the case is transferred for prosecution as an adult pursuant to s. 985.556, F.S., or if the state attorney direct files an information in adult court pursuant to s. 985.557, F.S. Regardless of age, s. 985.58, F.S., requires a grand jury indictment to try a juvenile as an adult for an offense that is punishable by death or life imprisonment.

⁷ 125 S.Ct. 1183 (2005).

⁸ 130 S.Ct. 2011 (2010).

⁹ 132 S.Ct. 2455 (2012).

Graham v. Florida

In *Graham*, the U.S. Supreme Court held that a juvenile offender may not be sentenced to life in prison without the possibility of parole for a non-homicide offense. More specifically, the Court found that if a non-homicide juvenile offender is sentenced to life in prison, the state must “provide him or her with some realistic opportunity to obtain release before the end of that term.”¹⁰ Because Florida abolished parole¹¹ and the possibility of executive clemency was deemed to be remote,¹² the Court held that a juvenile offender in Florida could not be given a life sentence for a non-homicide offense without a meaningful opportunity to obtain release.¹³

Graham applies retroactively to previously sentenced offenders because it established a fundamental constitutional right.¹⁴ Therefore, a juvenile offender who is serving a life sentence for a non-homicide offense that was committed after parole eligibility was eliminated is entitled to be resentenced to a term less than life.

The U.S. Supreme Court did not give any guidance as to the maximum permissible sentence for a non-homicide juvenile offender other than to exclude the possibility of life without parole. This led to different results among the District Courts in reviewing sentences for a lengthy term of years. Prior to the 2014 Legislative Session, there were conflicts in the case law regarding whether a term of years could be deemed to equate to a life without parole sentence. The Florida First District Court of Appeal held that a lengthy term of years is a *de facto* life sentence if it exceeds the juvenile offender’s life expectancy.¹⁵ On the other hand, the Florida Fourth and Fifth District Courts of Appeal strictly construed *Graham* to apply only to life sentences and not to affect sentences for a lengthy term of years.¹⁶

On March 19, 2015, the Florida Supreme Court issued opinions on two cases that had been certified for it to resolve, *Gridine v. State*, 89 So. 3d 909 (Fla. 1st DCA 2011) and *Henry v. State*, 82 So. 3d 1084 (Fla. 5th DCA 2012). The Court held that a sentence proscribing a lengthy term of years imprisonment, such as a 70-year sentence as was pronounced in *Gridine* or the 90-year sentence pronounced in *Henry* that does not provide a meaningful opportunity for release is a *de facto* life sentence that violates the Eighth Amendment to the U.S. Constitution and the holding in *Graham*.¹⁷

¹⁰ *Graham* at 82.

¹¹ Parole was abolished in 1983 for all non-capital felonies committed on or after October 1, 1983, and was completely abolished in 1995 for any offense committed on or after October 1, 1995.

¹² *Graham* at 70.

¹³ *Graham* at 75.

¹⁴ See, e.g., *St. Val v. State*, 107 So. 3d 553 (Fla. 4th DCA 2013); *Manuel v. State*, 48 So.3d 94 (Fla. 2d DCA 2010).

¹⁵ *Adams v. State*, 2012 WL 3193932 (Fla. 1st DCA 2012). The First District Court of Appeal has struck down sentences of 60 years (*Adams*) and 80 years (*Floyd v. State*, 87 So.3d 45 (Fla. 1st DCA 2012)), while approving sentences of 50 years (*Thomas v. State*, 78 So.3d 644 (Fla. 1st DCA 2011)) and 70 years (*Gridine v. State*, 89 So. 3d 909 (Fla. 1st DCA 2011)).

¹⁶ See *Guzman v. State*, 110 So.3d 480 (Fla. 4th DCA 2013); *Henry v. State*, 82 So.3d 1084 (Fla. 5th DCA 2012). It also appears that the Second District Court of Appeal may agree with this line of reasoning: see *Young v. State*, 110 So.3d 931 (Fla. 2d DCA 2013).

¹⁷ *Gridine v. State*, 175 So.3d 672 (Fla. 2015) and *Henry v. State*, 175 So.3d 675 (Fla. 2015).

Miller v. Alabama

In *Miller*, the U.S. Supreme Court held that juvenile offenders who commit homicide may not be sentenced to life in prison without the possibility of parole as the result of a mandatory sentencing scheme. The Court did not find that the Eighth Amendment prohibits sentencing a juvenile murderer to life without parole, but rather that individualized factors related to the offender's age must be considered before a life without parole sentence may be imposed. The Court also indicated that it expects few juvenile offenders will be found to merit life without parole sentences.

The majority opinion in *Miller* noted mandatory life-without-parole sentences “preclude a sentencer from taking account of an offender’s age and the wealth of characteristics and circumstances attendant to it.”¹⁸ Although the Court did not require consideration of specific factors, it highlighted the following concerns:

Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys....[A]nd finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.¹⁹

CS/HB 7035 (2014)

In response to the above-mentioned cases, the 2014 Legislature passed and the Governor signed into law CS/HB 7035 (2014), codified in ch. 2014-220, L.O.F., ensuring Florida had a constitutional sentencing scheme for juvenile offenders who are convicted of offenses punishable by a sentence of life without parole.

CS/HB 7035 (2014) amended s. 775.082, F.S., *requiring* a court to sentence a juvenile offender who is convicted of a homicide offense²⁰ that is a capital felony or an offense that was reclassified as a capital felony (capital felony homicide) and where the person actually killed, intended to kill, or attempted to kill the victim to:

- Life imprisonment, if, after conducting a sentencing hearing in accordance with the newly created s. 921.1401, F.S., the court concluded that life imprisonment is an appropriate sentence; or

¹⁸ *Miller* at 2467.

¹⁹ *Miller* at 2468.

²⁰ Section 782.04, F.S., establishes homicide offenses.

- A term of imprisonment of not less than 40 years, if the judge concluded at the sentencing hearing that life imprisonment is not an appropriate sentence.²¹

The court *may* sentence a juvenile offender to life imprisonment or a term of years equal to life imprisonment, if, after conducting a sentencing hearing in accordance with s. 921.1401, F.S., the court finds such sentence appropriate and the juvenile offender is convicted of a:

- Life or first degree felony homicide where the person actually killed, intended to kill, or attempted to kill the victim;²²
- Capital, life, or first degree felony homicide offense where the person did not actually kill, intend to kill, or attempt to kill the victim;²³ or
- Nonhomicide offense.²⁴

Section 775.082(1)(b)1., F.S., requires the court to impose a minimum sentence (40 years) only in instances where the court determines that life imprisonment is not appropriate for a juvenile offender convicted of a capital felony homicide where the person actually killed, intended to kill, or attempted to kill the victim.²⁵

Section 775.082(1) and (3), F.S., also provides that all juvenile offenders are entitled to have their sentence reviewed by the court of original jurisdiction after specified periods of imprisonment. However, a juvenile offender convicted of a capital felony homicide, where the person actually killed, intended to kill, or attempted to kill the victim, is not entitled to review if he or she has previously been convicted of a list of enumerated offenses, or conspiracy to commit one of the enumerated offenses, if the offense for which the person was previously convicted was part of a separate criminal transaction or episode than that which resulted in the sentence for the capital felony homicide.²⁶

Sentencing Proceedings for Juvenile Offenders Sentenced to Life Imprisonment

CS/HB 7035 (2014) created s. 921.1401, F.S., which authorized the court to conduct a separate sentencing hearing to determine whether life imprisonment or a term of years equal to life imprisonment is an appropriate sentence for a juvenile offender convicted of one of the above-described homicide or nonhomicide offenses that was committed on or after July 1, 2014.²⁷

When determining whether such sentence is appropriate, the court is required to consider factors relevant to the offense and to the juvenile offender's youth and attendant circumstances, including, but not limited to the:

- Nature and circumstances of offense committed by the juvenile offender;
- Effect of crime on the victim's family and on the community;
- Juvenile offender's age, maturity, intellectual capacity, and mental and emotional health at time of offense;

²¹ Section 775.082(1)(b)1., F.S.

²² Section 775.082(3)(a)5. and (b), F.S.

²³ Section 775.082(1)(b)2., F.S.

²⁴ Section 775.082(3)(c), F.S.

²⁵ Section 775.082(1)(b)1., F.S.

²⁶ See s. 775.082(1) and (3), F.S., providing that reviews of sentences will be conducted in accordance with s. 921.1402, F.S.

²⁷ Section 921.1401(1), F.S.

- Juvenile offender’s background, including his or her family, home, and community environment;
- Effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the juvenile offender’s participation in the offense;
- Extent of the juvenile offender’s participation in the offense;
- Effect, if any, of familial pressure or peer pressure on the juvenile offender’s actions;
- Nature and extent of the juvenile offender’s prior criminal history;
- Effect, if any, of characteristics attributable to the juvenile offender’s youth on the juvenile offender’s judgment; and
- Possibility of rehabilitating the juvenile offender.²⁸

This sentencing hearing is mandatory when sentencing any juvenile offender for a capital felony homicide offense where the offender actually killed, intended to kill, or attempted to kill the victim. The hearing is not required in any of the other above-described offenses, but must be conducted before the court can impose a sentence of life imprisonment or a term of years equal to life imprisonment.

Sentence Review Proceedings

CS/HB 7035 (2014) also created s. 921.1402, F.S., which entitles certain juvenile offenders to a review of his or her sentence by the court of original jurisdiction after specified periods of time. The sentence review hearing is to determine whether the juvenile offender has been rehabilitated and is deemed fit to re-enter society.

Section 921.1402(1), F.S., defines “juvenile offender” to mean a person sentenced to imprisonment in the custody of the DOC for an offense committed on or after July 1, 2014, and committed *before* he or she was 18 years of age.

A juvenile offender convicted of a capital felony homicide offense where the person actually killed, intended to kill, or attempted to kill the victim is entitled to a sentence review hearing after 25 years.²⁹ However, a juvenile offender is not entitled to review if he or she has previously been convicted of one of the following offenses, or conspiracy to commit one of the following offenses, if the offense for which the person was previously convicted was part of a separate criminal transaction or episode than that which resulted in the sentence for which he or she was sentenced to life:

- Murder;
- Manslaughter;
- Sexual battery;
- Armed burglary;
- Armed robbery;
- Armed carjacking;
- Home-invasion robbery;
- Human trafficking for commercial sexual activity with a child under 18 years of age;
- False imprisonment under s. 787.02(3)(a), F.S.; or

²⁸ Section 921.1401(2), F.S.

²⁹ Section 775.082(1)(b)1., F.S.

- Kidnapping.³⁰

A juvenile offender convicted of a life felony or first degree felony homicide offense where the person actually killed, intended to kill, or attempted to kill the victim, is entitled to a sentence review hearing after 25 years, if he or she is sentenced to a term of imprisonment for more than 25 years.³¹

A juvenile offender convicted of a capital felony, life felony, or first degree felony homicide offense where the person did not actually kill, intend to kill, or attempt to kill the victim is entitled to have the court review the sentence after 15 years, if he or she is sentenced to a term of imprisonment of more than 15 years.³²

A juvenile offender convicted of a nonhomicide offense is entitled to have the court review the sentence after 20 years if the juvenile is sentenced to a term of imprisonment of more than 20 years. The juvenile offender is eligible for one subsequent review hearing 10 years after the initial review hearing.³³

The juvenile offender must submit an application to the court of original jurisdiction requesting that a sentence review hearing be held. The DOC must notify a juvenile offender of his or her eligibility to request a sentencing review hearing 18 months before the juvenile offender becomes entitled to such review. Additionally, an eligible juvenile offender is entitled to be represented by counsel at the sentence review hearing, including a court appointed public defender, if the juvenile offender cannot afford an attorney.³⁴

Section 921.1402(6), F.S., requires the original sentencing court to consider any factor it deems appropriate during the sentence review hearing, including all of the following:

- Whether the offender demonstrates maturity and rehabilitation;
- Whether the offender remains at the same level of risk to society as he or she did at the time of the initial sentencing;
- The opinion of the victim or the victim's next of kin;³⁵
- Whether the offender was a relatively minor participant in the criminal offense or acted under extreme duress or the domination of another person;
- Whether the offender has shown sincere and sustained remorse for the criminal offense;
- Whether the offender's age, maturity, and psychological development at the time of the offense affected his or her behavior;

³⁰ Section 921.1402(2)(a), F.S.

³¹ Section 921.1402(2)(b), F.S.

³² Section 921.1402(2)(c), F.S.

³³ Section 921.1402(2)(d), F.S.

³⁴ Section 921.1402(3)-(5), F.S.

³⁵ Section 921.1402(6)(c), F.S., further states that the absence of the victim or the victim's next of kin from the resentencing hearing may not be a factor in the court's determination. The victim or victim's next of kin is authorized to appear in person, in writing, or by electronic means. Additionally, if the victim or the victim's next of kin chooses not to participate in the hearing, the court may consider previous statements made by the victim or the victim's next of kin during the trial, initial sentencing phase, or subsequent sentence review hearings.

- Whether the offender has successfully obtained a general educational development certificate or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available;
- Whether the offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense; and
- The results of any mental health assessment, risk assessment, or evaluation of the offender as to rehabilitation.³⁶

If a court, after conducting a sentence review hearing, finds that the juvenile offender has been rehabilitated and is reasonably fit to reenter society, the court must modify the offender's sentence and impose a term of probation of at least five years. If the court determines that the juvenile offender has not demonstrated rehabilitation or is not fit to reenter society, the court must issue an order in writing stating the reasons why the sentence is not being modified.³⁷

These sentencing provisions are limited to the juvenile offenders that fall under the strict findings in *Graham* and *Miller*.³⁸ Thus, the sentence review hearings do not currently apply to persons who were convicted and sentenced to very similar offenses and who are close in age to the juvenile offenders who have received sentence review hearings because of *Graham* and *Miller*.

Case Law Subsequent to CS/HB 7035 (2014)

Valid Sentence Options for Miller Offenders

Subsequent to the U.S. Supreme Court's holdings in *Roper* and *Miller*, the options for permissible sentences under Florida law for juveniles who were convicted of such capital and life offenses punishable by life imprisonment without the possibility of parole became unclear. The Florida Fifth District Court of Appeal in *Horsley v. State*,³⁹ held that the principal of statutory revival should be applied mandating that the last constitutional sentence, life with the possibility of parole after 25 years, should be imposed for convictions of such juveniles. However, in 2015, the Florida Supreme Court heard and overturned this decision in *Horsley*,⁴⁰ holding that the proper remedy for such juveniles convicted of offenses classified as capital offenses is to apply the sentencing provisions enacted by CS/HB 7035 (2014), which codified the above-mentioned ss. 775.082, 921.1401, and 921.1402, F.S., rather than utilize statutory revival principles and impose a sentence of life with the possibility of parole after 25 years.⁴¹

Retroactive Application of Miller

Another outstanding question at the time CS/HB 7035 (2014) was implemented was whether *Miller* applied retroactively in the same manner that *Graham* did. Other state and federal courts had issued differing opinions as to whether *Miller* applies retroactively. The question has turned on whether *Miller* is considered to be a procedural change in the law that does not apply

³⁶ Section 921.1402(6), F.S.

³⁷ Section 921.1402(7), F.S.

³⁸ See *Graham v. Florida*, 130 S.Ct. 2011 (2010) and *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

³⁹ 121 So.3d 1130 (Fla. 5th DCA 2013).

⁴⁰ 160 So.3d 393 (Fla. 2015).

⁴¹ Life with the possibility of parole after 25 years is the penalty for capital murder under the 1993 version of s. 775.082(1), F.S., the most recent capital murder penalty statute that is constitutional under *Miller* when applied to a juvenile offender.

retroactively to sentences that were final before the opinion was issued or an opinion of fundamental significance, similar to *Graham*.

The Florida Supreme Court decided this issue in *Falcon v. State*.⁴² The Court held that *Miller* applied retroactively because the ruling is a development of fundamental significance. The Court held that given, that *Miller* invalidated the only statutory means for imposing a sentence of life without the possibility of parole on juveniles convicted of a capital felony, it dramatically impacted the ability of Florida to impose a nondiscretionary sentence of life without parole on a juvenile convicted of a capital felony. Therefore, *Falcon* ensured that juvenile offenders whose convictions and sentences were final prior to the *Miller* decision could seek collateral relief based on it.⁴³

Impact of Parole or Conditional Release Options for Juvenile Offenders

The U.S. Supreme Court further distinguished the *Graham* and *Miller* progeny of cases with *Virginia v. LeBlanc*, which denied habeas corpus relief for the juvenile offender holding that release programs for prisoners that consider factors in a similar manner as parole, such as Virginia's geriatric release program, did not violate *Graham* or *Miller* because it provides a juvenile offender a meaningful opportunity for release. In *LeBlanc*, the Court reasoned that Virginia's geriatric release program considered individualized factors of the offender, such as the individual's rehabilitation and maturity, history and conduct before and during incarceration, his or her inter-personal relationships with staff and inmates, and development and growth in attitude toward himself, herself, and others.⁴⁴

The Florida Supreme Court has held that the *Graham* and *Miller* rules do not apply to juvenile offenders sentenced to life or lengthy terms of years equal to life, but who are eligible for parole.⁴⁵

Collateral Consequences of Felony Convictions

A collateral consequence is any adverse legal effect of a conviction that is not a part of a sentence.⁴⁶ If the consequence does not affect the range of punishment, it is said to be collateral to the plea.⁴⁷ Such consequences are legal and regulatory restrictions that limit or prohibit people convicted of crimes from accessing employment, business and occupational licensing, housing, voting, education, and other rights, benefits, and opportunities.⁴⁸ Some examples of collateral consequences that occur upon any felony conviction in Florida include the loss of the right to

⁴² 162 So.3d 954 (Fla. 2015).

⁴³ *Falcon v. State*, 162 So.3d 954, 961 (Fla. 2015).

⁴⁴ *Virginia v. LeBlanc*, 137 S.Ct. 1726 (2017).

⁴⁵ See *Franklin v. State*, 258 So.3d 1329 (Fla. 2018); *Carter v. State*, 283 So.3d 409 (Fla. 3d DCA 2019); *Brown v. State*, 283 So.3d 424 (Fla. 3d 2019).

⁴⁶ The Miami-Dade Florida Public Defender's Office, *What You Don't Know Can Hurt You: The Collateral Consequences of a Conviction in Florida*, Updated April 2019, p. 7, available at <http://www.pdmiami.com/ConsequencesManual.pdf> (last visited January 29, 2020).

⁴⁷ See *Bolware v. State*, 995 So.2d 268 (Fla. 2008).

⁴⁸ U.S. Commission on Civil Rights, *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*, Executive Summary, June 2019, p. 1, available at <https://www.usccr.gov/pubs/2019/06-13-Collateral-Consequences.pdf> (last visited January 29, 2020).

vote,⁴⁹ hold public office,⁵⁰ serve on a jury,⁵¹ obtain certain professional licenses,⁵² and owning or possessing a firearm.⁵³ There are additional collateral consequences that can occur as a result of a felony conviction of specified offenses, such as the loss of driving privileges related to drug and theft offenses.⁵⁴ Conviction of a crime may also result in disqualification to hold a government job and other limits on employment opportunities or even loss of employment.⁵⁵

Requirement to Provide Certain Information to Persons upon Release from Imprisonment

Entities that imprison persons convicted of offenses in violation of Florida law are required in certain circumstances to provide specified information to such persons upon release. For example, s. 944.705(6), F.S., requires the DOC to notify every inmate upon release, in no less than 18-point type in the inmate's release documents, that the inmate may be sentenced pursuant to s. 775.082(9), F.S., as a prison releasee reoffender as discussed below if the inmate commits any enumerated felony offense within 3 years after the inmate's release. Additionally, the notice must be prefaced by the word "WARNING" in boldfaced type.⁵⁶

Further, specified entities are required to provide inmates with certain information related to all outstanding terms of sentence in accordance with CS/SB 7066 (2019), related to voting rights restoration.⁵⁷ For example, ss. 944.705, and 948.041, F.S., require the DOC to notify an inmate or offender in writing of all outstanding terms of sentence at the time of release or termination of probation or community control.

Such entities are not currently required to provide inmates being released from their facilities information related to dates of his or her admission to and release from the custody of the facility, including the total length of the term of imprisonment from which he or she is being released.

Prison Releasee Reoffender

A prison releasee reoffender is a person who is being sentenced for committing or attempting to commit a qualifying offense, such as murder, manslaughter, sexual battery, or robbery,⁵⁸ within three years of being released from a:

- State correctional facility operated by the DOC or a private vendor;
- Correctional institution of another jurisdiction following incarceration for which the sentence is punishable by more than one year in Florida; or

⁴⁹ Art. VI, s. 4, FLA. CONST.; s. 97.041, F.S.

⁵⁰ *Id.*

⁵¹ Section 40.013(1), F.S.

⁵² For example, *see* chs. 455, 489, and 626, F.S.

⁵³ Section 790.23, F.S.

⁵⁴ *See* ss. 322.055 and 812.0155, F.S.

⁵⁵ 16 Fla. Prac., Sentencing, s. 6:120 (2019-2020 ed.).

⁵⁶ Section 944.705(6), F.S., further provides that evidence that the DOC failed to provide this notice to an inmate will not prohibit a person from being sentenced pursuant to s. 775.082(9), F.S. The state is not be required to demonstrate that a person received any notice from the DOC in order for the court to impose a sentence pursuant to s. 775.082(9), F.S.

⁵⁷ *See* ch. 2019-162, L.O.F.

⁵⁸ *See* s. 775.082(9)(a)3., F.S., for a complete list of qualifying offenses.

- County detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence,⁵⁹ if the person is otherwise eligible.⁶⁰

A prison releasee reoffender also includes a person who commits or attempts to commit a qualifying offense while serving a prison sentence or while on escape status from a state correctional facility operated by the DOC or a private vendor or from a correctional institution of another jurisdiction.⁶¹

A person who qualifies as a prison releasee reoffender is subject to a mandatory minimum sentence. Specifically, a court must sentence a prison releasee reoffender to:

- A 5-year mandatory minimum for a third degree felony;
- A 15-year mandatory minimum for a second degree felony;
- A 30-year mandatory minimum term for a first degree felony; and
- Life imprisonment for a first degree felony punishable by life or a life felony.⁶²

Probation Supervision through the Department of Corrections

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.⁶³ The DOC supervises more than 164,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including probation, drug offender probation, sex offender probation, and community control.⁶⁴

Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose to ensure the offender's compliance with the terms of the sentence and the safety to the community.⁶⁵ Section 948.03, F.S., provides that a court must determine the terms and conditions of probation. Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

Violations of Probation or Community Control

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.⁶⁶ A violation of probation (VOP) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable

⁵⁹ In December of 2018, the Florida Supreme Court held that a defendant released from a county jail after having been committed to the legal custody of the DOC was not a prison releasee reoffender within the current meaning of that term as provided in s. 775.082, F.S. CS/HB 7125 (2019), codified in ch. 2019-167, L.O.F., amended s. 775.082(9), F.S., to include language to cure this issue. *See State v. Lewars*, 259 So.3d 793 (Fla. 2018).

⁶⁰ Section 775.082(9)(a)1., F.S.

⁶¹ Section 775.082(9)(a)2., F.S.

⁶² Section 775.082(9)(a)3., F.S.

⁶³ Section 948.01, F.S.

⁶⁴ The DOC, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited January 29, 2020).

⁶⁵ Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

⁶⁶ Section 948.10(3), F.S.

grounds exist to believe that an offender has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate’s supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.⁶⁷

The offender must be returned to the court granting such probation.⁶⁸ Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.⁶⁹

Upon a finding through a VOP hearing, a court may revoke, modify, or continue the supervision. If the court chooses to revoke the supervision, it may impose any sentence originally permissible before placing the offender on supervision.⁷⁰ In addition, if an offender qualifies as a violent felony offender of special concern (VFOSC), the court must revoke supervision, unless it makes written findings that the VFOSC does not pose a danger to the community.⁷¹ The VFOSC status also accrues sentence points under the Code, which affects the scoring of the lowest permissible sentence.⁷²

Constitutional and Statutory Savings Clauses

Until recently, Article X, Section 9 of the State Constitution (Florida’s constitutional savings clause) expressly prohibited any repeal or amendment of a criminal statute that affected prosecution or punishment for any crime previously committed, and therefore, the Florida Legislature was “powerless to lessen penalties for past transgressions; to do so would require constitutional revision.”⁷³

In 2018, Florida voters adopted the following amendment to Article X, Section 9 of the State Constitution:

~~Repeal or amendment~~ of a criminal statute shall not affect prosecution or punishment for any crime ~~previously~~ committed before such repeal.

Revised Art. X, s. 9 of the State Constitution only prohibits applying the repeal of a criminal statute to any crime committed before such repeal if this retroactive application “affects prosecution.” The revised constitutional savings clause does not expressly prohibit retroactive application of a repeal that does not affect prosecution, a repeal that affects punishment, or an amendment of a criminal statute that affects prosecution or punishment.

⁶⁷ Section 948.06(1)(a), F.S.

⁶⁸ *Id.*

⁶⁹ Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the probationer or controllee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

⁷⁰ Section 948.06(2)(b), F.S.

⁷¹ See s. 948.06(8)(a), F.S., for all VFOSC qualifications and enumerated list of felonies that are considered qualifying offenses. See also ch. 2007-2, L.O.F.

⁷² Section 921.0024, F.S.

⁷³ Comment, *Today’s Law and Yesterday’s Crime: Retroactive Application of Ameliorative Criminal Legislation*, 121 U. Pa. L. Rev. 120, 129 (1972).

The elimination of the expressed prohibition on certain retroactive applications is not a directive to the Legislature to retroactively apply what was formerly prohibited. As the Florida Supreme Court recently stated: "... [T]here will no longer be any provision in the Florida Constitution that would prohibit the Legislature from applying an amended criminal statute retroactively to pending prosecutions or sentences. However, nothing in our constitution does or will require the Legislature to do so, and the repeal of the prohibition will not require that they do so."⁷⁴

In 2019, the Legislature created s. 775.022, F.S., a general savings statute for criminal statutes. The statute defines a "criminal statute" as a statute, whether substantive or procedural, dealing in any way with a crime or its punishment, defining a crime or a defense to a crime, or providing for the punishment of a crime.⁷⁵

The statute specifies legislative intent to preclude:

- Application of the common law doctrine of abatement to a reenactment or an amendment of a criminal statute; and
- Construction of a reenactment or amendment as a repeal or an implied repeal⁷⁶ of a criminal statute for purposes of Article X, Section 9 of the State Constitution (Florida's constitutional savings clause).⁷⁷

The statute also states that, except as expressly provided in an act of the Legislature or as provided in two specified exceptions, the reenactment or amendment of a criminal statute operates prospectively and does not affect or abate any of the following:

- The prior operation of the statute or a prosecution or enforcement under the criminal statute;
- A violation of the criminal statute based on any act or omission occurring before the effective date of the act; and
- A prior penalty, prior forfeiture, or prior punishment incurred or imposed under the statute.⁷⁸

The first exception is a retroactive amelioration exception that provides that if a penalty, forfeiture, or punishment for a violation of a criminal statute is reduced by a reenactment or an amendment of a criminal statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute as amended.⁷⁹ This means the penalty, forfeiture, or punishment reduction must be imposed retroactively *if the sentence has not been imposed*, including the situation in which the sentence is imposed after the effective date of the amendment. However, nothing in the general savings statute precludes the Legislature from providing for a more extensive retroactive application either to legislation in the future or legislation that was enacted prior to the effective date of the general savings statute. This is because the general savings statute specifically provides for a legislative exception to the default

⁷⁴ *Jimenez v. Jones*, 261 So.3d 502, 504 (Fla. 2018).

⁷⁵ Section 775.022(2), F.S.

⁷⁶ The Florida Supreme Court previously indicated that the "standard [is] that implied repeals are disfavored and should only be found in cases where there is a 'positive repugnancy' between the two statutes or 'clear legislative intent' indicating that the Legislature intended the repeal[.]" *Flo-Sun, Inc. v. Kirk*, 783 So.2d 1029, 1036 (Fla. 2001).

⁷⁷ Section 775.022(1), F.S.

⁷⁸ Section 775.022(3), F.S.

⁷⁹ Section 775.022(4), F.S.

position of prospectivity. The Legislature only has to “expressly provide” for this retroactive application.⁸⁰

The second exception relates to defenses and provides that the general savings statute does not limit the retroactive effect of any defense to a criminal statute enacted or amended by the Legislature to any criminal case that has not yet reached final judgment.⁸¹

Victim Input

In 2018, the Florida voters approved Amendment 6 on the ballot, which provided certain rights to victims in the Florida Constitution. In part, Article I, s. 16 of the Florida Constitution, provides that a victim must have the following rights upon request:

- Reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary.
- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.⁸²

Residency Status for Tuition Purposes

Florida law defines “tuition” to mean the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.⁸³ Residency designations are used for assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.⁸⁴ Students who are not classified as “residents for tuition purposes”⁸⁵ are required to pay the full cost of instruction at a public postsecondary institution. A person is able to meet the definition of a “legal resident” if the person has maintained his or her residence in Florida for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in this state.⁸⁶

Specifically, to qualify as a resident for tuition purposes:

⁸⁰ Section 775.022(3), F.S.

⁸¹ Section 775.022(5), F.S.

⁸² Art. 1, s. 16(b)(6)a., b., f., and g., FLA. CONST.

⁸³ Section 1009.01(1), F.S.

⁸⁴ Section 1009.21, F.S.

⁸⁵ Section 1009.21(1)(g), F.S.

⁸⁶ Section 1009.21(1)(d), F.S.

- A person or, if that person is a dependent child, his or her parent or parents must have established legal residence in Florida and must have maintained legal residence for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education.
- Every applicant for admission to an institution of higher education is required to make a statement as to his or her length of residence and establish that his or her presence or, if the applicant is a dependent child, the presence of his or her parent or parents in Florida currently is, and during the requisite 12-month qualifying period was, for the purpose of maintaining a bona fide domicile.⁸⁷

A person must show certain proof that he or she should be classified as a resident for tuition purposes and may not receive the in-state tuition rate until clear and convincing evidence related to legal residence and its duration has been provided. Each institution of higher education must make a residency determination that is documented by the submission of written or electronic verification that includes two or more specified documents that:

- Must include at least one of the following:
 - A Florida voter's registration card.
 - A Florida driver license.
 - A State of Florida identification card.
 - A Florida vehicle registration.
 - Proof of a permanent home in Florida which is occupied as a primary residence by the individual or by the individual's parent if the individual is a dependent child.
 - Proof of a homestead exemption in Florida.
 - Transcripts from a Florida high school for multiple years if the Florida high school diploma or high school equivalency diploma was earned within the last 12 months.
 - Proof of permanent full-time employment in Florida for at least 30 hours per week for a 12-month period.
- May include one or more of the following:
 - A declaration of domicile in Florida.
 - A Florida professional or occupational license.
 - Florida incorporation.
 - A document evidencing family ties in Florida.
 - Proof of membership in a Florida-based charitable or professional organization.
 - Any other documentation that supports the student's request for resident status, including, but not limited to, utility bills and proof of 12 consecutive months of payments; a lease agreement and proof of 12 consecutive months of payments; or an official state, federal, or court document evidencing legal ties to Florida.⁸⁸

Florida law is silent as to whether time incarcerated in a Florida prison or county detention facility may count toward the 12-month legal residency requirements.

The DOC reports that it and Florida Gateway College partnered to offer the Second Chance Pell Program at Columbia Correctional Institution Annex, which is a pilot program operating under the Second Chance Pell Experimental Sites Initiative through the U.S. Department of Education

⁸⁷ Section 1009.21(2)(a), F.S.

⁸⁸ Section 1009.21(3), F.S.

and the Department of Justice. The program at Columbia Correctional Institution Annex commenced on January 24, 2017, and has recently been renewed for another three-years. The DOC reports that this pilot program allows eligible inmates to access Pell Grant funds for post-secondary education. Such funds accessed through the grant must be used to cover the costs of tuition, fees, books, and supplies. The DOC is currently attempting to expand post-secondary opportunities for inmates in collaboration with several Florida colleges and universities.⁸⁹

III. Effect of Proposed Changes:

The bill provides that the act may be cited as “The Second Look Act.”

Sentence Review Hearings for Specified Offenders

Juvenile Offenders

As discussed above, a juvenile offender sentenced to a sentence of life without parole for a capital felony⁹⁰ where a finding was made that he or she actually killed, intended to kill, or attempted to kill the victim is entitled to a review of his or her sentence after 25 years if he or she has never previously been convicted of a specified enumerated felony.⁹¹ The bill amends the list of enumerated offenses that prohibit such juvenile offenders from having a sentence review hearing to only include murder. Therefore, the bill provides such a juvenile offender is only prohibited from having a sentence review hearing if he or she has previously been convicted of committing or conspiracy to commit murder, if the murder for which the person was previously convicted was part of a separate criminal transaction or episode than that which resulted in the sentence.

The bill also creates s. 921.14021, F.S., providing for the retroactive application of the above mentioned amendment to remove certain prior convictions as a prohibition for a juvenile offender to have a sentence review hearing in accordance with s. 921.1402(2)(a), F.S. The bill requires that a juvenile offender is entitled to a review of his or her sentence after 25 years or, if 25 years on the term of imprisonment has already been served by July 1, 2020, the sentence review hearing must be conducted immediately. The bill provides legislative findings related to the retroactive application of such provisions.

Because the bill expressly provides for retroactive application of the changes the bill makes, the bill has provided a legislative exception to the default position of prospectively.

Young Adult Offenders

The bill creates s. 921.1403, F.S., expanding the sentence review hearing process created by CS/HB 7035 (2014) for juveniles in response to the *Graham* and *Miller* cases to persons convicted of similar offenses, but who were not entitled to a sentence review hearing.

⁸⁹ The DOC, Agency Analysis for SB 1308, February 3, 2020, p. 4 (on file with the Senate Criminal Justice Committee) (hereinafter cited as “The DOC SB 1308 Analysis”).

⁹⁰ In violation of s. 782.04, F.S.

⁹¹ See ss. 775.082(1)(b)1. and 921.1402, F.S.

The bill defines the term “young adult offender” to mean a person who committed an offense before he or she reached 25 years of age and for which he or she is sentenced to a term of years in the custody of the DOC, regardless of the date of sentencing. The bill also provides that the provisions allowing sentence review hearings of young adult offenders applies retroactively.

The sentence review procedures and hearing process are substantively identical to those in place for juvenile offenders in accordance with s. 921.1402, F.S., and discussed above. However, the eligibility criteria for a young adult offender to have a sentence review hearing is different.

Eligibility

The bill prohibits a young adult offender convicted of a violation of s. 782.04, F.S., related to homicide, which is punishable by death from being eligible for a sentence review hearing. The bill only permits young adult offenders convicted of offenses that are life or first degree felony offenses to be eligible for a sentence review hearing in accordance with s. 921.1403, F.S.

The bill excludes a young adult offender convicted and sentenced for certain life felony or first degree felony⁹² offenses from a sentence review if he or she has previously been convicted of committing, or of conspiring to commit murder, if such prior offense was part of a separate criminal transaction or episode than the offense that resulted in the sentence.

The bill provides that a young adult offender who is convicted of an offense that is a:

- Life felony, or that was reclassified as a life felony, and who is sentenced to a term of more than 20 years⁹³ is entitled to a review of his or her sentence after 20 years.⁹⁴
- Felony of the first degree or that was reclassified as a felony of the first degree and who is sentenced to a term of more than 15 years⁹⁵ is entitled to a review of his or her sentence after 15 years.

Procedures for Initiating the Sentence Review Hearing Process

Similar to the process developed in s. 921.1402(3), F.S., applicable to a juvenile offender, the bill provides that the DOC must notify a young adult offender in writing of his or her eligibility to request a sentence review hearing:

- 18 months before the young adult offender is entitled to a sentence review hearing if such offender is not eligible when the bill becomes effective; or
- Immediately if the offender is eligible as of July 1, 2020.

A young adult offender seeking a sentence review must submit an application to the original sentencing court requesting that the court hold a sentence review hearing. The bill provides that such court retains jurisdiction for the duration of the sentence for this purpose. The bill also provides that a young adult offender who is eligible for a sentence review hearing may be

⁹² See s. 775.082(3)(a)1., 2., 3., 4., or 6., or (b)1., F.S., which are the citations included in the bill. Each of these citations includes different sentence terms based upon the degree of offense or the date of commission of the offense.

⁹³ Pursuant to s. 775.082(3)(a)1., 2., 3., 4., or 6., F.S.

⁹⁴ The bill provides that this does not apply to a person who is eligible for sentencing under s. 775.082(3)(a)5., F.S., which only applies to an offender who committed the offense before attaining the age of 18 years.

⁹⁵ Pursuant to s. 775.082(3)(b)1., F.S.

represented by an attorney, who must be appointed by the court if the young adult offender cannot afford an attorney.

Sentence Review Hearing

The bill requires the court to hold a sentence review hearing to determine whether to modify the young adult offender's sentence upon receiving an application for such hearing. The court is required to consider any factor it deems appropriate to determine the appropriateness of modifying the young adult offender's sentence, including, but not limited to, any of the following:

- Whether the young adult offender demonstrates maturity and rehabilitation.
- Whether the young adult offender remains at the same level of risk to society as he or she did at the time of the initial sentencing.
- The opinion of the victim or the victim's next of kin.⁹⁶
- Whether the young adult offender was a relatively minor participant in the criminal offense or whether he or she acted under extreme duress or under the domination of another person.
- Whether the young adult offender has shown sincere and sustained remorse for the criminal offense.
- Whether the young adult offender's age, maturity, or psychological development at the time of the offense affected his or her behavior.
- Whether the young adult offender has successfully obtained a high school equivalency diploma or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available.
- Whether the young adult offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense.
- The results of any mental health assessment, risk assessment, or evaluation of the young adult offender as to rehabilitation.

These enumerated factors mirror the criteria used for the sentence review hearings conducted for juvenile offenders in accordance with s. 921.1402(6), F.S and applies retroactively to a young adult offender who is eligible.

Terms of Release for Young Adult Offenders Resentenced Pursuant to s. 921.1403, F.S.

The terms that a young adult offender must comply with if he or she is resentenced under the bill are similar to those that a juvenile offender must comply with if resentenced in accordance with s. 921.1402, F.S.

Upon conducting the sentence review hearing, the court may modify the young adult offender's sentence if the court makes a determination that the young adult offender is rehabilitated and is reasonably believed to be fit to reenter society. The court must modify the sentence to a term of probation for at least:

⁹⁶ The bill states that the absence of the victim or the victim's next of kin from the hearing may not be a factor in the determination of the court. The court must allow the victim or victim's next of kin to be heard in person, in writing, or by electronic means. Finally, if the victim or the victim's next of kin chooses not to participate in the hearing, the court may consider previous statements made by the victim or the victim's next of kin during the trial, initial sentencing phase, or previous sentencing review hearings.

- Five years, if the young adult offender was originally sentenced for a life felony, or an offense reclassified as a life felony; or
- Three years, if the young adult offender was originally sentenced for a first degree felony, or an offense reclassified as a first degree felony.

However, the bill prohibits the court from resentencing a young adult offender if the court determines that he or she has not demonstrated rehabilitation or is not fit to reenter society and requires the court to issue a written order stating the reasons why the sentence is not being modified.

Subsequent Reviews

The bill allows a young adult offender to have one subsequent sentence review hearing after five years if he or she is not resentenced at the initial sentence review hearing. The bill requires the young adult offender seeking a subsequent sentence review hearing to submit a new application to the original sentencing court to request a subsequent sentence review hearing.

Prison Releasee Reoffenders

As stated above, a person sentenced as a prison releasee reoffender:

- Must serve 100 percent of the court-imposed sentence;
- May only be released when his or her sentence expires; and
- Is not eligible for parole, control release, or any form of early release.

The bill amends s. 775.082(9)(b), F.S., providing an exception to this requirement that allows an inmate who meets the above definitions of a juvenile offender or young adult offender eligible for a sentence review hearing under s. 921.1402, F.S., or s. 921.1403, F.S., to be resentenced and released from imprisonment if a court deems the resentencing appropriate in accordance with the review requirements as discussed above.

Incarceration Counting Toward Tuition Residency Requirements

The bill amends s. 1009.21(2), F.S., authorizing time spent incarcerated in a county detention facility or state correctional facility to apply towards the requirement to reside in Florida through an authorized manner for 12 consecutive months immediately before enrollment for the designation as a resident for tuition purposes. The bill also amends s. 1009.21(3), F.S., requiring time spent incarcerated in a county detention facility⁹⁷ or state correctional facility⁹⁸ to be credited toward the residency requirement, with any combination of documented time living in Florida before and after incarceration.

Further, the bill amends s. 944.705, F.S., and creates s. 951.30, F.S., requiring the DOC and administrators of county detention facilities, respectively, to provide documentation to inmates

⁹⁷ Section 951.23(1)(a), F.S., defines “county detention facility” to mean a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either felony or misdemeanor.

⁹⁸ Section 944.02(8), F.S., defines “state correctional institution” to mean any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the DOC.

upon release specifying the dates of the inmate's admission to and release from the custody of the facility. This notification must include the total length of the term of imprisonment from which he or she is being released.

This documentation will assist inmates with providing the proper evidence to satisfy residency requirements for tuition purposes pursuant to s. 1009.21(3), F.S.

Office of Program Policy and Governmental Accountability (OPPAGA) Study on Collateral Consequences

The bill requires the OPPAGA to conduct a study to evaluate the various opportunities available to persons returning to the community from imprisonment. The bill provides that the study's scope must include, but need not be limited to:

- Any barriers to such opportunities;
- The collateral consequences that are present, if applicable, for persons who are released from incarceration into the community; and
- Methods for reducing the collateral consequences identified.

The bill requires the OPPAGA to submit a report to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives by November 1, 2020 on its findings.

The bill is effective July 1, 2020.

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:

None.

C. Government Sector Impact:**Sentence Review Hearings**

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation reviewed the bill on February 10, 2020. The conference estimates the bill will have a “negative significant” prison bed impact (a decrease of more than 25 prison beds). The EDR provided the following information relevant to its estimate:⁹⁹

“Per DOC, there are currently 4,259 inmates who are potentially eligible for sentencing review under the amended language. It is not known how the courts will respond to those who are potentially eligible, therefore the impact on prison beds cannot be quantified. However, given the large number of inmates currently fitting this criteria, there is expected to be a significant impact.”¹⁰⁰

Based on the number of inmates that would require notification or resentencing, the DOC would need one Correctional Services Consultant to perform these duties. If these inmates are resentenced, this will increase the work load for the Victim Services to provide victim notification upon release. It is anticipated that the Department will need one position to notify the young adult offender in writing of their entitlement to a sentencing review hearing and technology impact due the changes that will need to be made to CPC and the sentencing screens in OBIS due to minimum mandatory sentencing changes at an estimated cost of \$111,867.¹⁰¹

The DOC reports that there are 37 inmates eligible for review based on the changes made to s. 921.1402, F.S., and the retroactive application of such changes. Additionally, the DOC states that there are 5,312 potentially eligible young adult offenders that will require eligibility notification under the newly-created s. 921.1403, F.S.

The bill will increase judicial workload because there will be more re-sentencings. The amount of the increase is unclear. In addition, the fiscal impact of this legislation cannot

⁹⁹ February 10, 2020 Conference Results, Criminal Justice Impact Conference, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited February 14, 2020).

¹⁰⁰ Id.

¹⁰¹ The Department of Corrections, *2020 Agency Legislative Bill Analysis* for SB 1308, (February 3, 2020), p. 6.

be accurately determined due to the unavailability of data needed to quantifiably establish the increase in judicial workload resulting from resentencing cases.¹⁰²

The Public Defender Association states that they currently represent a large majority of the juvenile offenders who are seeking to be resentenced, but the bill adds adult offenders who committed their offenses between the ages of 18-25. Since this is also retroactive, it would apply to already-sentenced offenders who are currently serving life sentences. Just as it has been for the juvenile offenders who have been eligible for resentencing since 2014, there would be a significant time period requiring intense investigation, preparation, and advocacy for a large number of eligible offenders. Therefore, it is anticipated that this bill will create more workload for public defender staff for the next several fiscal years.¹⁰³

Juvenile and Young Adult Offenders Sentenced as Prison Releasee Reoffenders

The DOC provides that there are approximately 110 inmates that may be eligible for a sentence review hearing under the changes made to s. 775.082(9), F.S. To the extent that the bill results in juvenile or young adult offenders being released from prison earlier than otherwise may occur as a result of such sentence review hearings, the DOC provides that this provision of the bill result is an indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds) and an indeterminate impact on the supervision population managed by the DOC.¹⁰⁴

Notification of Certain Release Information

The bill requires the DOC and county detention facilities to provide inmates certain information related to the length of incarceration. The DOC states that inmates in its custody often have multiple sentences with various admission dates, release dates, and terms imposed. Further, each sentence length is calculated individually based on a number of factors and therefore an inmate may have multiple endpoints of their various sentences. The DOC provides that this provision of the bill will require significant programming changes, but such necessary changes are not specified by the DOC.¹⁰⁵

Residency for Tuition Purposes

The bill allows time incarcerated in a Florida facility to count towards the 12-month residency requirement for tuition purposes and requires the DOC and county detention facilities to provide certain information to inmates upon release from such facilities. To the extent that the requirement to provide such notification increases the workload of the DOC and county detention facilities, the bill may result in an indeterminate fiscal impact.

¹⁰² The Office of The State Courts Administrator, *2020 Judicial Impact Statement* for SB 1308, (February 2, 2020), p. 2, (on file with Senate Appropriations Subcommittee on Criminal and Civil Justice).

¹⁰³ Florida Public Defender Association, Inc., *Fiscal Analysis for SB 1308*, (January 13, 2020) (on file with Senate Appropriations Subcommittee on Criminal and Civil Justice).

¹⁰⁴ The Department of Corrections, *2020 Agency Legislative Bill Analysis* for SB 1308, (February 3, 2020), p. 5 (on file with Senate Appropriations Subcommittee on Criminal and Civil Justice)..

¹⁰⁵ *Id.* at p. 6

However, this provision will greatly benefit the DOC in its expansion efforts to offer post-secondary programming to this population.¹⁰⁶

Additionally, to the extent that the bill results in additional persons enrolling in postsecondary education in Florida that would otherwise have been unable to do so, there could be a positive fiscal impact to such postsecondary entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.082, 921.1402, 944.705, and 1009.21.

This bill creates the following sections of the Florida Statutes: 921.14021, 921.1403, and 951.30.

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 Criminal Justice on February 4, 2020:

The committee substitute:

- Fixes incorrect citations in the provision that allowed juvenile offenders and young adult offenders sentenced with the PRR enhancement to be released if the court deems appropriate;
- Adds legislative findings language to the section created to retroactively apply the changes made to the juvenile offenders who are eligible for a sentence review;
- Corrects language in the provision limiting review of certain juvenile offenders related to the two criminal episodes to ensure the correct application of limiting such reviews; and
- Ensures the provisions that limit certain offenders from having a review are the same between the juvenile offender and young adult offender statutes.

B. Amendments:

None.

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

¹⁰⁶ Id.

By the Committee on Criminal Justice; and Senators Brandes and Bracy

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1 A bill to be entitled
 2 An act relating to criminal justice; providing a short
 3 title; amending s. 775.082, F.S.; authorizing the
 4 resentencing and release of certain persons who are
 5 eligible for sentence review under specified
 6 provisions; reenacting and amending s. 921.1402, F.S.;
 7 revising the circumstances under which a juvenile
 8 offender is not entitled to a review of his or her
 9 sentence after a specified timeframe; creating s.
 10 921.14021, F.S.; providing legislative intent;
 11 providing for retroactive application of a specified
 12 provision relating to a review of sentence for
 13 juvenile offenders convicted of murder; providing for
 14 immediate review of certain sentences; creating s.
 15 921.1403, F.S.; defining the term "young adult
 16 offender"; precluding eligibility for a sentence
 17 review for young adult offenders who previously
 18 committed, or conspired to commit, murder; providing
 19 timeframes within which young adult offenders who
 20 commit specified crimes are entitled to a review of
 21 their sentences; providing applicability; requiring
 22 the Department of Corrections to notify young adult
 23 offenders in writing of their eligibility for sentence
 24 review within certain timeframes; requiring a young
 25 adult offender seeking a sentence review or a
 26 subsequent sentence review to submit an application to
 27 the original sentencing court and request a hearing;
 28 providing for legal representation of eligible young
 29 adult offenders; providing for one subsequent review

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

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30 hearing for the young adult offender after a certain
 31 timeframe if he or she is not resentenced at the
 32 initial sentence review hearing; requiring the
 33 original sentencing court to hold a sentence review
 34 hearing upon receiving an application from an eligible
 35 young adult offender; requiring the court to consider
 36 certain factors in determining whether to modify the
 37 young adult offender's sentence; authorizing a court
 38 to modify the sentence of certain young adult
 39 offenders if the court makes certain determinations;
 40 requiring the court to issue a written order stating
 41 certain information in specified circumstances;
 42 providing for retroactive application; amending s.
 43 944.705, F.S.; requiring the department to provide
 44 inmates with certain information upon their release;
 45 creating s. 951.30, F.S.; requiring that
 46 administrators of county detention facilities provide
 47 inmates with certain information upon their release;
 48 amending s. 1009.21, F.S.; providing that a specified
 49 period of time spent in a county detention facility or
 50 state correctional facility counts toward the 12-month
 51 residency requirement for tuition purposes; requiring
 52 the Office of Program Policy and Governmental
 53 Accountability (OPPAGA) to conduct a study to evaluate
 54 the various opportunities available to persons
 55 returning to the community from imprisonment;
 56 providing study requirements; requiring OPPAGA to
 57 submit a report to the Governor and the Legislature by
 58 a specified date; providing an effective date.

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

62 Section 1. This act may be cited as "The Second Look Act."

63 Section 2. Paragraph (b) of subsection (9) of section
64 775.082, Florida Statutes, is amended to read:

65 775.082 Penalties; applicability of sentencing structures;
66 mandatory minimum sentences for certain reoffenders previously
67 released from prison.—

68 (9)

69 (b)1. Except as provided in subparagraph 2., a person
70 sentenced under paragraph (a) shall be released only by
71 expiration of sentence and shall not be eligible for parole,
72 control release, or any form of early release. Any person
73 sentenced under paragraph (a) must serve 100 percent of the
74 court-imposed sentence.

75 2. A juvenile or young adult offender who is eligible for
76 review of his or her sentence under s. 921.1402 or s. 921.1403,
77 respectively, may be resentenced and released from imprisonment
78 if a court deems the resentencing appropriate in accordance with
79 the review requirements under such sections.

80 Section 3. Paragraph (a) of subsection (2) of section
81 921.1402, Florida Statutes, is amended, and subsection (4) of
82 that section is reenacted, to read:

83 921.1402 Review of sentences for persons convicted of
84 specified offenses committed while under the age of 18 years.—

85 (2) (a) A juvenile offender sentenced under s.

86 775.082(1)(b)1. is entitled to a review of his or her sentence
87 after 25 years. However, a juvenile offender is not entitled to

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88 review if he or she has previously been convicted of committing
89 ~~one of the following offenses~~, or of conspiracy to commit ~~one of~~
90 ~~the following offenses~~, murder if the murder offense for which
91 the person was previously convicted was part of a separate
92 criminal transaction or episode than the murder ~~that~~ which
93 resulted in the sentence under s. 775.082(1)(b)1.+

94 ~~1. Murder;~~

95 ~~2. Manslaughter;~~

96 ~~3. Sexual battery;~~

97 ~~4. Armed burglary;~~

98 ~~5. Armed robbery;~~

99 ~~6. Armed carjacking;~~

100 ~~7. Home invasion robbery;~~
101 ~~8. Human trafficking for commercial sexual activity with a~~
102 ~~child under 18 years of age;~~

103 ~~9. False imprisonment under s. 787.02(3)(a); or~~

104 ~~10. Kidnapping.~~

105 (4) A juvenile offender seeking sentence review pursuant to
106 subsection (2) must submit an application to the court of
107 original jurisdiction requesting that a sentence review hearing
108 be held. The juvenile offender must submit a new application to
109 the court of original jurisdiction to request subsequent
110 sentence review hearings pursuant to paragraph (2)(d). The
111 sentencing court shall retain original jurisdiction for the
112 duration of the sentence for this purpose.

113 Section 4. Section 921.14021, Florida Statutes, is created
114 to read:

115 921.14021 Retroactive application relating to s. 921.1402;
116 legislative intent; review of sentence.—

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117 (1) It is the intent of the Legislature to retroactively
 118 apply the amendments made to s. 921.1402 which are effective on
 119 July 1, 2020, only as provided in this section, to juvenile
 120 offenders convicted of a capital offense and sentenced under s.
 121 775.082(1)(b)1. who have been ineligible for sentence review
 122 hearings because of a previous conviction of an offense
 123 enumerated in s. 921.1402(2)(a) thereby providing such juvenile
 124 offenders with an opportunity for consideration by a court and
 125 an opportunity for release if deemed appropriate under law.

126 (2) A juvenile offender, as defined in s. 921.1402, who was
 127 convicted for a capital offense and sentenced under s.
 128 775.082(1)(b)1., and who was ineligible for a sentence review
 129 hearing pursuant to s. 921.1402(2)(a)2.-10. as it existed before
 130 July 1, 2020, is entitled to a review of his or her sentence
 131 after 25 years or, if on July 1, 2020, 25 years have already
 132 passed since the sentencing, immediately.

133 Section 5. Section 921.1403, Florida Statutes, is created
 134 to read:

135 921.1403 Review of sentences for persons convicted of
 136 specified offenses committed while under 25 years of age.-

137 (1) As used in this section, the term "young adult
 138 offender" means a person who committed an offense before he or
 139 she reached 25 years of age and for which he or she is sentenced
 140 to a term of years in the custody of the Department of
 141 Corrections, regardless of the date of sentencing.

142 (2) A young adult offender is not entitled to a sentence
 143 review under this section if he or she has previously been
 144 convicted of committing, or of conspiring to commit, murder if
 145 the murder offense for which the person was previously convicted

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146 was part of a separate criminal transaction or episode than that
 147 which resulted in the sentence under s. 775.082(3)(a)1., 2., 3.,
 148 4., or 6., or (b)1.

149 (3)(a)1. A young adult offender who is convicted of an
 150 offense that is a life felony, that is punishable by a term of
 151 years not exceeding life imprisonment, or that was reclassified
 152 as a life felony, which was committed after the person attained
 153 18 years of age and who is sentenced to a term of more than 20
 154 years under s. 775.082(3)(a)1., 2., 3., 4., or 6., is entitled
 155 to a review of his or her sentence after 20 years.

156 2. This paragraph does not apply to a person who is
 157 eligible for sentencing under s. 775.082(3)(a)5.

158 (b) A young adult offender who is convicted of an offense
 159 that is a felony of the first degree or that was reclassified as
 160 a felony of the first degree and who is sentenced to a term of
 161 more than 15 years under s. 775.082(3)(b)1. is entitled to a
 162 review of his or her sentence after 15 years.

163 (4) The Department of Corrections must notify a young adult
 164 offender in writing of his or her eligibility to request a
 165 sentence review hearing 18 months before the young adult
 166 offender is entitled to a sentence review hearing or notify him
 167 or her immediately in writing if the offender is eligible as of
 168 July 1, 2020.

169 (5) A young adult offender seeking a sentence review under
 170 this section must submit an application to the original
 171 sentencing court requesting that the court hold a sentence
 172 review hearing. The young adult offender seeking a subsequent
 173 sentence review hearing must submit a new application to the
 174 original sentencing court to request a subsequent sentence

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175 review hearing pursuant to subsection (7). The original
 176 sentencing court retains jurisdiction for the duration of the
 177 sentence for this purpose.

178 (6) A young adult offender who is eligible for a sentence
 179 review hearing under this section is entitled to be represented
 180 by an attorney, and the court must appoint a public defender to
 181 represent the young adult offender if he or she cannot afford an
 182 attorney.

183 (7) (a) If the young adult offender seeking sentence review
 184 under paragraph (3) (a) is not resentenced at the initial
 185 sentence review hearing, he or she is eligible for one
 186 subsequent review hearing 5 years after the initial review
 187 hearing.

188 (b) If the young adult offender seeking sentence review
 189 under paragraph (3) (b) is not resentenced at the initial
 190 sentence review hearing, he or she is eligible for one
 191 subsequent review hearing 5 years after the initial review
 192 hearing.

193 (8) Upon receiving an application from an eligible young
 194 adult offender, the original sentencing court must hold a
 195 sentence review hearing to determine whether to modify the young
 196 adult offender's sentence. When determining if it is appropriate
 197 to modify the young adult offender's sentence, the court must
 198 consider any factor it deems appropriate, including, but not
 199 limited to, any of the following:

200 (a) Whether the young adult offender demonstrates maturity
 201 and rehabilitation.

202 (b) Whether the young adult offender remains at the same
 203 level of risk to society as he or she did at the time of the

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204 initial sentencing.

205 (c) The opinion of the victim or the victim's next of kin.
 206 The absence of the victim or the victim's next of kin from the
 207 sentence review hearing may not be a factor in the determination
 208 of the court under this section. The court must allow the victim
 209 or victim's next of kin to be heard in person, in writing, or by
 210 electronic means. If the victim or the victim's next of kin
 211 chooses not to participate in the hearing, the court may
 212 consider previous statements made by the victim or the victim's
 213 next of kin during the trial, initial sentencing phase, or
 214 previous sentencing review hearings.

215 (d) Whether the young adult offender was a relatively minor
 216 participant in the criminal offense or whether he or she acted
 217 under extreme duress or under the domination of another person.

218 (e) Whether the young adult offender has shown sincere and
 219 sustained remorse for the criminal offense.

220 (f) Whether the young adult offender's age, maturity, or
 221 psychological development at the time of the offense affected
 222 his or her behavior.

223 (g) Whether the young adult offender has successfully
 224 obtained a high school equivalency diploma or completed another
 225 educational, technical, work, vocational, or self-rehabilitation
 226 program, if such a program is available.

227 (h) Whether the young adult offender was a victim of
 228 sexual, physical, or emotional abuse before he or she committed
 229 the offense.

230 (i) The results of any mental health assessment, risk
 231 assessment, or evaluation of the young adult offender as to
 232 rehabilitation.

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233 (9) (a) If the court determines at a sentence review hearing
 234 that the young adult offender who is seeking sentence review
 235 under paragraph (3) (a) has been rehabilitated and is reasonably
 236 believed to be fit to reenter society, the court may modify the
 237 sentence and impose a term of probation of at least 5 years.

238 (b) If the court determines at a sentence review hearing
 239 that the young adult offender who is seeking sentence review
 240 under paragraph (3) (b) has been rehabilitated and is reasonably
 241 believed to be fit to reenter society, the court may modify the
 242 sentence and impose a term of probation of at least 3 years.

243 (c) If the court determines that the young adult offender
 244 seeking sentence review under paragraph (3) (a) or (3) (b) has not
 245 demonstrated rehabilitation or is not fit to reenter society,
 246 the court must issue a written order stating the reasons why the
 247 sentence is not being modified.

248 (10) This section applies retroactively to a young adult
 249 offender eligible under this section.

250 Section 6. Paragraph (a) of subsection (7) of section
 251 944.705, Florida Statutes, is amended to read:

252 944.705 Release orientation program.—

253 (7) (a) The department shall notify every inmate in the
 254 inmate's release documents:

255 1. Of all outstanding terms of the inmate's sentence at the
 256 time of release to assist the inmate in determining his or her
 257 status with regard to the completion of all terms of sentence,
 258 as that term is defined in s. 98.0751. This subparagraph does
 259 not apply to inmates who are being released from the custody of
 260 the department to any type of supervision monitored by the
 261 department;

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20201308c1

262 2. Of the dates of admission to and release from the
 263 custody of the department, including the total length of the
 264 term of imprisonment for which he or she is being released; and
 265 ~~3.2.~~ In not less than 18-point type, that the inmate may be
 266 sentenced pursuant to s. 775.082(9) if the inmate commits any
 267 felony offense described in s. 775.082(9) within 3 years after
 268 the inmate's release. This notice must be prefaced by the word
 269 "WARNING" in boldfaced type.

270 Section 7. Section 951.30, Florida Statutes, is created to
 271 read:

272 951.30 Release documents requirements.—The administrator of
 273 a county detention facility must provide to each inmate upon
 274 release from the custody of the facility the dates of his or her
 275 admission to and release from the custody of the facility,
 276 including the total length of the term of imprisonment from
 277 which he or she is being released.

278 Section 8. Paragraph (a) of subsection (2) and paragraphs
 279 (b) and (c) of subsection (3) of section 1009.21, Florida
 280 Statutes, are amended to read:

281 1009.21 Determination of resident status for tuition
 282 purposes.—Students shall be classified as residents or
 283 nonresidents for the purpose of assessing tuition in
 284 postsecondary educational programs offered by charter technical
 285 career centers or career centers operated by school districts,
 286 in Florida College System institutions, and in state
 287 universities.

288 (2) (a) To qualify as a resident for tuition purposes:

289 1. A person or, if that person is a dependent child, his or
 290 her parent or parents must have established legal residence in

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291 this state and must have maintained legal residence in this
 292 state for at least 12 consecutive months immediately before
 293 ~~prior to~~ his or her initial enrollment in an institution of
 294 higher education. The 12 consecutive months immediately before
 295 enrollment may include time spent incarcerated in a county
 296 detention facility or state correctional facility.

297 2. Every applicant for admission to an institution of
 298 higher education shall be required to make a statement as to his
 299 or her length of residence in the state and, further, shall
 300 establish that his or her presence or, if the applicant is a
 301 dependent child, the presence of his or her parent or parents in
 302 the state currently is, and during the requisite 12-month
 303 qualifying period was, for the purpose of maintaining a bona
 304 fide domicile, rather than for the purpose of maintaining a mere
 305 temporary residence or abode incident to enrollment in an
 306 institution of higher education.

307 (3)

308 (b) Except as otherwise provided in this section, evidence
 309 of legal residence and its duration shall include clear and
 310 convincing documentation that residency in this state was for a
 311 minimum of 12 consecutive months prior to a student's initial
 312 enrollment in an institution of higher education. Time spent
 313 incarcerated in a county detention facility or state
 314 correctional facility must be credited toward the residency
 315 requirement, with any combination of documented time living in
 316 Florida before and after incarceration.

317 (c) Each institution of higher education shall
 318 affirmatively determine that an applicant who has been granted
 319 admission to that institution as a Florida resident meets the

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320 residency requirements of this section at the time of initial
 321 enrollment. The residency determination must be documented by
 322 the submission of written or electronic verification that
 323 includes two or more of the documents identified in this
 324 paragraph. No single piece of evidence shall be conclusive.

325 1. The documents must include at least one of the
 326 following:

- 327 a. A Florida voter's registration card.
- 328 b. A Florida driver license.
- 329 c. A State of Florida identification card.
- 330 d. A Florida vehicle registration.
- 331 e. Proof of a permanent home in Florida which is occupied
 332 as a primary residence by the individual or by the individual's
 333 parent if the individual is a dependent child.
- 334 f. Proof of a homestead exemption in Florida.
- 335 g. Transcripts from a Florida high school for multiple
 336 years if the Florida high school diploma or high school
 337 equivalency diploma was earned within the last 12 months.
- 338 h. Proof of permanent full-time employment in Florida for
 339 at least 30 hours per week for a 12-month period.

340 2. The documents may include one or more of the following:

- 341 a. A declaration of domicile in Florida.
- 342 b. A Florida professional or occupational license.
- 343 c. Florida incorporation.
- 344 d. A document evidencing family ties in Florida.
- 345 e. Proof of membership in a Florida-based charitable or
 346 professional organization.
- 347 f. Any other documentation that supports the student's
 348 request for resident status, including, but not limited to,

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349 utility bills and proof of 12 consecutive months of payments; a
350 lease agreement and proof of 12 consecutive months of payments;
351 or an official local, state, federal, or court document
352 evidencing legal ties to Florida.

353 Section 9. The Office of Program Policy and Governmental
354 Accountability (OPPAGA) must conduct a study to evaluate the
355 various opportunities available to persons returning to the
356 community from imprisonment. The study's scope must include, but
357 need not be limited to, any barriers to such opportunities; the
358 collateral consequences that are present, if applicable, for
359 persons who are released from incarceration into the community;
360 and methods for reducing the collateral consequences identified.
361 OPPAGA must submit a report to the Governor, the President of
362 the Senate, the Minority Leader of the Senate, the Speaker of
363 the House of Representatives, and the Minority Leader of the
364 House of Representatives by November 1, 2020.

365 Section 10. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 25, 2020

I respectfully request that **Senate Bill #1308**, relating to **Criminal Justice**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

1308

Bill Number (if applicable)

165266

Amendment Barcode (if applicable)

Topic Waiving in support of Amendment 165266 on SB 1308

Name Rachel Mascoso

Job Title Legislative Affairs Director for DJJ

Address 2737 Centerview Dr.

Phone 850-717-2716

Street

Tallahassee

FL

32399

City

State

Zip

Email rachel.mascoso@djj.state.fl.us

Speaking: For Against Information

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

Representing Department of Juvenile Justice

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)

March 3, 2020

Meeting Date

CS/SB 1308

Bill Number (if applicable)

433370

Amendment Barcode (if applicable)

Topic Juvenile Justice & Youth Arrests

Name Meralyn Kirkland

Job Title Concerned Citizen

Address N/A

Street

Orlando

City

FL

State

N/A

Zip

Phone 786-393-8363

Email N/A

Speaking: For Against Information

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

Representing N/A

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

1308

Bill Number (if applicable)

433370

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Trish Neely

Job Title Consultant

Address 2024 Shangri La Lane

Phone 850322 3317

Street

Tally

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 League Women Voters

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)

21212

THE FLORIDA SENATE

APPEARANCE RECORD

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

9/3/2020

Meeting Date

1308

Bill Number (if applicable)

*433370

Amendment Barcode (if applicable)

Topic CRIMINAL JUSTICE

Name Starla Brown

Job Title Deputy State Director

Address

Street

Dulray Beach

City

State

Zip

Phone

Email

Speaking: [X] For [] Against [] Information

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

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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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)

3/3/20
Meeting Date

1308
Bill Number (if applicable)

284432

Amendment Barcode (if applicable)

Topic CRIMINAL JUSTICE

Name CHARO VALEZ

Job Title FL Policy Director

Address 1951 NW 7 AVE
Street

Phone 786 442 8199

Miami FL 33138
City State Zip

Email CHARO@LATINA-INSTITUTE.ORG

Speaking: For Against Information

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

Representing LATINA INSTITUTE FOR REPRD HEALTH FL

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)

3/3/20
Meeting Date

1308

Bill Number (if applicable)

284432

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Ida V. Eskamani

Job Title _____

Address _____

Phone _____

Street

Orlando

FL

32801

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Organize Florida + New Florida Majority

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)

3/3/20
Meeting Date

SB 1308
Bill Number (if applicable)

284432
Amendment Barcode (if applicable)

Topic Criminal Justice

Name Khawk-Lien ("Con Lynn") Banks

Job Title Resolutions Chair

Address 1747 Orlando Central Parkway Phone _____
Street

Orlando FL 32809
City State Zip

Email resolutions@floridapta.org

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.

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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)

3/3/2020

Meeting Date

SB 1308

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Audrey Hudgins

Job Title N/A

Address 23650 Aucilla Landing Rd

Phone 850-347-2941

Street

Lamont

Florida

32336

Email audreyhudgins2016@gmail.com

City

State

Zip

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/20
Meeting Date

SB1308
Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Amira Fox

Job Title State Attorney, 20th Judicial Circuit

Address 2000 Main Street

Phone 239-533-1000

Street

Fort Myers FL 33901

City

State

Zip

Email afox@sao.cjis20.org

Speaking: For Against Information

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

Representing State Attorneys / Florida Prosecuting Attys 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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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)

3-3-20

Meeting Date

1308

Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title Fla. Director

Address PO Box 142933

Phone 352.682.2542

Street

Gainesville FL 32614

City

State

Zip

Email gnewburn@fammm.org

Speaking: For Against Information

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

Representing FAMMM

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2020
Meeting Date

1308
Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Ida V. Eskamanj

Job Title _____

Address _____

Phone _____

Street

Orlando

City

FL

State

32801

Zip

Email _____

Speaking: For Against Information

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

Representing Organize Florida + New Florida Majority

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)

3/3/2020

Meeting Date

1308

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone (850) 877-2165

Street

Tallahassee

FL

32308

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Sheriffs 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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/20

Meeting Date

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

1308

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Stacy Scott

Job Title Public Defender, 8th Judicial Circuit

Address 151 SW 2nd Ave.

Phone 352-338-7370

Street

Gainesville

FL

State

32601

Zip

Email sscott@pdos.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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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)

3/3/2020
Meeting Date

1308
Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee, FL 32301
Street City State Zip

Email fctep@yahoo.com

Speaking: For Against Information

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

Representing FL 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

SB 1308

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 West Flagler St.

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@aclufl.org

City

State

Zip

Speaking: For Against Information

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

Representing American Civil Liberties Union 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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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)

03/03/2020
Meeting Date

SB 1308
Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name GARY W. HESTER

Job Title Government Affairs

Address P.O. Box 14038
Street

Phone 863-287-8438

Tallahassee FL 32317
City State Zip

Email garywhester@gmail.com

Speaking: For Against Information

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

Representing Florida Police chiefs 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)

8/3/20

Meeting Date

1308

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Av

Phone _____

Street

Tallahassee Fl 32301

City

State

Zip

Email _____

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

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)

308

Meeting Date

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Chelsea Murphy

Job Title State Director

Address 605 Middlebrook

Phone 9545570066

Street

City

FL

State

FL

Zip

32312

Email

Speaking: For Against Information

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

Representing Right on Crime

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 3 20

Meeting Date

1308

Bill Number (if applicable)

Topic CRIMINAL JUSTICE

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title vol pres, Tallahassee Veterans Legal Collaborative

Address PO Box 1201

Phone 850/570-1967

Street

Tallahassee

FL

32302

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20
Meeting Date

1308
Bill Number (if applicable)

Topic CRIMINAL JUSTICE

Amendment Barcode (if applicable)

Name CHARO VALEDO

Job Title FL POLICE DIRECTOR

Address 151 NW 7 AVE
Street

Phone 786 442 8199

Miami FL 33138
City State Zip

Email CHARO@LATINA INSTITUTE.ORG

Speaking: For Against Information

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

Representing LATINA INSTITUTE FOR REPRO HEALTH FL

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)

3/2/20
Meeting Date

SB 1308
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loufette Philipson

Job Title Organizer @ Florida Cares Charity.org

Address 7240 West Wind Drive

Phone 87-484-0237

Port Richey FL 34668
City State Zip

organizer Florida Cares
Email Charity.org

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

03/03/20

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

1308

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Samuel Marti

Job Title Regional Organizer FL FAMM

Address 5540 SW 78th #D

Phone 786 553-3241

Street

Miami,

FL

33143

City

State

Zip

Email smarti@fam.org

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

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

3/3/20

Meeting Date

1308

Bill Number (if applicable)

Topic CO reform

Amendment Barcode (if applicable)

Name Lena Mustafa

Job Title Administrative Asst

Address 719 Lori Drive #105

Phone (561) 214-3208

Palm Springs FL 33461
City State Zip

Email Summer1927@gmail

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20

Meeting Date

1308

Bill Number (if applicable)

Topic CJ reform

Amendment Barcode (if applicable)

Name Denise Bock

Job Title Business Owner

Address 11447 Blue Violet Ln

Phone 561-502-0393

Street

RRB

City

FL

State

33411

Zip

Email Denise@BockLegal.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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

1308

Bill Number (if applicable)

433370; 284432

Amendment Barcode (if applicable)

Topic Prohibiting Arrests of <10 Years old

Name Kara Gross

Job Title Legislative Director

Address 4343 W. Flagler St

Street

Phone 786-363-4436

Miami FL 33134

City

State

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.

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)

3-3-20

Meeting Date

SB 1308

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Conchita Flemming

Job Title _____

Address 17391 NE 85th street

Phone 352-286-4022

williston FL 32696

Email chichi2010.cw@gmail.com

City State Zip

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.

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 Appropriations

BILL: PCS/SB 1344 (891388)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Harrell

SUBJECT: Intermediate Care Facilities

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Looke</u> | <u>Brown</u> | <u>HP</u> | Favorable |
| 2. | <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | Recommend: Fav/CS |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1344 establishes a new certificate of need (CON) exemption for an intermediate care facility for the developmentally disabled (ICFDD) for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of behavioral, medical, and therapeutic oversight. The bill specifies requirements that the ICFDD must meet in order to obtain the CON exemption and establishes additional licensure criteria for an ICFDD that has been granted the CON exemption.

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program and the Agency for Health Care Administration.

The bill takes effect on July 1, 2020.

II. Present Situation:

Intermediate Care Facilities for the Developmentally Disabled

An intermediate care facility for the developmentally disabled (ICFDD) provides care and residence for individuals with developmental disabilities. A developmental disability is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests

before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.¹

The licensure of ICFDDs is controlled by Part VIII of ch. 400, F.S., and Chapter 59A-26, F.A.C. Additionally, as a health care facility, as defined in s. 408.032, F.S., prior to obtaining licensure, the ICFDD applicant must obtain a CON from the Agency for Health Care Administration (AHCA).

CON Overview

In Florida, a CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices. The Florida CON program has three levels of review: comparative, expedited, and exempt.² Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.³ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986.⁴

Determination of Need, Application, and Review Processes

A CON is predicated on a determination of need. The future need for services and projects is known as the "fixed need pool,"⁵ which the AHCA publishes for each batching cycle. Rule 59C-1, F.A.C., provides need formulas to calculate the fixed need pool for certain services, including NICU services,⁶ adult and child psychiatric services,⁷ adult substance abuse services,⁸ and comprehensive rehabilitation services.⁹

Upon determining that a need exists, the AHCA accepts applications for CON based on batching cycles. CON application fees include a base fee of \$10,000 and an additional fee of 1.5 cents for each dollar of the proposed project expenditures up to a maximum combined total of \$50,000.¹⁰ A batching cycle is a means of grouping, for comparative review, of CON applications submitted

¹ See s. 393.063(12), F.S.

² See s. 408.036, F.S. and Rule 59C-1.004, F.A.C.

³ Pub. Law No. 93-641, 42 U.S.C. s. 300k et seq.

⁴ Mitchell, Matthew D., Certificate of Need Laws: Are They Achieving Their Goals? Mercatus Center, George Mason University, available at: [www.mercatus.org › system › files › mitchell-con-qa-mop-mercatus-v2](http://www.mercatus.org/system/files/mitchell-con-qa-mop-mercatus-v2) (last visited January 30, 2020).

⁵ Rule 59C-1.002(19), F.A.C., defines "fixed need pool" as the identified numerical need, as published in the Florida Administrative Register, for new beds or services for the applicable planning horizon established by the AHCA in accordance with need methodologies which are in effect by rule at the time of publication of the fixed need pools for the applicable batching cycle.

⁶ Rule 59C-1.042(3), F.A.C.

⁷ Rule 59C-1.040(4), F.A.C.

⁸ Rule 59C-1.041(4), F.A.C.

⁹ Rule 59C-1.039(5), F.A.C.

¹⁰ Section 408.038, F.S.

for beds, services, or programs having a like CON need methodology or licensing category in the same planning horizon and the same applicable district or subdistrict.¹¹

Severe Maladaptive Behaviors

Maladaptive behaviors are those behaviors that are disruptive, destructive, aggressive, or significantly repetitive.¹² The Florida Agency for Persons with Disabilities (APD) has developed a Global Behavioral Service Need Matrix (Matrix) in order to classify the severity of person's maladaptive behavior.¹³ The Matrix categorizes symptoms of maladaptive behaviors such as behavior frequency, behavioral impact, physical aggression to others, police involvement, property destruction, and elopement/wandering, among others. Each symptom is ranked on a scale of one to six, with one being the least severe and six being the most severe. If a symptom is not present, it is ranked as a zero. Based on their behavior score, the person will be evaluated for services. The initial evaluation period is 12 months and then the frequency of evaluations afterwards depends on the severity of the person's score, with a need level of six being evaluated more frequently than a need level of one.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 408.036, F.S., to create a CON exemption for a new ICFDD which has a total of 24 beds, comprising three eight-bed homes, for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of behavioral, medical, and therapeutic oversight. In order to obtain the exemption, The ICFDD must not have had a license denied, revoked, or suspended within the 36 months preceding the request for an exemption and must have at least 10 years of experience serving individuals with severe maladaptive behaviors in this state. The AHCA is prohibited from granting an additional exemption to an ICFDD that has been granted an exemption under these provisions unless the facility has been licensed and operational for a period of at least two years. Additionally, the bill specifies that the exemption does not require a specific appropriation.

The bill also amends s. 400.962, F.S., to establish additional licensure and application requirements for an ICFDD that has been granted the CON exemption, including:

- The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be co-located on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.
- A minimum of 16 beds within the facility must be designated for individuals with severe maladaptive behaviors who have been assessed using the Matrix with a score of at least Level 4 and up to Level 6, or assessed using criteria deemed appropriate by the AHCA regarding the need for a specialized placement in an ICFDD.

¹¹ Rule 59C-1.002(5), F.A.C. Note: s. 408.032(5), F.S., establishes the 11 district service areas in Florida.

¹² Fulton, Elizabeth et al. "Reducing maladaptive behaviors in preschool-aged children with autism spectrum disorder using the early start denver model." *Frontiers in pediatrics* vol. 2 40., available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4023017/> (last visited on Jan. 24, 2020).

¹³ Available at <http://apdcares.org/news/news/2011/ib-matrix-instructions.pdf> (last visited on February 3, 2020).

¹⁴ *Id.*

- The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.
- The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in the state.
- The applicant must implement a state-approved staff training curriculum and monitoring requirements specific to the individuals whose behaviors require higher intensity, frequency, and duration of services.
- The applicant must make available medical and nursing services 24 hours per day, 7 days per week.
- The applicant must demonstrate a history of using interventions that are least restrictive and that follow a behavioral hierarchy.
- The applicant must maintain a policy prohibiting the use of mechanical restraints.

The bill takes effect on July 1, 2020.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/SB 1344 may have a positive but indeterminate fiscal impact on ICFDD applicants that obtain the newly created CON exemption.

C. Government Sector Impact:

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program by incentivizing the creation of ICFDDs that accept individuals with developmental disabilities who have severe maladaptive behaviors or mental health issues. The negative fiscal impact to the Medicaid program may be offset by the positive fiscal impact to the Home and Community-Based Services (HCBS) Waiver as a result of transferring individuals from the HCBS Waiver to Medicaid.

The AHCA may incur costs related to the licensing and surveying of additional ICFDDs.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.962 and 408.036.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 18, 2020:

The committee substitute increases the severity of maladaptive behaviors an ICFDD must serve in order to be eligible for the CON exemption from a level 3 to 6 on the Matrix, to a level 4 to 6.

B. Amendments:

None.

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

¹⁵ Agency for Health Care Administration, *Senate Bill 1344 Fiscal Analysis* (January 26, 2020) (on file with the Senate Subcommittee on Health and Human Services).



460516

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 68 - 73
and insert:
maladaptive behaviors in this state. The agency may grant no more than three exemptions under this paragraph.

1. The exemption under this paragraph does not require a specific legislative appropriation.

2. An exemption under this paragraph shall terminate 18 months after the date of issuance unless the exemption holder



460516

11 has commenced construction. The agency shall monitor the
12 progress of the holder of the certificate of exemption in
13 meeting the timetable for project development specified in the
14 application for exemption. The agency shall extend the time
15 period for a project if the exemption holder demonstrates to the
16 satisfaction of the agency that good-faith commencement of the
17 project is being delayed by litigation or by governmental action
18 or inaction with respect to regulations or permitting precluding
19 commencement of the project.

20 3. This paragraph and subsection (6) of s. 400.962 are
21 repealed July 1, 2022, unless reviewed and saved from repeal by
22 the Legislature.

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete lines 9 - 13

27 and insert:

28 limiting the number of such exemptions the Agency for
29 Health Care Administration may grant; providing that a
30 specific legislative appropriation is not required for
31 the exemption; providing timeframes and a monitoring
32 process for the exemptions granted by the agency;
33 providing for future legislative review and repeal of
34 the exemption; providing an effective date.



891388

576-03907-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to intermediate care facilities;
amending s. 400.962, F.S.; requiring certain
facilities that have been granted a certificate-of-
need exemption to demonstrate and maintain compliance
with specified criteria; amending s. 408.036, F.S.;
providing an exemption from a certificate-of-need
requirement for certain intermediate care facilities;
prohibiting the Agency for Health Care Administration
from granting an additional exemption to an applicant
unless a certain condition is met; providing that a
specific legislative appropriation is not required for
such exemption; providing an effective date.

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

Section 1. Subsection (6) is added to section 400.962,
Florida Statutes, to read:

400.962 License required; license application.—

(6) An applicant that has been granted a certificate-of-
need exemption under s. 408.036(3)(o) must also demonstrate and
maintain compliance with the following criteria:

(a) The total number of beds per home within the facility
may not exceed eight, with each resident having his or her own
bedroom and bathroom. Each eight-bed home must be colocated on
the same property with two other eight-bed homes and must serve
individuals with severe maladaptive behaviors and co-occurring



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576-03907-20

psychiatric diagnoses.

(b) A minimum of 16 beds within the facility must be
designated for individuals with severe maladaptive behaviors who
have been assessed using the Agency for Persons with
Disabilities' Global Behavioral Service Need Matrix with a score
of at least Level 4 and up to Level 6, or assessed using the
criteria deemed appropriate by the Agency for Health Care
Administration regarding the need for a specialized placement in
an intermediate care facility for the developmentally disabled.

(c) The applicant has not had a facility license denied,
revoked, or suspended within the 36 months preceding the request
for exemption.

(d) The applicant must have at least 10 years of experience
serving individuals with severe maladaptive behaviors in the
state.

(e) The applicant must implement a state-approved staff
training curriculum and monitoring requirements specific to the
individuals whose behaviors require higher intensity, frequency,
and duration of services.

(f) The applicant must make available medical and nursing
services 24 hours per day, 7 days per week.

(g) The applicant must demonstrate a history of using
interventions that are least restrictive and that follow a
behavioral hierarchy.

(h) The applicant must maintain a policy prohibiting the
use of mechanical restraints.

Section 2. Paragraph (o) is added to subsection (3) of
section 408.036, Florida Statutes, to read:

408.036 Projects subject to review; exemptions.—



891388

576-03907-20

57 (3) EXEMPTIONS.—Upon request, the following projects are
58 subject to exemption from subsection (1):

59 (o) For a new intermediate care facility for the
60 developmentally disabled as defined in s. 408.032 which has a
61 total of 24 beds, comprising three eight-bed homes, for use by
62 individuals exhibiting severe maladaptive behaviors and co-
63 occurring psychiatric diagnoses requiring increased levels of
64 behavioral, medical, and therapeutic oversight. The applicant
65 must not have had a license denied, revoked, or suspended within
66 the 36 months preceding the request for exemption and must have
67 at least 10 years of experience serving individuals with severe
68 maladaptive behaviors in this state. The agency may not grant an
69 exemption to an applicant that has been granted an exemption
70 under this paragraph unless the facility awarded the exemption
71 has been licensed and operational for a period of at least 2
72 years. The exemption under this paragraph does not require a
73 specific legislative appropriation.

74 Section 3. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/SB 1344

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Harrell

SUBJECT: Intermediate Care Facilities

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Looke</u> | <u>Brown</u> | <u>HP</u> | Favorable |
| 2. | <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | Recommend: Fav/CS |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1344 establishes a new certificate of need (CON) exemption for an intermediate care facility for the developmentally disabled (ICFDD) for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of behavioral, medical, and therapeutic oversight. The bill specifies requirements that the ICFDD must meet in order to obtain the CON exemption and establishes additional licensure criteria for an ICFDD that has been granted the CON exemption.

The bill prohibits the AHCA from granting more than three CON exemptions, and requires the CON exemptions to terminate 18 months after being issued, unless construction on the project has begun.

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program and the Agency for Health Care Administration.

The CON exemption provided under the bill sunsets on July 1, 2022, unless saved from repeal by the Legislature.

The bill takes effect on July 1, 2020.

II. Present Situation:

Intermediate Care Facilities for the Developmentally Disabled

An intermediate care facility for the developmentally disabled (ICFDD) provides care and residence for individuals with developmental disabilities. A developmental disability is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.¹

The licensure of ICFDDs is controlled by Part VIII of ch. 400, F.S., and Chapter 59A-26, F.A.C. Additionally, as a health care facility, as defined in s. 408.032, F.S., prior to obtaining licensure, the ICFDD applicant must obtain a CON from the Agency for Health Care Administration (AHCA).

CON Overview

In Florida, a CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices. The Florida CON program has three levels of review: comparative, expedited, and exempt.² Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.³ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986.⁴

Determination of Need, Application, and Review Processes

A CON is predicated on a determination of need. The future need for services and projects is known as the "fixed need pool,"⁵ which the AHCA publishes for each batching cycle. Rule 59C-1, F.A.C., provides need formulas to calculate the fixed need pool for certain services, including NICU services,⁶ adult and child psychiatric services,⁷ adult substance abuse services,⁸ and comprehensive rehabilitation services.⁹

¹ See s. 393.063(12), F.S.

² See s. 408.036, F.S. and Rule 59C-1.004, F.A.C.

³ Pub. Law No. 93-641, 42 U.S.C. s. 300k et seq.

⁴ Mitchell, Matthew D., Certificate of Need Laws: Are They Achieving Their Goals? Mercatus Center, George Mason University, available at: [www.mercatus.org > system > files > mitchell-con-qa-mop-mercatus-v2](http://www.mercatus.org/system/files/mitchell-con-qa-mop-mercatus-v2) (last visited January 30, 2020).

⁵ Rule 59C-1.002(19), F.A.C., defines "fixed need pool" as the identified numerical need, as published in the Florida Administrative Register, for new beds or services for the applicable planning horizon established by the AHCA in accordance with need methodologies which are in effect by rule at the time of publication of the fixed need pools for the applicable batching cycle.

⁶ Rule 59C-1.042(3), F.A.C.

⁷ Rule 59C-1.040(4), F.A.C.

⁸ Rule 59C-1.041(4), F.A.C.

⁹ Rule 59C-1.039(5), F.A.C.

Upon determining that a need exists, the AHCA accepts applications for CON based on batching cycles. CON application fees include a base fee of \$10,000 and an additional fee of 1.5 cents for each dollar of the proposed project expenditures up to a maximum combined total of \$50,000.¹⁰ A batching cycle is a means of grouping, for comparative review, of CON applications submitted for beds, services, or programs having a like CON need methodology or licensing category in the same planning horizon and the same applicable district or subdistrict.¹¹

Severe Maladaptive Behaviors

Maladaptive behaviors are those behaviors that are disruptive, destructive, aggressive, or significantly repetitive.¹² The Florida Agency for Persons with Disabilities (APD) has developed a Global Behavioral Service Need Matrix (Matrix) in order to classify the severity of person's maladaptive behavior.¹³ The Matrix categorizes symptoms of maladaptive behaviors such as behavior frequency, behavioral impact, physical aggression to others, police involvement, property destruction, and elopement/wandering, among others. Each symptom is ranked on a scale of one to six, with one being the least severe and six being the most severe. If a symptom is not present, it is ranked as a zero. Based on their behavior score, the person will be evaluated for services. The initial evaluation period is 12 months and then the frequency of evaluations afterwards depends on the severity of the person's score, with a need level of six being evaluated more frequently than a need level of one.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 408.036, F.S., to create a CON exemption for a new ICFDD which has a total of 24 beds, comprising three eight-bed homes, for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of behavioral, medical, and therapeutic oversight. In order to obtain the exemption, The ICFDD must not have had a license denied, revoked, or suspended within the 36 months preceding the request for an exemption and must have at least 10 years of experience serving individuals with severe maladaptive behaviors in this state. The AHCA is prohibited from granting an additional exemption to an ICFDD that has been granted an exemption under these provisions unless the facility has been licensed and operational for a period of at least two years. Additionally, the bill specifies that the exemption does not require a specific appropriation.

The bill also amends s. 400.962, F.S., to establish additional licensure and application requirements for an ICFDD that has been granted the CON exemption, including:

- The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be co-

¹⁰ Section 408.038, F.S.

¹¹ Rule 59C-1.002(5), F.A.C. Note: s. 408.032(5), F.S., establishes the 11 district service areas in Florida.

¹² Fulton, Elizabeth et al. "Reducing maladaptive behaviors in preschool-aged children with autism spectrum disorder using the early start denver model." *Frontiers in pediatrics* vol. 2 40., available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4023017/> (last visited on Jan. 24, 2020).

¹³ Available at <http://apdcares.org/news/news/2011/ib-matrix-instructions.pdf> (last visited on February 3, 2020).

¹⁴ *Id.*

located on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.

- A minimum of 16 beds within the facility must be designated for individuals with severe maladaptive behaviors who have been assessed using the Matrix with a score of at least Level 4 and up to Level 6, or assessed using criteria deemed appropriate by the AHCA regarding the need for a specialized placement in an ICFDD.
- The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.
- The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in the state.
- The applicant must implement a state-approved staff training curriculum and monitoring requirements specific to the individuals whose behaviors require higher intensity, frequency, and duration of services.
- The applicant must make available medical and nursing services 24 hours per day, 7 days per week.
- The applicant must demonstrate a history of using interventions that are least restrictive and that follow a behavioral hierarchy.
- The applicant must maintain a policy prohibiting the use of mechanical restraints.

The bill prohibits the AHCA from granting more than three CON exemptions to eligible ICFDDs, and requires the CON exemptions to terminate 18 months after being issued, unless construction on the project has begun. The bill also requires the AHCA to monitor CON exemption certificate holder construction projects and allows the AHCA to extend project time periods if the exemption holder demonstrates that the project is being delayed by:

- Litigation; or
- Governmental action or inaction regarding regulations or permitting.

The CON exemption provided under the bill sunsets on July 1, 2022, unless saved from repeal by the Legislature.

The bill takes effect on July 1, 2020.

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.

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

None.

B. Private Sector Impact:

CS/SB 1344 may have a positive but indeterminate fiscal impact on ICFDD applicants that obtain the newly created CON exemption.

C. Government Sector Impact:

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program by incentivizing the creation of ICFDDs that accept individuals with developmental disabilities who have severe maladaptive behaviors or mental health issues. The negative fiscal impact to the Medicaid program may be offset by the positive fiscal impact to the Home and Community-Based Services (HCBS) Waiver as a result of transferring individuals from the HCBS Waiver to Medicaid.

The AHCA may incur costs related to the licensing and surveying of additional ICFDDs.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.962 and 408.036.

¹⁵ Agency for Health Care Administration, *Senate Bill 1344 Fiscal Analysis* (January 26, 2020) (on file with the Senate Subcommittee on Health and Human Services).

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 Appropriations on March 3, 2020:

The committee substitute:

- Increases the severity of maladaptive behaviors an ICFDD must serve in order to be eligible for the CON exemption from a level 3 to 6 on the Matrix, to a level 4 to 6;
- Limits the number of CON exemptions authorized under the bill to three;
- Requires the CON exemption authorized under the bill to terminate 18 months after being issued, unless construction has begun;
- Requires the AHCA to monitor the projects of CON exemption certificate holders and allows the AHCA to extend project time periods under certain circumstances; and
- Sunsets the CON exemption July 1, 2022, unless saved from repeal by the Legislature.

- B. **Amendments:**

None.

By Senator Harrell

25-01156A-20

20201344__

A bill to be entitled

An act relating to intermediate care facilities; amending s. 400.962, F.S.; requiring certain facilities that have been granted a certificate-of-need exemption to demonstrate and maintain compliance with specified criteria; amending s. 408.036, F.S.; providing an exemption from a certificate-of-need requirement for certain intermediate care facilities; prohibiting the Agency for Health Care Administration from granting an additional exemption to a facility unless a certain condition is met; providing that a specific legislative appropriation is not required for such exemption; providing an effective date.

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

Section 1. Subsection (6) is added to section 400.962, Florida Statutes, to read:

400.962 License required; license application.—

(6) An applicant that has been granted a certificate-of-need exemption under s. 408.036(3)(o) must also demonstrate and maintain compliance with the following criteria:

(a) The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be colocated on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.

(b) A minimum of 16 beds within the facility must be

Page 1 of 3

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

25-01156A-20

20201344__

designated for individuals with severe maladaptive behaviors who have been assessed using the Agency for Persons with Disabilities' Global Behavioral Service Need Matrix with a score of at least Level 3 and up to Level 6, or assessed using the criteria deemed appropriate by the Agency for Health Care Administration regarding the need for a specialized placement in an intermediate care facility for the developmentally disabled.

(c) The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.

(d) The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in the state.

(e) The applicant must implement a state-approved staff training curriculum and monitoring requirements specific to the individuals whose behaviors require higher intensity, frequency, and duration of services.

(f) The applicant must make available medical and nursing services 24 hours per day, 7 days per week.

(g) The applicant must demonstrate a history of using interventions that are least restrictive and that follow a behavioral hierarchy.

(h) The applicant must maintain a policy prohibiting the use of mechanical restraints.

Section 2. Paragraph (o) is added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review; exemptions.—

(3) EXEMPTIONS.—Upon request, the following projects are subject to exemption from subsection (1):

Page 2 of 3

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

25-01156A-20

20201344__

59 (o) For a new intermediate care facility for the
60 developmentally disabled as defined in s. 408.032 which has a
61 total of 24 beds, comprising three eight-bed homes, for use by
62 individuals exhibiting severe maladaptive behaviors and co-
63 occurring psychiatric diagnoses requiring increased levels of
64 behavioral, medical, and therapeutic oversight. The facility
65 must not have had a license denied, revoked, or suspended within
66 the 36 months preceding the request for exemption and must have
67 at least 10 years of experience serving individuals with severe
68 maladaptive behaviors in this state. The agency may not grant an
69 additional exemption to a facility that has been granted an
70 exemption under this paragraph unless the facility has been
71 licensed and operational for a period of at least 2 years. The
72 exemption under this paragraph does not require a specific
73 legislative appropriation.

74 Section 3. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Health
and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GAYLE HARRELL

25th District

February 19, 2020

Senator Rob Bradley
201 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bradley,

I respectfully request that **SB 1344 – Intermediate Care Facilities** be placed on the next available agenda for the Appropriations Committee Meeting. SB 1344 passed its last committee stop unanimously.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

SB 1344
Bill Number (if applicable)

Topic ICF - CON Exemption

Amendment Barcode (if applicable)

Name Suzanne Sewell

Job Title President & CEO

Address 2475 Apalachee Parkway ^{Suite 205}

Phone 850-942-3500

Tallahassee FL 32304
City State Zip

Email ssewell@floridart.org

Speaking: For Against Information

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

Representing FL Association of Rehabilitation Facilities

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

3/3/2020

Meeting Date

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

#1344

Bill Number (if applicable)

Topic Senate # 1344

Amendment Barcode (if applicable)

Name Violet Annaly Mactown, Inc

Job Title Dir of Com Relations

Address

Street

Phone 305-495-2686

City

State

Zip

Email Violet@naction.org

Speaking: For Against Information

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

Representing Mactown, Inc.

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)

3/3/20
Meeting Date

1344
Bill Number (if applicable)

Topic SB 1344

Amendment Barcode (if applicable)

Name Clint Bower

Job Title Pres / CEO

Address 151 NE 62nd St.
Street

Phone 305-733-4915

Miami, FL 33138
City State Zip

Email clintb@maclean.org

Speaking: For Against Information

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

Representing Maclean, Inc

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)

3/3/2020

Meeting Date

1344

Bill Number (if applicable)

Topic ICF LON Exemption

Amendment Barcode (if applicable)

Name Olivia Babis

Job Title Public Policy Analyst

Address 2473 Care Dr. Ste 200

Phone 850-617-9718

Street

Tallahassee FL 32308

City

State

Zip

Email oliviab@disabilityrightsflorida.org

Speaking: For Against Information

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

(if not present)

Representing Disability Rights Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 1392 (552754)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senator Simmons

SUBJECT: Official Headquarters of Judicial Officers

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Stallard</u> | <u>Cibula</u> | <u>JU</u> | <u>Fav/CS</u> |
| 2. | <u>Dale</u> | <u>Jameson</u> | <u>ACJ</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Dale</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 1392 provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set

forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

As part of its Fiscal Year 2020-2021 legislative budget request, the judicial branch has requested \$125,000 in recurring funds for travel reimbursement for eligible district court of appeal (DCA) judges. Currently, SB 2500, Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$125,000 recurring General Revenue funds for this purpose.

The bill takes effect July 1, 2020.

II. Present Situation:

DCA Headquarters

Section 35.05(1), F.S., provides the following official headquarters for the five DCAs:

- First DCA: Second Judicial Circuit, Tallahassee, Leon County.
- Second DCA: Tenth Judicial Circuit, Lakeland, Polk County.
 - Branch Office: Thirteenth Judicial Circuit, Tampa, Hillsborough County.
- Third DCA: Eleventh Judicial Circuit, Miami-Dade County.
- Fourth DCA: Fifteenth Judicial Circuit, Palm Beach County.
- Fifth DCA: Seventh Judicial Circuit, Daytona Beach, Volusia County.

A DCA judge is entitled to reimbursement for expenses incurred in work-related trips away from his or her headquarters—which by default is each judge’s DCA courthouse. The Second DCA is headquartered in Lakeland, Florida.¹ However, s. 35.05(2), F.S., provides that a “district court of appeal may designate other locations within its district as branch headquarters for the conduct of the business of the court and *as the official headquarters of its officers or employees* pursuant to s. 112.061.”² Currently, the Second DCA is the only DCA in Florida which has a designated branch headquarters.

State Employee and Officer Reimbursement for Work-Related Travel

Section 112.061, F.S., is the main statute governing state employee and officer reimbursement for work-related travel. This section provides for reimbursement of travel, subsistence, and lodging in differing amounts based on several factors, including the duration and distance of a trip.

In regards to “headquarters for purposes of travel reimbursement,” s. 112.061(4), F.S., provides that “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” with the following exceptions:

- The official headquarters of a person located in the field is the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area designated by the agency head provided that the

¹ Section 35.05(1), F.S.

² Emphasis added.

designation is in the best interests of the agency and not for the convenience of the employee.

- When any state employee is stationed in a city or town for a period of over 30 continuous workdays, that city or town is the employee's official headquarters, and he or she is not allowed per diem or subsistence, after the 30 continuous workdays have elapsed, unless that time period is extended by the agency head or his or her designee.
- Additionally, s. 112.061(1)(b)1., F.S., provides that: employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home.³

An employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home. Additionally, s. 112.061(1)(b)1., F.S., provides that:

To preserve the standardization established by this law . . . The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.

Alternative Official Headquarters for Supreme Court Justices

In 2019, the Legislature enacted s. 25.025, F.S., authorizing alternative official headquarters for justices who reside outside of Leon County. More particularly, under this statute a justice who resides outside of Leon County may:

- Request that a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice's district be designated as his or her official headquarters and serve as the justice's private chambers; and
- Be reimbursed for travel and subsistence while in Tallahassee to the extent funding is available, as determined by the Chief Justice.

Section 25.025, F.S., also provides that the Chief Justice is required to coordinate with the justice seeking private chambers in his or her district and any state and local officials as necessary. The Supreme Court and a county courthouse may enter into an agreement to establish private chambers at the county courthouse for a justice, but the courthouse is under no obligation to

³ Section 112.061(4)(a)-(c), F.S.

provide space for the justice. Additionally, the Supreme Court may *not* use state funds to lease space in a county courthouse for use as a private chamber.

III. Effect of Proposed Changes:

The bill provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

The bill takes effect July 1, 2020.

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:

None.

C. Government Sector Impact:

The bill amends an existing statute that authorizes the payment of travel expenses for eligible justices who travel between an alternate headquarters and the Supreme Court's headquarters. As part of the Fiscal Year 2018-2019 General Appropriations Act (Specific Appropriation 3129, s. 7, ch. 2018-9, Laws of Fla.), the Legislature appropriated \$209,930 in recurring funds for reimbursement of such travel expenses by justices. Thus, the judicial branch's base budget includes funding for this purpose. The State Courts System does not anticipate that the refinements to the existing statute related to the reimbursement of additional expenses incurred on work-related trips for Supreme Court justices will necessitate additional funding.

The bill also creates comparable statutory authority to reimburse eligible district court of appeal judges for travel between an alternate headquarters and the headquarters of the court. As part of its Fiscal Year 2020-2021 legislative budget request, the judicial branch requested \$125,000 in recurring funds for travel reimbursement for eligible district court of appeal (DCA) judges. Currently, SB 2500, the Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$125,000 recurring General Revenue funds for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 25.025 of the Florida Statutes.

This bill creates section 35.051 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.)

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 13, 2020:

The committee substitute makes a technical change to correct the placement of the reference to “branch headquarters,” so that it is consistent with other references in the bill.

CS by Judiciary on January 21, 2020:

The committee substitute authorizes the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the committee substitute specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

- B. **Amendments:**

None.



158828

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete line 145

and insert:

Section 3. Effective January 1, 2021, section 26.012, Florida Statutes, is amended to read:

26.012 Jurisdiction of circuit court.-

(1) ~~Circuit courts shall have jurisdiction of appeals from county courts except:~~

~~(a) Appeals of county court orders or judgments where the~~



158828

11 ~~amount in controversy is greater than \$15,000. This paragraph is~~
12 ~~repealed on January 1, 2023.~~

13 ~~(b) Appeals of county court orders or judgments declaring~~
14 ~~invalid a state statute or a provision of the State~~
15 ~~Constitution.~~

16 ~~(c) Orders or judgments of a county court which are~~
17 ~~certified by the county court to the district court of appeal to~~
18 ~~be of great public importance and which are accepted by the~~
19 ~~district court of appeal for review. Circuit courts shall have~~
20 jurisdiction of appeals from final administrative orders of
21 local government code enforcement boards and of reviews and
22 appeals as otherwise expressly provided by law.

23 (2) Circuit courts ~~They~~ shall have exclusive original
24 jurisdiction:

25 (a) In all actions at law not cognizable by the county
26 courts;

27 (b) Of proceedings relating to the settlement of the
28 estates of decedents and minors, the granting of letters
29 testamentary, guardianship, involuntary hospitalization, the
30 determination of incompetency, and other jurisdiction usually
31 pertaining to courts of probate;

32 (c) In all cases in equity including all cases relating to
33 juveniles except traffic offenses as provided in chapters 316
34 and 985;

35 (d) Of all felonies and of all misdemeanors arising out of
36 the same circumstances as a felony which is also charged;

37 (e) In all cases involving legality of any tax assessment
38 or toll or denial of refund, except as provided in s. 72.011;

39 (f) In actions of ejectment; and



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40 (g) In all actions involving the title and boundaries of
41 real property.

42 (3) The circuit court may issue injunctions.

43 (4) The chief judge of a circuit may authorize a county
44 court judge to order emergency hospitalizations pursuant to part
45 I of chapter 394 in the absence from the county of the circuit
46 judge; and the county court judge shall have the power to issue
47 all temporary orders and temporary injunctions necessary or
48 proper to the complete exercise of such jurisdiction.

49 (5) A circuit court is a trial court.

50 Section 4. Effective January 1, 2021, subsection (4) of
51 section 27.51, Florida Statutes, is amended to read:

52 27.51 Duties of public defender.—

53 (4) The public defender for the judicial circuit specified
54 in this subsection shall, after the record on appeal is
55 transmitted to the appellate court by the office of the public
56 defender which handled the trial and if requested by any public
57 defender within the indicated appellate district, handle all
58 circuit court and county court appeals within the state courts
59 system and any authorized appeals to the federal courts required
60 of the official making such request:

61 (a) Public defender of the second judicial circuit, on
62 behalf of any public defender within the district comprising the
63 First District Court of Appeal.

64 (b) Public defender of the tenth judicial circuit, on
65 behalf of any public defender within the district comprising the
66 Second District Court of Appeal.

67 (c) Public defender of the eleventh judicial circuit, on
68 behalf of any public defender within the district comprising the



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69 Third District Court of Appeal.

70 (d) Public defender of the fifteenth judicial circuit, on
71 behalf of any public defender within the district comprising the
72 Fourth District Court of Appeal.

73 (e) Public defender of the seventh judicial circuit, on
74 behalf of any public defender within the district comprising the
75 Fifth District Court of Appeal.

76 Section 5. Effective January 1, 2021, subsection (8) of
77 section 27.511, Florida Statutes, is amended to read:

78 27.511 Offices of criminal conflict and civil regional
79 counsel; legislative intent; qualifications; appointment;
80 duties.—

81 (8) The public defender for the judicial circuit specified
82 in s. 27.51(4) shall, after the record on appeal is transmitted
83 to the appellate court by the office of criminal conflict and
84 civil regional counsel which handled the trial and if requested
85 by the regional counsel for the indicated appellate district,
86 handle all circuit court and county court appeals authorized
87 pursuant to paragraph (5) (f) within the state courts system and
88 any authorized appeals to the federal courts required of the
89 official making the request. If the public defender certifies to
90 the court that the public defender has a conflict consistent
91 with the criteria prescribed in s. 27.5303 and moves to
92 withdraw, the regional counsel shall handle the appeal, unless
93 the regional counsel has a conflict, in which case the court
94 shall appoint private counsel pursuant to s. 27.40.

95 Section 6. Effective January 1, 2021, section 34.017,
96 Florida Statutes, is amended to read:

97 34.017 Certification of questions to district court of



158828

98 appeal.-

99 (1) A county court may ~~is permitted to~~ certify a question
100 to the district court of appeal in a final judgment that is
101 appealable to the circuit court if the question may have
102 statewide application, and:

103 (a) Is of great public importance; or

104 (b) Will affect the uniform administration of justice.

105 (2) In the final judgment, the trial court shall:

106 (a) Make findings of fact and conclusions of law; and

107 (b) State concisely the question to be certified.

108 (3) The decision to certify the question to the district
109 court of appeal is within the sole discretion of the county
110 court.

111 (4) The district court of appeal has absolute discretion as
112 to whether to answer a question certified by the county court.

113 (a) If the district court agrees to answer the certified
114 question, it shall decide all appealable issues that have been
115 raised from the final judgment.

116 (b) If the district court declines to answer the certified
117 question, the case shall be transferred to the circuit court
118 which has appellate jurisdiction.

119 Section 7. Effective January 1, 2021, section 35.065,
120 Florida Statutes, is amended to read:

121 35.065 Review of judgment or order certified by county
122 court to be of great public importance.-Pursuant to s. 34.017, a
123 district court of appeal may review any order or judgment of a
124 county court which is certified by the county court to be of
125 great public importance.

126 Section 8. Effective January 1, 2021, section 924.08,



158828

127 Florida Statutes, is repealed.

128 Section 9. Except as otherwise expressly provided in this
129 act, this act shall take effect July 1, 2020.

130
131 ===== T I T L E A M E N D M E N T =====

132 And the title is amended as follows:

133 Delete lines 2 - 27

134 and insert:

135 An act relating to courts; amending s. 25.025, F.S.;

136 revising provisions governing the payment of

137 subsistence and travel reimbursement for Supreme Court

138 justices who designate an official headquarters other

139 than the headquarters of the Supreme Court;

140 authorizing the Chief Justice of the Supreme Court to

141 establish certain parameters in administering the act;

142 providing for construction; creating s. 35.051, F.S.;

143 authorizing district court of appeal judges who meet

144 certain criteria to have an appropriate facility in

145 their county of residence designated as their official

146 headquarters; providing restrictions; specifying

147 eligibility for subsistence and travel reimbursement,

148 subject to the availability of funds; requiring the

149 Chief Justice to coordinate with certain officials in

150 implementing the act; providing that a county is not

151 required to provide space for a judge in a county

152 courthouse; authorizing counties to enter into

153 agreements with a district court of appeal for use of

154 county courthouse space; prohibiting a district court

155 of appeal from using state funds to lease space to



158828

156 establish a judge's official headquarters; authorizing
157 the Chief Justice to establish certain parameters in
158 administering the act; providing for construction;
159 amending s. 26.012, F.S.; limiting the appellate
160 jurisdiction of the circuit courts to appeals from
161 final administrative orders of local code enforcement
162 boards and other reviews and appeals expressly
163 provided by law; amending ss. 27.51 and 27.511, F.S.;
164 revising the duties of the public defender and office
165 of criminal conflict and civil regional counsel,
166 respectively, regarding the handling of appeals to
167 conform to changes made by the act; amending s.
168 34.017, F.S.; authorizing a county court to certify a
169 question to a district court of appeal in a final
170 judgment that is appealable to a circuit court;
171 amending s. 35.065, F.S.; authorizing a district court
172 of appeal to review certain questions certified by a
173 county court; repealing s. 924.08, F.S., relating to
174 the jurisdiction of the circuit court to hear appeals
175 from final judgments in misdemeanor cases; providing
176 effective dates.



552754

576-03592-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to official headquarters of judicial officers; amending s. 25.025, F.S.; revising provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; authorizing the Chief Justice of the Supreme Court to establish certain parameters in administering the act; providing for construction; creating s. 35.051, F.S.; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; providing restrictions; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; requiring the Chief Justice to coordinate with certain officials in implementing the act; providing that a county is not required to provide space for a judge in a county courthouse; authorizing counties to enter into agreements with a district court of appeal for use of county courthouse space; prohibiting a district court of appeal from using state funds to lease space to establish a judge's official headquarters; authorizing the Chief Justice to establish certain parameters in administering the act; providing for construction; providing an effective date.



552754

576-03592-20

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

Section 1. Section 25.025, Florida Statutes, is amended to read:

25.025 Headquarters.-

(1) (a) A Supreme Court justice who permanently resides outside Leon County is eligible for the designation of ~~shall, if he or she so requests, have~~ a district court of appeal courthouse, a county courthouse, or another appropriate facility in his or her district of residence ~~designated~~ as his or her official headquarters for purposes of ~~pursuant to~~ s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b) 1. A justice for whom an official headquarters is designated in his or her district of residence under this subsection is eligible for subsistence at a rate to be established by the Chief Justice for each day or partial day that the justice is at the headquarters of the Supreme Court to Building for the conduct court of the business, as authorized by the Chief Justice of the court. ~~The Chief Justice may authorize a justice to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 and subsistence at a fixed rate prescribed by the Chief Justice.~~

2. In addition to ~~the~~ subsistence allowance, a justice is eligible for reimbursement for travel transportation ~~travel~~ expenses as provided in s. 112.061(7) and (8) for travel between the justice's official headquarters and the headquarters of the



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57 Supreme Court ~~to Building for the~~ conduct court ~~of the~~ business
58 ~~of the court.~~

59 (c) Payment of subsistence and reimbursement for travel
60 ~~transportation~~ expenses ~~relating to travel~~ between a justice's
61 official headquarters and the headquarters of the Supreme Court
62 shall ~~Building must~~ be made to the extent that appropriated
63 funds are available, as determined by the Chief Justice.

64 (2) The Chief Justice shall coordinate with each affected
65 justice and other state and local officials as necessary to
66 implement subsection (1) ~~paragraph (1)(a)~~.

67 (3)(a) This section does not require a county to provide
68 space in a county courthouse for a justice. A county may enter
69 into an agreement with the Supreme Court governing the use of
70 space in a county courthouse.

71 (b) The Supreme Court may not use state funds to lease
72 space in a district court of appeal courthouse, county
73 courthouse, or other facility to allow a justice to establish an
74 official headquarters pursuant to subsection (1).

75 (4) The Chief Justice may establish parameters governing
76 the authority provided in this section, including, but not
77 limited to, specifying minimum operational requirements for the
78 designated headquarters, limiting the number of days for which
79 subsistence and travel reimbursement may be provided, and
80 prescribing activities that qualify as the conduct of court
81 business.

82 (5) If any term of this section conflicts with s. 112.061,
83 this section shall control to the extent of the conflict.

84 Section 2. Section 35.051, Florida Statutes, is created to
85 read:



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86 35.051 Subsistence and travel reimbursement for judges with
87 alternate headquarters.--

88 (1)(a) A district court of appeal judge is eligible for the
89 designation of a county courthouse or another appropriate
90 facility in his or her county of residence as his or her
91 official headquarters for purposes of s. 112.061 if the judge
92 permanently resides more than 50 miles from:

93 1. The appellate district's headquarters as prescribed
94 under s. 35.05(1), if the judge is assigned to such
95 headquarters; or

96 2. The appellate district's branch headquarters established
97 under s. 35.05(2), if the judge is assigned to such branch
98 headquarters.

99
100 The official headquarters may serve only as the judge's private
101 chambers.

102 (b)1. A district court of appeal judge for whom an official
103 headquarters is designated in his or her county of residence
104 under this subsection is eligible for subsistence at a rate to
105 be established by the Chief Justice for each day or partial day
106 that the judge is at the headquarters or branch headquarters of
107 his or her appellate district to conduct court business, as
108 authorized by the chief judge of that district court of appeal.

109 The Chief Justice may authorize a judge to choose between
110 subsistence based on lodging at a single-occupancy rate and meal
111 reimbursement as provided in s. 112.061 and subsistence at a
112 fixed rate prescribed by the Chief Justice.

113 2. In addition to subsistence, a district court of appeal
114 judge is eligible for reimbursement for travel expenses as



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115 provided in s. 112.061(7) and (8) for travel between the judge's
116 official headquarters and the headquarters or branch
117 headquarters of the appellate district to conduct court
118 business.

119 (c) Payment of subsistence and reimbursement for travel
120 expenses between the judge's official headquarters and the
121 headquarters or branch headquarters of his or her appellate
122 district shall be made to the extent that appropriated funds are
123 available, as determined by the Chief Justice.

124 (2) The Chief Justice shall coordinate with each affected
125 district court of appeal judge and other state and local
126 officials as necessary to implement subsection (1).

127 (3) (a) This section does not require a county to provide
128 space in a county courthouse for a district court of appeal
129 judge. A county may enter into an agreement with a district
130 court of appeal governing the use of space in a county
131 courthouse.

132 (b) A district court of appeal may not use state funds to
133 lease space in a county courthouse or other facility to allow a
134 district court of appeal judge to establish an official
135 headquarters pursuant to subsection (1).

136 (4) The Chief Justice may establish parameters governing
137 the authority provided in this section, including, but not
138 limited to, specifying minimum operational requirements for the
139 designated headquarters, limiting the number of days for which
140 subsistence and travel reimbursement may be provided, and
141 prescribing activities that qualify as the conduct of court
142 business.

143 (5) If any term of this section conflicts with s. 112.061,



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144 this section shall control to the extent of the conflict.

145 Section 3. This act shall take effect July 1, 2020.

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 Appropriations

BILL: CS/CS/SB 1392

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senator Simmons

SUBJECT: Courts

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Stallard</u> | <u>Cibula</u> | <u>JU</u> | <u>Fav/CS</u> |
| 2. | <u>Dale</u> | <u>Jameson</u> | <u>ACJ</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Dale</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Official Headquarters of Judicial Officers

CS/CS/SB 1392 provides that a District Court of Appeal (DCA) judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the

Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

As part of its Fiscal Year 2020-2021 legislative budget request, the judicial branch has requested \$125,000 in recurring funds for travel reimbursement for eligible district court of appeal (DCA) judges. Currently, SB 2500, Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$125,000 recurring General Revenue funds for this purpose.

The sections of the bill related to judicial headquarters take effect July 1, 2020.

Jurisdiction of Courts

The bill changes court jurisdiction limits by:

- Broadly eliminating the authority of the circuit courts to hear appeals from county courts in civil and criminal cases. Circuit courts, however, retain jurisdiction to hear appeals from final administrative orders of local code enforcement boards and to hear appeals and review other matters as expressly provided by law. By operation of Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction on appeals from final orders of county courts in civil and criminal cases by default;
- Allowing a county court to certify important questions to a district court of appeal only in a final judgment that is appealable to a circuit court;
- Allowing a district court of appeal to review any order or judgment of a county court which is certified by the county court to be of great public importance; and
- Repealing a statute that gives jurisdiction to circuit courts to hear appeals of judgments in misdemeanor cases.

The sections of the bill related to jurisdiction of courts take effect January 1, 2021.

II. Present Situation:

DCA Headquarters

Section 35.05(1), F.S., provides the following official headquarters for the five DCAs:

- First DCA: Second Judicial Circuit, Tallahassee, Leon County.
- Second DCA: Tenth Judicial Circuit, Lakeland, Polk County.
 - Branch Office: Thirteenth Judicial Circuit, Tampa, Hillsborough County.
- Third DCA: Eleventh Judicial Circuit, Miami-Dade County.
- Fourth DCA: Fifteenth Judicial Circuit, Palm Beach County.
- Fifth DCA: Seventh Judicial Circuit, Daytona Beach, Volusia County.

A DCA judge is entitled to reimbursement for expenses incurred in work-related trips away from his or her headquarters—which by default is each judge’s DCA courthouse. The Second DCA is headquartered in Lakeland, Florida.¹ However, s. 35.05(2), F.S., provides that a “district court of appeal may designate other locations within its district as branch headquarters for the conduct of

¹ Section 35.05(1), F.S.

the business of the court and *as the official headquarters of its officers or employees* pursuant to s. 112.061.”² Currently, the Second DCA is the only DCA in Florida which has a designated branch headquarters.

State Employee and Officer Reimbursement for Work-Related Travel

Section 112.061, F.S., is the main statute governing state employee and officer reimbursement for work-related travel. This section provides for reimbursement of travel, subsistence, and lodging in differing amounts based on several factors, including the duration and distance of a trip.

In regards to “headquarters for purposes of travel reimbursement,” s. 112.061(4), F.S., provides that “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” with the following exceptions:

- The official headquarters of a person located in the field is the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area designated by the agency head provided that the designation is in the best interests of the agency and not for the convenience of the employee.
- When any state employee is stationed in a city or town for a period of over 30 continuous workdays, that city or town is the employee’s official headquarters, and he or she is not allowed per diem or subsistence, after the 30 continuous workdays have elapsed, unless that time period is extended by the agency head or his or her designee.
- Additionally, s. 112.061(1)(b)1., F.S., provides that: employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home.³

An employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home. Additionally, s. 112.061(1)(b)1., F.S., provides that:

To preserve the standardization established by this law . . . The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific

² Emphasis added.

³ Section 112.061(4)(a)-(c), F.S.

reference to this section, such general law shall prevail, but only to the extent of the exemption.

Alternative Official Headquarters for Supreme Court Justices

In 2019, the Legislature enacted s. 25.025, F.S., authorizing alternative official headquarters for justices who reside outside of Leon County. More particularly, under this statute a justice who resides outside of Leon County may:

- Request that a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice’s district be designated as his or her official headquarters and serve as the justice’s private chambers; and
- Be reimbursed for travel and subsistence while in Tallahassee to the extent funding is available, as determined by the Chief Justice.

Section 25.025, F.S., also provides that the Chief Justice is required to coordinate with the justice seeking private chambers in his or her district and any state and local officials as necessary. The Supreme Court and a county courthouse may enter into an agreement to establish private chambers at the county courthouse for a justice, but the courthouse is under no obligation to provide space for the justice. Additionally, the Supreme Court may *not* use state funds to lease space in a county courthouse for use as a private chamber.

Jurisdiction of Courts

The State Constitution establishes a four-level court system consisting of a Supreme Court, five district courts of appeal, 20 circuit courts, and 67 county courts. The circuit courts and county courts primarily serve as trial courts, but the circuit courts also hear appeals from county courts involving many different types of cases and appeals from administrative bodies.

The Constitution also permits the Legislature to substantially define the jurisdictions of the circuit courts and county courts by statute.⁴ As defined by statute, the circuit courts have exclusive jurisdiction over several case types, including felony cases and probate matters, but the primary distinction between the jurisdictions of the courts is a monetary threshold.⁵

Recent Legislative Changes to Trial Court Jurisdiction

During the 2019 Legislative Session, the Legislature increased the monetary threshold in a way that expands the jurisdiction of the county courts. Since 1995, this threshold had been set at \$15,000.⁶ Claims exceeding \$15,000 were to be filed in the circuit court, and county courts had jurisdiction to hear claims valued up to that amount. With the 2019 legislation, effective January

⁴ Article V, s. 6(b) states that “[t]he county courts shall exercise the jurisdiction prescribed by general law.” Under Article V, s. 5(b), the jurisdiction the circuit courts includes “original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law.” Circuit courts also “shall have the power of direct review of administrative action prescribed by general law.” *Id.*

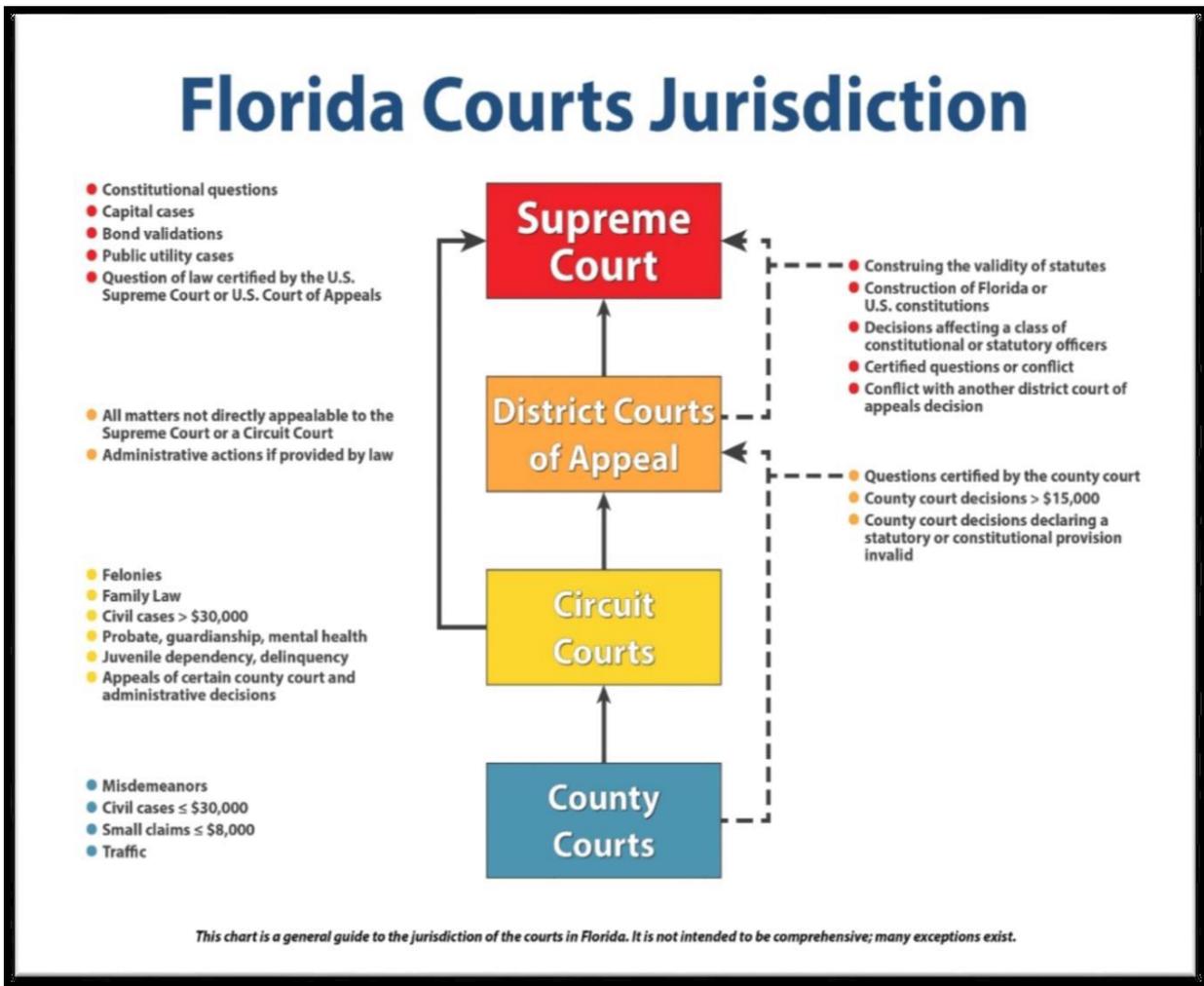
⁵ Section 26.012, F.S. (defining the jurisdiction of the circuit courts) and s. 34.01, F.S. (defining the jurisdiction of the county courts).

⁶ Chapter 2019-58, ss. 1 and 9, Laws of Fla.

1, 2020, the threshold became \$30,000. The threshold increases again, effective January 1, 2023, to \$50,000.

Although the 2019 legislation increased the value of claims that could be litigated in a county court, the legislation did not similarly or contemporaneously increase the jurisdiction of circuit courts to hear appeals from county courts. “Appeals of county court orders or judgments where the amount in controversy is greater than \$15,000,” according to the 2019 legislation, will continue to be heard by a district court of appeal until January 1, 2023.⁷ Appeals of county court orders or judgments involving amounts of \$15,000 or less will continue to be heard by a circuit court.

The Florida Supreme Court has described the jurisdictions of Florida’s courts as shown.⁸



⁷ Chapter 2019-58, s. 1, Laws of Fla., amending s. 26.012(1), F.S., provides that limitation on the appellate jurisdiction of circuit courts to matters where the amount in controversy is \$15,000 or less is repealed on January 1, 2023.

⁸ The chart is a duplicate of Diagram of the State Courts System effective 1/1/2020 by the Supreme Court of Florida. The diagram is available on the Supreme Court’s website at <https://www.floridasupremecourt.org/content/download/543675/6126128/Florida-Courts-Jurisdiction-Chart-2020.pdf>.

Recommended Changes to Appellate Court Jurisdiction

About the same time the 2019 legislation was filed increasing the monetary jurisdictional threshold, the Chief Justice of the Florida Supreme Court issued an administrative order directing the Workgroup on Appellate Review of County Court Decisions to:

1. Study whether the circuit courts should be uniformly required to hear appeals in panels and propose appropriate amendments to the Rules of Judicial Administration or the Rules of Appellate Procedure if the Workgroup determines that such amendments are necessary.
2. Review the following recommendation made by the Judicial Management Council's Work Group on County Court Jurisdiction, and propose appropriate amendments to law or rule if the Workgroup determines that such amendments are necessary:
 - 2.3 The Work Group recommends that any modification to the [county court] jurisdictional amount include a provision allowing intra- and intercircuit conflicts in circuit court appellate decisions within the same district to be certified to the district court of appeal for that district.
3. Consider whether other changes to the process for appellate review of county court decisions would improve the administration of justice. If so, the Workgroup may propose any revisions in the law and rules necessary to implement such recommended changes.⁹

In October 2019, the Workgroup issued a report containing its recommendations. The Workgroup's primary recommendation was that the Supreme Court:

Approve the proposal of statutory amendments to transfer the circuit courts' appellate and related extraordinary writ authority to the DCAs in county civil cases, including non-criminal violations, county, criminal cases, and administrative cases. If the new law is adopted during the 2021 Regular Legislative Session, an effective date of January 1, 2022, is recommended to allow time to make operational changes for the court system and to adopt conforming amendments to the Florida Rules of Court.¹⁰

The Supreme Court agreed with the recommendation, but supported more expeditious changes:

The Supreme Court supports the Legislature's consideration of proposed legislation during the 2020 Regular Session to transfer the referenced circuit court appellate and related extraordinary writ authority to the DCAs. Further, the Supreme Court supports an effective date for the

⁹ Supreme Court of Florida, In Re: Workgroup on Appellate Review of County Court Decisions, Administrative Order No. AOSC19-3, (Jan. 4, 2019), <https://www.floridasupremecourt.org/content/download/425765/4589231/AOSC19-3.pdf%20>.

¹⁰ Supreme Court of Florida, Judicial Management Council, Workgroup on Appellate Review of County Court Decisions: Final Report, Oct. 10, 2019.

legislation that is no earlier than January 1, 2021, to allow adequate time for implementation.¹¹

Authority to Define Appellate Court Jurisdiction

Although the Legislature has broad authority to define the jurisdiction of the circuit and county courts, its authority to define the jurisdiction of the district courts of appeal is more limited.

Under Article V, s. (4)(b)(1) and (2) of the State Constitution:

(1) District courts of appeal shall have jurisdiction to hear appeals that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the Supreme Court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the Supreme Court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

These provisions mean that a litigant has a right to only one appeal. As such, a litigant may appeal a final order of a county court or an administrative entity to a circuit court, but the litigant has no right to further appeal to a district court of appeal.¹² The order may be reviewed by a district court only by a writ of certiorari, which means that the district court has the discretion to hear the case.¹³ Moreover, a review by certiorari is much more limited in scope than a review by appeal.¹⁴

The certiorari jurisdiction of the district courts is defined, not by statute, but by the Florida Rules of Appellate Procedure.¹⁵ Similarly, the authority for a district court to hear the appeal of an interlocutory order, which is a non-final order from a lower tribunal, is defined by court rules and not by statutes.

Because the Constitution divides the authority to define the appellate jurisdiction of the courts between the Supreme Court and the Legislature, expanding the appellate jurisdiction of the district courts of appeal while reducing the appellate jurisdiction of the circuit courts requires cooperation between the judiciary and the Legislature. The Legislature must make some statutory changes, and the Supreme Court must make changes to the Florida Rules of Appellate Procedure.

For example, the Legislature, in many cases, can provide for the appeal of a final order of a county court to a district court of appeal by eliminating the statutory authority for the appeal to be heard by a circuit court. By default, the appeal would have to be heard by a district court of

¹¹ *Id.*

¹² *City of Deerfield Beach v. Valliant*, 419 So. 2d 624, 625 (Fla. 1982).

¹³ *Id.*

¹⁴ When a matter is appealed “all errors below may be corrected: jurisdictional, procedural, and substantive.” *Haines City Cmty. Dev. v. Hegg*s, 658 So. 2d 523, n.3. (Fla. 1995). In contrast, “[c]ertiorari review is ‘intended to fill the interstices between direct appeal and the other prerogative writs’ and allow a court to reach down and halt a miscarriage of justice where no other remedy exists; it ‘was never intended to redress mere legal error.’” *Broward County v. G.B.V. Int’l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001).

¹⁵ Fla. R. Civ. P. 9.030(b)(2).

appeal. However, without changes to the court rules, interlocutory appeals from a county court case would continue to be heard by a circuit court that would not have jurisdiction to hear the appeal of a final order from the case.¹⁶ This result would seem to be inefficient.

Problem of Conflicting Circuit Court Appellate Decisions

Decisions of circuit courts in their appellate capacity are binding on all county courts within their circuit.¹⁷ However, circuit courts are not bound by decisions of other courts within their circuits. As a result, conflicting appellate decisions within a circuit court create instability in the law. County court judges and non-parties to the prior litigation do not know how or which appellate decisions to follow.¹⁸

When conflicting decisions are rendered by different panels of judges within the same district court of appeal, the Florida Rules of Appellate Procedure permit the court to conduct an en banc proceeding.¹⁹ These proceedings allow the full court to reconcile its potentially conflicting decisions.²⁰ In contrast, judicial circuits have no similar mechanism that enables them to reconcile their intra-circuit conflicting opinions. Moreover, a circuit court is not authorized to certify intra-circuit court conflicting opinions to a district court of appeal for review.²¹

Appellate Filing Fees

For appeals from the county to the circuit court, the clerk of the circuit court may collect up to \$280 of which, \$260 is retained by the clerk of the court and \$20 is remitted to the Department of Revenue for deposit into the General Revenue Fund.²²

For appeals to the district court of appeal, the circuit court charges a \$100 fee for filing a notice of appeal,²³ and the clerk of the district court of appeal collects a filing fee of \$300 for each case docketed.²⁴ Of the \$100 circuit court fee, \$80 is retained by the clerk and \$20 is deposited into the General Revenue Fund.²⁵ Of the district court filing fee, \$50 is deposited into the State

¹⁶ Similarly, the State Constitution does not allow the Legislature to authorize a party to take an interlocutory appeal of an order of a circuit court to a district court of appeal. Any statute purporting to grant the right to take an interlocutory appeal is merely a declaration of legislative policy and is ineffective to accomplish its purpose; only if the Florida Supreme Court incorporates the statutory language into the appellate rules can appellate jurisdiction be broadened.

Osceola County v. Best Diversified, Inc., 830 So. 2d 139, 140-41 (Fla. 3d DCA 2002) (citing *State v. Gaines*, 770 So. 2d 1221 (Fla. 2000); *State v. Smith*, 260 So. 2d 489 (Fla. 1972)).

¹⁷ See *Fieselman v. State*, 566 So. 2d 768, 770 (Fla. 1990).

¹⁸ See Sebastien Rogers, *The Chasm in Florida Appellate Law: Intra-Circuit Conflicting Appellate Decisions*, Vol. 92, No. 4 FLA. BAR J. 52 (Apr. 2008).

¹⁹ Fla. R. Civ. P. 9.331.

²⁰ *Id.*

²¹ Rogers, *supra* n. 15.

²² Section 28.241(2), F.S.

²³ *Id.*

²⁴ Section 35.22(2)(a), F.S.

²⁵ Page 11 Lines 124-126 Court Clerks and Comptrollers 2019 Distribution Schedule

https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull113_Attach_2_2019_Dist.pdf (last visited March 2, 2020).

Courts Revenue Trust Fund and the remaining \$250 is deposited into the State Treasury to be credited to the General Revenue Fund.²⁶

III. Effect of Proposed Changes:

Official Headquarters of Judicial Officers

The bill provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

The sections of the bill related to judicial headquarters take effect July 1, 2020.

Jurisdiction of Courts

This bill transfers to the district courts of appeal the jurisdiction to hear appeals of decisions of county courts in civil and criminal cases. Under current law, these appeals are heard by circuit courts. The bill is based on the recommendations of a recent report by the Judicial Management Council's Workgroup on Appellate Review of County Court Decisions. The specific changes made by each section of the bill are described below.

Jurisdiction of the circuit court (s. 26.012, F.S.)

The changes made by section 1 broadly eliminate the authority of the circuit courts to hear appeals from county courts in civil and criminal cases. Circuit courts, however, retain jurisdiction to hear appeals from final administrative orders of local code enforcement boards and to hear appeals and review other matters as expressly provided by law. By operation of

²⁶ Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction on appeals from final orders of county courts in civil and criminal cases by default.

Certification of questions to district court of appeal (s. 34.017, F.S.)

Currently s. 34.017, F.S., authorizes a county court to certify important questions to a district court of appeal in a final judgment. The district court has absolute discretion to answer the certified question or transfer the case back to the circuit court having appellate jurisdiction.

As amended by the bill, s. 34.017, F.S., a county court may certify important questions to a district court of appeal only in a final judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

Review of judgment or order certified by county court to be of great public importance (s. 35.065, F.S.)

Currently s. 35.065, F.S., allows a district court of appeal to review any order or judgment of a county court which is certified by the county court to be of great public importance.

As amended by the bill, s. 35.065, F.S., a district court of appeal may review an order or judgment of a county court that is certified to be of great public importance only in an order or judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

Courts of appeal (s. 924.08, F.S.)

This section repeals a statute that gives jurisdiction to circuit courts to hear appeals of judgments in misdemeanor cases.

The sections of the bill related to jurisdiction of courts take effect January 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:

None.

C. Government Sector Impact:**Official Headquarters of Judicial Officers**

The bill amends an existing statute that authorizes the payment of travel expenses for eligible justices who travel between an alternate headquarters and the Supreme Court's headquarters. As part of the Fiscal Year 2018-2019 General Appropriations Act (Specific Appropriation 3129, s. 7, ch. 2018-9, Laws of Fla.), the Legislature appropriated \$209,930 in recurring funds for reimbursement of such travel expenses by justices. Thus, the judicial branch's base budget includes funding for this purpose. The State Courts System does not anticipate that the refinements to the existing statute related to the reimbursement of additional expenses incurred on work-related trips for Supreme Court justices will necessitate additional funding.

The bill also creates comparable statutory authority to reimburse eligible district court of appeal judges for travel between an alternate headquarters and the headquarters of the court. As part of its Fiscal Year 2020-2021 legislative budget request, the judicial branch requested \$125,000 in recurring funds for travel reimbursement for eligible district court of appeal (DCA) judges. Currently, SB 2500, the Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$125,000 recurring General Revenue funds for this purpose.

Jurisdiction of Courts

The revenue impact to various funds based on the differences in the appellate filing fees described in the "Present Situation" are expected to result in a negative revenue impact to the Clerks of Court Trust Fund and a positive impact to the State Courts Revenue Trust Fund and the General Revenue Fund.²⁷

²⁷ Office of State Courts Administrator, *2020 Judicial Impact Statement for CS/SB 1510* (Feb. 6, 2020) (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

Estimated Impact in Filing Fee Revenue Generated by Changing the County Court Appellate Process

| | Fee Distribution | Revenue Impact Based on 1,836 Appellate Cases |
|---|------------------|---|
| Revenue Generating Appellate Cases Filed in District Court of Appeal | | |
| Clerks of Court | \$80.00 | \$146,896 |
| State Courts Revenue Trust Fund | \$50.00 | \$91,810 |
| General Revenue | \$270.00 | \$495,775 |
| Total | \$400.00 | \$734,482 |
| Revenue Generating Appellate Cases Filed in Circuit Court | | |
| Clerks of Court | \$260.00 | \$477,413 |
| State Courts Revenue Trust Fund | \$1.00 | \$1,836 |
| General Revenue | \$20.00 | \$36,724 |
| Total | \$281.00 | \$515,973 |
| Difference | | |
| Clerks of Court | | -\$330,517 |
| State Courts Revenue Trust Fund | | \$89,974 |
| General Revenue | | \$459,051 |
| Total | | \$218,508 |

These estimates were derived based on the following Fiscal Year 2018-2019 eligible filings currently appealed to a circuit court. This is likely a worse-case estimate. Also, as more issues become settled in the district courts, the number of appeals are expected to trend downward.

| FY 2018-2019 Eligible Filings Appealed to a Circuit Court | | | |
|--|--|--|--|
| Threshold | Criminal (501 cases less 27.48% of cases filed by an indigent person) | Civil (1,609 cases less 8.46% of cases filed by an indigent person) | Criminal and Civil Appeals FY 2019-19 |
| County Civil and Criminal Cases Up to \$15,000 (current law in FY 2018-19) | 363 | 1,473 | 1,836 |

Jurisdiction Workload Impact

Courts

The jurisdictional changes in the bill will result in some level of increased workload for the DCAs. Assuming the number of appeals remains the same, at least in the beginning of

the jurisdictional change, the courts indicated a need for Other Personal Services (OPS) staff as follows:

12-Month Funding Need

Six OPS Positions (five appellate staff attorneys and one deputy clerk III)
Salaries & Benefits: \$417,421
HR Services: \$1,218
Total: \$418,639 (recurring)

However, the bill will also lead to a decrease in the workloads of the circuit courts. Additionally, conforming amendments to the Florida Rules of Civil Procedure, Appellate Procedure, Judicial Administration, and other rules of court would be required upon passage.

Public Defenders

The public defenders do not anticipate the need for additional resources at this time. A realignment of resources may be required at a later date between the trial and appellate entities.

State Attorneys and the Department of Legal Affairs

The state attorneys are responsible for handling appeals of county court decisions in criminal cases to circuit courts. Pursuant to Section 16.01(4), Fla. Stat. the Criminal Appeals Division of the Office of the Attorney General is the sole government entity that handles all criminal appeals arising from judgments and sentences entered by the state trial courts. Because the bill provides for the appeals from county courts to bypass circuit courts, the bill will increase the appellate workload of the Department of Legal Affairs (DLA). The DLA believes that their Criminal Appeals Division could initially absorb a yearly increase of 500 cases generated from the changes to the appellate court jurisdictions. However, if the numbers of appeals increase based on more recent data and additions to the types of cases or increases in certified cases to the district courts caseloads, reconsideration of personnel needs could be required. To minimize this workload shift, the Legislature may wish to consider whether state attorneys should remain responsible for some or all of the appeals originating from county courts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 25.025, 26.012, 27.51, 27.511, 34.017, and 35.065.

This bill creates section 35.051 of the Florida Statutes.

This bill repeals section 924.08 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/CS by Appropriations on March 3, 2020:

The committee substitute makes a technical change to correct the placement of the reference to “branch headquarters,” so that it is consistent with other references in the bill.

The committee substitute also incorporates the changes to court jurisdiction limits from PCS/CS SB 1510. These changes include:

- Broadly eliminating the authority of the circuit courts to hear appeals from county courts in civil and criminal cases. Circuit courts, however, retain jurisdiction to hear appeals from final administrative orders of local code enforcement boards and to hear appeals and review other matters as expressly provided by law. By operation of Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction on appeals from final orders of county courts in civil and criminal cases by default;
- Allowing a county court to certify important questions to a district court of appeal only in a final judgment that is appealable to a circuit court;
- Allowing a district court of appeal to review any order or judgment of a county court which is certified by the county court to be of great public importance; and
- Repealing a statute that gives jurisdiction to circuit courts to hear appeals of judgments in misdemeanor cases.

Additionally, the title of the bill is amended to, “An act relating to courts.”

CS by Judiciary on January 21, 2020:

The committee substitute authorizes the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the committee substitute specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

B. Amendments:

None.

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

By the Committee on Judiciary; and Senator Simmons

590-02413-20

20201392c1

A bill to be entitled

An act relating to official headquarters of judicial officers; amending s. 25.025, F.S.; revising provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; authorizing the Chief Justice of the Supreme Court to establish certain parameters in administering the act; providing for construction; creating s. 35.051, F.S.; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; providing restrictions; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; requiring the Chief Justice to coordinate with certain officials in implementing the act; providing that a county is not required to provide space for a judge in a county courthouse; authorizing counties to enter into agreements with a district court of appeal for use of county courthouse space; prohibiting a district court of appeal from using state funds to lease space to establish a judge's official headquarters; authorizing the Chief Justice to establish certain parameters in administering the act; providing for construction; providing an effective date.

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

Page 1 of 5

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

590-02413-20

20201392c1

Section 1. Section 25.025, Florida Statutes, is amended to read:

25.025 Headquarters.—

(1) (a) A Supreme Court justice who permanently resides outside Leon County is eligible for the designation of ~~shall, if he or she so requests, have~~ a district court of appeal courthouse, a county courthouse, or another appropriate facility in his or her district of residence ~~designated~~ as his or her official headquarters for purposes of ~~pursuant to~~ s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b) 1. A justice for whom an official headquarters is designated in his or her district of residence under this subsection is eligible for subsistence at a rate to be established by the Chief Justice for each day or partial day that the justice is at the headquarters of the Supreme Court to Building for the conduct court of the business, as authorized by the Chief Justice of the court. The Chief Justice may authorize a justice to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 and subsistence at a fixed rate prescribed by the Chief Justice.

2. In addition to ~~the~~ subsistence allowance, a justice is eligible for reimbursement for travel ~~transportation~~ expenses as provided in s. 112.061(7) and (8) for travel between the justice's official headquarters and the headquarters of the Supreme Court to Building for the conduct court of the business of the court.

Page 2 of 5

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

590-02413-20

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59 (c) Payment of subsistence and reimbursement for travel
 60 ~~transportation~~ expenses ~~relating to travel~~ between a justice's
 61 official headquarters and the headquarters of the Supreme Court
 62 ~~shall~~ ~~Building must~~ be made to the extent that appropriated
 63 funds are available, as determined by the Chief Justice.

64 (2) The Chief Justice shall coordinate with each affected
 65 justice and other state and local officials as necessary to
 66 implement subsection (1) ~~paragraph (1)(a)~~.

67 (3) (a) This section does not require a county to provide
 68 space in a county courthouse for a justice. A county may enter
 69 into an agreement with the Supreme Court governing the use of
 70 space in a county courthouse.

71 (b) The Supreme Court may not use state funds to lease
 72 space in a district court of appeal courthouse, county
 73 courthouse, or other facility to allow a justice to establish an
 74 official headquarters pursuant to subsection (1).

75 (4) The Chief Justice may establish parameters governing
 76 the authority provided in this section, including, but not
 77 limited to, specifying minimum operational requirements for the
 78 designated headquarters, limiting the number of days for which
 79 subsistence and travel reimbursement may be provided, and
 80 prescribing activities that qualify as the conduct of court
 81 business.

82 (5) If any term of this section conflicts with s. 112.061,
 83 this section shall control to the extent of the conflict.

84 Section 2. Section 35.051, Florida Statutes, is created to
 85 read:

86 35.051 Subsistence and travel reimbursement for judges with
 87 alternate headquarters.-

590-02413-20

20201392c1

88 (1) (a) A district court of appeal judge is eligible for the
 89 designation of a county courthouse or another appropriate
 90 facility in his or her county of residence as his or her
 91 official headquarters for purposes of s. 112.061 if the judge
 92 permanently resides more than 50 miles from:

93 1. The appellate district's headquarters as prescribed
 94 under s. 35.05(1), if the judge is assigned to such
 95 headquarters; or

96 2. The appellate district's branch headquarters established
 97 under s. 35.05(2), if the judge is assigned to such branch
 98 headquarters.

99
 100 The official headquarters may serve only as the judge's private
 101 chambers.

102 (b) 1. A district court of appeal judge for whom an official
 103 headquarters is designated in his or her county of residence
 104 under this subsection is eligible for subsistence at a rate to
 105 be established by the Chief Justice for each day or partial day
 106 that the judge is at the headquarters or branch headquarters of
 107 his or her appellate district to conduct court business, as
 108 authorized by the chief judge of that district court of appeal.
 109 The Chief Justice may authorize a judge to choose between
 110 subsistence based on lodging at a single-occupancy rate and meal
 111 reimbursement as provided in s. 112.061 and subsistence at a
 112 fixed rate prescribed by the Chief Justice.

113 2. In addition to subsistence, a district court of appeal
 114 judge is eligible for reimbursement for travel expenses as
 115 provided in s. 112.061(7) and (8) for travel between the judge's
 116 official headquarters and the headquarters or branch

590-02413-20

20201392c1

117 headquarters of the appellate district to conduct court
118 business.

119 (c) Payment of subsistence and reimbursement for travel
120 expenses between the judge's official headquarters or branch
121 headquarters and the headquarters of his or her appellate
122 district shall be made to the extent that appropriated funds are
123 available, as determined by the Chief Justice.

124 (2) The Chief Justice shall coordinate with each affected
125 district court of appeal judge and other state and local
126 officials as necessary to implement subsection (1).

127 (3) (a) This section does not require a county to provide
128 space in a county courthouse for a district court of appeal
129 judge. A county may enter into an agreement with a district
130 court of appeal governing the use of space in a county
131 courthouse.

132 (b) A district court of appeal may not use state funds to
133 lease space in a county courthouse or other facility to allow a
134 district court of appeal judge to establish an official
135 headquarters pursuant to subsection (1).

136 (4) The Chief Justice may establish parameters governing
137 the authority provided in this section, including, but not
138 limited to, specifying minimum operational requirements for the
139 designated headquarters, limiting the number of days for which
140 subsistence and travel reimbursement may be provided, and
141 prescribing activities that qualify as the conduct of court
142 business.

143 (5) If any term of this section conflicts with s. 112.061,
144 this section shall control to the extent of the conflict.

145 Section 3. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 14, 2020

I respectfully request that **Senate Bill 1392**, relating to Official Headquarters of Judicial Officers, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Simmons".

Senator David Simmons
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 3, 2020

Meeting Date

CS/SB 1392

Bill Number (if applicable)

158828

Amendment Barcode (if applicable)

Topic Official Headquarters of Judicial Officers

Name Lisa Kiel

Job Title State Courts Administrator

Address 500 South Duval Street

Street

Tallahassee

City

FL

State

32399

Zip

Phone 850-922-5081

Email osca@flcourts.org

Speaking: For Against Information

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

Representing State Courts System

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)

March 3, 2020

Meeting Date

CS/SB 1392

Bill Number (if applicable)

Topic Official Headquarters of Judicial Officers

Amendment Barcode (if applicable)

Name Hon. Clay Roberts

Job Title Judge, First District Court of Appeal

Address 2000 Drayton Drive

Phone 850-487-1000

Street

Tallahassee

FL

32399

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing District Court of Appeal Budget Commission

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)

March 3, 2020

Meeting Date

CS/SB 1392

Bill Number (if applicable)

Topic Official Headquarters of Judicial Officers

Amendment Barcode (if applicable)

Name Lisa Kiel

Job Title State Courts Administrator

Address 500 South Duval Street

Phone 850-922-5081

Street

Tallahassee

FL

32399

Email osca@flcourts.org

City

State

Zip

Speaking: For Against Information

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

Representing State Courts System

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1404 (863198)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senator Perry

SUBJECT: Department of Financial Services

DATE: February 26, 2020

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|-------------------|----------------|------------|--------------------------|
| 1. <u>Palecki</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. <u>Sanders</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Fav/CS</u> |
| 3. <u>Sanders</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1404 amends sections of Florida Statutes governing the following Department of Financial Services (DFS) Divisions: Investigative and Forensic Services; Public Assistance Fraud; Funeral, Cemetery, and Consumer Services; and State Fire Marshal. The bill:

- Prohibits employees who fall under the State Risk Management Trust Fund from engaging in retaliatory conduct against a sexual harassment victim;
- Provides that willful and knowing dissemination of certain identifying information of a sexual harassment victim is a misdemeanor of the first degree;
- Designates the Division of Public Assistance Fraud a criminal justice agency;
- Amends the composition requirements of the Board of Funeral, Cemetery, and Consumer Services; clarifies member requirements; amends the definition of “quorum” to enable ease of business; removes term staggering requirements; and clarifies rulemaking responsibilities;
- Clarifies and provides grounds for disqualification of death care licensure applicants based on criminal history;
- Amends provisions for criminal background checks for Funeral, Cemetery and Consumer Services applicants;
- Prohibits specific unlicensed funeral activity and increases the penalty to a third-degree felony;
- Increases criminal penalties associated with unlicensed funeral activity;

- Updates the definition of “two-component explosive” to reflect changes in the marketplace;
- Revises the provisions concerning notice to a purchaser of a preneed contract and changes how funds are distributed if the purchaser does not respond to written notice from the licensee;
- Amends continuing education requirements for individuals licensed to solicit, sell, or adjust insurance in the state;
- Allows contractors to begin repairs on a previously permitted fire alarm prior to receiving a permit to do so, yet maintains that such repair will not be compliant until permitted and approved;
- Extends the expiration date for exemptions that allow doorstep refuse and recycling collection containers in apartments with enclosed corridors under certain circumstances;
- Amends the Fire and Emergency Incident Information Reporting Program by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider;”
- Eliminates a fire protection sprinkler system contractor designation and increases the number of sprinklers that can be relocated, added or deleted;
- Revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel and the Firefighters Employment, Standards and Training Council;
- Requires those seeking a license to install or maintain a fire protection system, to successfully complete a prescribed training course, to include both written and practical training, and requires such training to be offered at the State Fire College;
- Creates parity between residential and high rise apartment buildings and extends assessment and compliance deadlines by three years with regards to minimum radio signal strength for fire department communications and two-way radio systems;
- Prohibits influencing a firesafety inspector to violate applicable law through threats, coercion, trickery, or compensation, and prohibits a firesafety inspector from knowingly and willingly accepting such an attempt;
- Allows fire service providers to hire volunteer firefighters, and allow them to continue to function in a volunteer firefighter capacity for the first year of employment while they obtain career firefighter certifications;
- Expands the applicability of criminal penalties for impersonation of investigators and personnel of the DFS; and
- Renames the Florida Blockchain Task Force, incorporates financial technology, and extends the report date from March 21, 2020 to January 31, 2021.

The bill does not impact state revenues or expenditures; however, as to the criminal penalties created by the bill, the Criminal Justice Impact Conference (CJIC) has not yet adopted a prison bed impact for this legislation and the fiscal impact relating to those penalties is indeterminate.

The effective date is July 1, 2020.

II. Present Situation:

The Department of Financial Services (DFS) is statutorily responsible for:

- Carrying out the state's accounting and auditing functions; including preparing the state's Comprehensive Annual Financial Report, monitoring state contracts, and making payment for state expenditures;
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use;
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities;
- Managing the state Treasury and directing safekeeping and the investment of all state funds;
- Managing the deferred compensation program for state employees;
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state;
- Regulating cemeteries and funeral homes;
- Licensing and oversight of insurance agents and agencies;
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner;
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services; and
- Collecting and returning unclaimed property belonging to Florida residents.¹

The DFS is composed of the following divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.²

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (PAF) is responsible for enforcing state laws regarding program eligibility and proper use of public assistance benefits. PAF is responsible for investigating allegations of fraud related to the Cash Assistance/Temporary Assistance for Needy Families (TANF) program, the Supplemental Nutritional Assistance Program (SNAP); Medicaid

¹ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/sitepages/required/agencyorg.aspx> (last visited January 30, 2020).

² Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited January 30, 2019)

recipients; disaster assistance/emergency benefits; the School Readiness and Voluntary Pre-Kindergarten programs; and Social Security Disability benefits.³

PAF has operated as a criminal justice agency since its inception in 1972. However, when the Division of Investigative and Forensic Services (DIFS) was created in 2016, under ch. 20, F.S., PAF was not designated as a criminal justice agency⁴, thereby limiting access to information within criminal records systems. Under Florida law, a criminal justice agency is defined, in part, as any governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.^{5,6} PAF currently operates, in part, as a criminal justice agency. However, current statute does not appropriately reflect this designation.

State Risk Management

The State Risk Management Trust Fund (Fund) is administered by the DFS and is a self-insurance fund.⁷ The Fund provides various types of insurance to all departments of the State of Florida, including their employees, agents, and volunteers.⁸ The Fund provides the following insurance coverage:

- Property Claims, to include:⁹
 - Loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage;
 - Loss from removal of personal property from such properties when endangered by covered perils;
 - Flood insurance to the extent necessary to meet self-insurance requirements under the National Flood Insurance Program;
 - All buildings, whether financed in whole or in part by revenue bonds or certificates, and the contents thereof of any other buildings leased or rented by the state, to include manufactured homes and contents;
 - Rental value insurance is provided to indemnify the state or its agencies for loss of income when such rental income insurance is required to be carried by bonding or revenue certificates or resolutions; and

³ Division of Public Assistance, <https://myfloridacfo.com/Division/PAF/> (last visited January 16, 2020).

⁴ Department of Financial Services, *Legislative Bill Analysis of SB 1404* (January 14, 2020) (on file with Senate Banking and Insurance Committee).

⁵ Section 943.045(11)(e), F.S. *See also*: s. 943.045(2), F.S.; the term “administration of criminal justice” means “performing functions of detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies.”

⁶ Section 943.045(11)(a)-(e), F.S., defines a criminal justice agency as a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, which investigates the crime of crimes of abuse and neglect, and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule court and that allocates a substantial part of its annual budget to the administration of criminal justice.

⁷ Section 284.30, F.S.

⁸ Section 284.31, F.S.

⁹ Section 284.01, F.S.

- Rental value insurance is also provided to indemnify the state or its agencies for loss of income from those buildings operated and maintained by the Department of Management Services from the Supervision Trust Fund;
- Casualty Claims, to include: ¹⁰
 - Workers' Compensation;
 - General Liability:
 - Premises and Operations
 - Personal Injury; and
 - Professional Malpractice Liability;¹¹
 - Fleet Automotive Liability;
 - Federal Civil Rights Actions under 42 U.S.C. s. 1983 or similar federal statutes; and
 - Court-awarded fees in other proceedings against the state, except for such awards in eminent domain or for inverse condemnation or awards by the Public Employees Relations Commission.

Separate accounts must be kept for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. 1983 or similar federal statutes, and court-awarded attorney's fees barring exceptions.¹²

Each entity covered by the Fund must develop and implement a loss prevention program,¹³ provide for regular and periodic facility and equipment inspections,¹⁴ investigate job-related employee accidents,¹⁵ and establish a program to promote increased safety awareness among employees.¹⁶ The Division of Risk Management, within the DFS, provides loss prevention services and technical assistance to state agencies and universities for managing risk.¹⁷

Premiums, as calculated on all coverages, are billed and charged to each state agency according to coverages obtained from the Fund.^{18, 19} All premiums paid into the Fund and all moneys received from the Fund from investment or any other source is held by the DFS for the purpose of paying: losses, expenses incurred in adjustment of losses, premiums for reinsurance, risk and claims management and operating expenses.^{20, 21}

¹⁰ Section 284.30, F.S.

¹¹ Department of Financial Services, Division of Risk Management, *Insurance Coverage Provided*, <https://www.myfloridacfo.com/Division/Risk/liability/LiabilityInsuranceCoverage.htm> (last visited February 19, 2020).

¹² Section 284.31, F.S.

¹³ Section 284.50(1)(a), F.S.

¹⁴ Section 284.50(1)(b), F.S.

¹⁵ Section 284.50(1)(c), F.S.

¹⁶ Section 284.50(1)(d), F.S.

¹⁷ Department of Financial Services, Division of Risk Management, *Welcome to the Division of Risk Management*, <https://www.myfloridacfo.com/Division/Risk/> (last visited February 19, 2020).

¹⁸ Section 284.02(1), F.S.

¹⁹ Section 284.36, F.S.

²⁰ Section 284.02(2), F.S.

²¹ Section 284.37, F.S.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (Board) within the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services. The board acts as the licensing authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.²²

Currently, the board must have 10 members; one member must be the State Health Officer, or their designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.²³ The composition of the board must be as follows:

- The State Health Officer.
- Two funeral directors who are:
 - Licensed under part III of ch. 497, F.S., as funeral directors, and
 - Associated with a funeral establishment;
- One funeral director who is:
 - Licensed under part III of ch. 497, F.S.,
 - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
 - Operates a incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
 - Are residents of Florida;
 - Have never been licensed funeral directors or embalmers;
 - Are not connected with a cemetery or licensed cemetery company;
 - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
 - At least one of which is at least 60 years of age; and
 - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Members must not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.²⁴ The DFS reports that the CFO often does not receive a sufficient amount of applications to fill member positions.²⁵ For example, the

²² See s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

²³ Section 497.101(1), F.S.

²⁴ Section 497.101(2), F.S.

²⁵ See *Supra* note 4.

position that must be filled by a certified public accountant has remained vacant since September 2017.²⁶

Board members are appointed for four-year terms, except for the State Health Officer, who serves as long as they hold office.²⁷ The CFO is authorized to stagger the terms of members after the terms of the initial members expire.²⁸ The terms have already been staggered at the initiation of the board.²⁹

A quorum is necessary to conduct the business of the board. A quorum consists of six members of the board.³⁰ The DFS indicates that it can be difficult to obtain this number due to board vacancies, absenteeism, and necessary recusal.³¹

The DFS is required to adopt rules regarding application forms and procedures for appointment to the board.³²

Disqualification of Licensure Applicants

Section 497.142(10), F.S., requires all licensure and licensure renewal applicants to disclose criminal history. The following crimes must be disclosed:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;
- Any other felony committed within 20 years preceding the application; and
- Any other misdemeanor committed within five years preceding the application.

Licensing Background Checks

Applicants for licensure under ch. 497, F.S., relating to Funeral, Cemetery, and Consumer Services, must provide certified true copies of any crime committed in any jurisdiction, within the 10 years preceding their application, in order to deem the application complete.³³ Currently, regardless of adjudication, disclosure of the following crimes is required:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;³⁴
- Any other felony that was committed within the 20 years immediately preceding the application under this chapter;³⁵ and

²⁶ *Id.*

²⁷ Section 497.101(3), F.S.

²⁸ *Id.*

²⁹ *See Supra* note 4.

³⁰ Section 497.101(6), F.S.

³¹ *See Supra* note 4.

³² *Id.*, s. 497.103(2)(c), F.S.

³³ Section 497.142(9), F.S.

³⁴ Section 497.142(10)(c)1., F.S.

³⁵ Section 97.142(10)(c)2., F.S.

- Any other misdemeanor that was committed within the five years preceding the application under this chapter.³⁶

Unlicensed Practice

Chapter 497, F.S., requires individuals to maintain a license for specified death care industry practices. The DFS is authorized to issue administrative complaints against entities believed to be in violation of licensure requirements.³⁷ Section 497.159, F.S., provides for criminal penalties; unlicensed activity is a second degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.³⁸

Preneed Contract – Notice to Purchaser

A preneed contract is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.³⁹ To ensure performance of unfulfilled preneed contracts, a preneed licensee must provide written notice to the purchaser or the beneficiary's legally authorized person, with the intent to distribute funds in accordance with the terms of the contract if:

- Fifty years have passed since the date of the preneed contract execution;⁴⁰
- The beneficiary of the preneed contract reaches the age of 105 or older;⁴¹ or
- The social security number of the beneficiary, as shown on the contract, is contained within the United States Social Security Administration Death Master File.⁴²

This written notice must be provided by certified mail, registered mail, or permitted delivery service, return receipt requested.⁴³ Currently, the purchaser or the beneficiary's legally authorized person must respond to such notice within 120 days after delivery, otherwise the funds held in trust will be distributed in accordance with the terms of the preneed contract, the trust agreement, and any applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property.

Continuing Education Requirements

Individuals licensed to engage in the sale of insurance or adjustment of insurance claims in this state are required to fulfill continuing education requirements, pursuant to s. 626.2815, F.S. Currently, licensees, except title insurance agents, are required to complete a 5-hour update course every two years, specific to the license they hold.⁴⁴ Unless otherwise provided, licensees must also complete 19 hours of elective continuing education courses every two years.⁴⁵ If a licensee has been licensed for six years or more, this requirement drops to 15 hours.⁴⁶ An

³⁶ Section 497.142(10)(c)3., F.S.

³⁷ Section 497.157(2), F.S.

³⁸ Section 497.159(6), F.S.

³⁹ Section 497.005(61), F.S.

⁴⁰ Section 497.459(7)(a)1., F.S.

⁴¹ Section 497.459(7)(a)2., F.S.

⁴² Section 497.459(7)(a)3., F.S.

⁴³ Section 497.459(7)(b)1., F.S.

⁴⁴ Section 626.2815(3), F.S.

⁴⁵ Section 626.2815(3)(a), F.S.

⁴⁶ Section 626.2815(3)(b), F.S.

individual subject to chapter 648, F.S., relating to bail bond agents, is required to complete a 5-hour update course and a minimum of 9 hours of elective continuing education courses every two years.⁴⁷

If continuing education requirements are not met, DFS has the authority to immediately terminate or refuse to renew the appointment of an agent or adjuster, following notification from DFS, unless an extension or waiver has been granted.⁴⁸

State Fire Marshal

Explosives

Chapter 552, F.S., sets forth the requirements to lawfully engage in the business of a manufacturer-distributor, or to acquire, sell, possess, store, or engage in the use of explosives in this state. The chapter's current definition of a two-component explosive requires the use of a "No. 6 blasting cap" for detonation.⁴⁹ No. 6 blasting caps went out of production several years ago and current blasting caps no longer use the same rating system.⁵⁰

Uniform Fire Alarm Permit Application

Contractors are required to file a Uniform Fire Alarm Permit Application with a local law enforcement agency, and must receive the permit before installing, replacing, or repairing an existing fire alarm that was previously permitted by the local enforcement agency, if the local enforcement agency requires a permit for the repair.⁵¹

Doorstep Refuse and Recycling Collection

The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules.⁵² The State Fire Marshal adopts a new edition of the Fire Code every three years.⁵³ The 6th edition of the Fire Code took effect on January 1, 2018.

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code⁵⁴ requirements in s. 633.208, F.S., as long as they do not conflict with ch. 633, F.S., relating to fire prevention and control, or any other state law.⁵⁵

⁴⁷ Section 626.2815(3)(e), F.S.

⁴⁸ Section 626.2815(9), F.S.

⁴⁹ Section 552.081(13), F.S.

⁵⁰ See *Supra* note 4.

⁵¹ Section 553.7921(1)(b), F.S.

⁵² Chapter 69A-60, F.A.C.

⁵³ Section 633.202, F.S.

⁵⁴ Sections 633.108 and 633.208, F.S.

⁵⁵ Sections 633.208 and 633.214(4), F.S.

Residents of apartment buildings may place combustible waste and refuse in exit access corridors in apartment buildings if the following conditions are met:

- Doorstep refuse and recycling collection containers do not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste, which is in a doorstep refuse and recycling collection container, is not placed in an exit access corridor for a single period greater than five hours;
- Doorstep refuse and recycling collection containers are not in an exit access corridor for a single period greater than 12 hours for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not reduce the exit access corridor's width below the width required by the Fire Code;
- Doorstep refuse and recycling collection containers are able to stand upright on their own and may not leak fluids when standing upright; and
- The apartment's management staff have written policies and procedures to ensure compliance with the above conditions. Management staff must enforce the policies and must provide a copy of the policies to the authority having jurisdiction upon request.⁵⁶

Currently, this provision expires on July 1, 2021.

Fire and Emergency Incident Information Reporting Program

The Florida Fire Incident Reporting System (FFIRS) is located within the Division of State Fire Marshal. The FFIRS was created by rule and is a means for fire protection agencies to report and maintain computerized records of fires and other fire department incidents in a uniform manner.⁵⁷ Annual reports are furnished to the Governor, Legislature and fire protection agencies, and upon request, the public.⁵⁸

Established in 2005, the Fire and Emergency Incident Reporting Program (Program), included the creation of the Fire and Emergency Incident Information Technical Advisory Panel (Panel) and codified FFIRS language. The FFIRS is the Florida coordinating officer for the National Fire Incident Reporting Section (NFIRS)⁵⁹. The NFIRS provides system resources and an overview of the standard national reporting system used by the United States fire departments to report fires and other incidents to which they respond and to maintain records of such incidents in a uniform manner.⁶⁰ The NFIRS provides software and training at no cost to fire departments.⁶¹

The Panel was created to advise, review and make recommendations to the State Fire Marshal. Currently, the membership is comprised of 15 members:

⁵⁶ Section 633.202(20), F.S.

⁵⁷ Department of Financial Services, Division of State Fire Marshal, *Florida Fire and Incident Reporting System*, <https://www.myfloridacfo.com/Division/SFM/FFIRS/> (last visited February 18, 2020).

⁵⁸ Section 633.136, F.S.

⁵⁹ See *supra* note 57.

⁶⁰ U.S. Fire Administration, National Fire Incident Reporting System, <https://www.nfirs.fema.gov/> (last visited February 18, 2020).

⁶¹ See *supra* note 57.

- The thirteen members of Firefighters Employment, Standards, and Training Council;⁶²
- One member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- One member from the Department of Health, appointed by the State Surgeon General.⁶³

Fire Sprinkler Systems

A licensed fire protection engineer or architect, with fire protection design experience, may design any type of fire protection system.⁶⁴ A person certified as a Contractor I,⁶⁵ Contractor II,⁶⁶ or Contractor IV,⁶⁷ under ch. 633, F.S., relating to fire prevention and control, may design fire protection systems of 49 or fewer sprinklers. These designated contractors may also design the alteration of an existing fire sprinkler system, as long as no more than 49 sprinklers are relocated, added, or deleted.⁶⁸

Firesafety Inspectors

Section 633.216, F.S., requires each county, municipality, and special district that has firesafety enforcement responsibilities to employ or contract with a firesafety inspector. Subject to certain exceptions⁶⁹, the firesafety inspector is responsible for conducting all firesafety inspections required by law.⁷⁰ These firesafety inspections include the inspection of buildings and facilities, on a recurring or regular basis, on behalf of the state or any county, municipality, or special district with fire safety responsibilities.⁷¹ The Florida Fire Prevention Code⁷² governs design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules. These local enforcing authorities may adopt more stringent firesafety standards, subject to certain

⁶² See *infra* note 92 and accompanying text.

⁶³ Section 633.136(2), F.S.

⁶⁴ Section 633.102(3), F.S. A fire protection system is defined as “a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire.” Section 633.102(11), F.S.

⁶⁵ “A contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.” Section 633.102(3)(a), F.S.

⁶⁶ “A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.” Section 633.102(3)(b), F.S.

⁶⁷ “A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings.” Section 633.102(3)(d), F.S.

⁶⁸ s. 633.102(3), F.S.

⁶⁹ For example, this requirement does not apply to farm outbuildings or licensed plumbing contractor installed standpipe systems and certain connected items. Section 633.226, F.S.

⁷⁰ Section 633.216(1), F.S.

⁷¹ Section 633.102(12), F.S.

⁷² Chapter 69A-60, F.A.C. The Florida Fire Prevention Code is adopted by the State Fire Marshal, and contains and incorporates by reference all firesafety laws and rules. s. 633.202(1), F.S.

requirements in s. 633.208, F.S., but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.⁷³

The Chief Financial Officer is designated as the “State Fire Marshal.”⁷⁴ In any county, municipality, or special district that does not employ or appoint a firesafety inspector, the State Fire Marshal assumes the duties of the local county, municipality, or independent special fire control district with respect to firesafety inspections of educational property.⁷⁵

A person who violates any provision of ch. 633, F.S., Fire Prevention and Control, any order or rules of the State Fire Marshal, or any order to cease and desist or to correct conditions commits a misdemeanor of the second degree.⁷⁶

It is illegal to impersonate the State Fire Marshal or a firesafety inspector. A person who impersonates either official commits a felony of the third degree, and if the impersonation occurs during the commission of a separate felony, a person commits a felony of the first degree.⁷⁷ Section 468.629, F.S., makes it illegal for a person to influence a building code enforcement official by coercion or compensation.⁷⁸ Any person who commits such acts commits a misdemeanor of the first degree, and, if the person was previously convicted of such act, a felony of the third degree.⁷⁹

Volunteer Firefighter Employment

The National Fire Prevention Association estimates that there were approximately 1,056,200 local firefighters in the United States as of 2017.⁸⁰ Of the total number of firefighters, 35 percent were career firefighters, and 65 percent were volunteer firefighters.⁸¹ Florida has 528 fire departments.⁸² At least 315 Florida fire departments utilize volunteers to sustain operations.⁸³ Approximately 12 million Florida residents depend on volunteer firefighters to protect their communities.⁸⁴ The Firefighter Assistance Grant Program, created in 2016 to improve the emergency response capability of fire departments reliant on volunteer firefighters, provides grant money to such fire departments to provide volunteer firefighter training and procure equipment. In 2018, 29 fire departments were awarded such grants.⁸⁵

⁷³ See Rule 69A-60.002, F.A.C.; s. 633.214(4), F.S.

⁷⁴ Section 633.104(1), F.S.

⁷⁵ Section 633.104(7), F.S.

⁷⁶ Section 633.124(1), F.S.

⁷⁷ Section 633.122, F.S.

⁷⁸ Section 468.629(1)(f) and (g), F.S.

⁷⁹ Section 468.629(2), F.S.

⁸⁰ National Fire Prevention Association, U.S. Fire Department Profile, <https://www.nfpa.org/News-and-Research/Data-research-and-tools/Emergency-Responders/US-fire-department-profile> (last visited January 16, 2020).

⁸¹ *Id.*

⁸² National Fire Prevention Association, *Number of U.S. Fire Departments by State*, <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osNumberOfFireDeptInUS.ashx?la=en> (last visited January 16, 2020).

⁸³ Division of State Fire Marshal, *Florida Volunteer Firefighter Information*, <https://myfloridacfo.com/Division/SFM/VOLFF/default.htm> (last visited January 16, 2020).

⁸⁴ *Id.*

⁸⁵ Division of State Fire Marshal, *FY2018 Florida Firefighter Assistance Grant Award Outcomes*, https://myfloridacfo.com/Division/SFM/VOLFF/FY2018_GrantOutcomes.pdf (last visited January 16, 2020).

Florida fire service providers are currently prohibited from employing an individual to extinguish fires or to supervise those who do unless the individual holds a current and valid Firefighter Certificate of Compliance.⁸⁶ Thus, fire service providers are currently prohibited from employing volunteer firefighters, who hold a Volunteer Firefighter Certificate of Completion.⁸⁷ Volunteer firefighters can enter immediately dangerous to life and health (IDLH) environments. However, if employed by the same department prior to achieving a Firefighter Certificate of Compliance they would not be allowed to enter the IDLH environments they were authorized to enter the day before beginning career employment.⁸⁸

False Personation

Pursuant to s. 843.08, F.S., any person who falsely assumes or pretends to be an officer of a specified type commits a felony of the third degree, a felony of the second degree when committed with another felony, and a felony in the first degree if the felony is the cause of death or personal injury of another individual.⁸⁹ A person who impersonates an officer of the DFS is subject to these criminal penalties.⁹⁰ However, there is no criminal penalty for impersonating an investigator or personnel of the DFS. The DFS employs personnel who are not officers but have access to active criminal cases and conduct criminal investigations.⁹¹

Firefighters Employment, Standards and Training Council (Council)

The Council is comprised of fifteen members and are appointed as follows:

- Two fire chiefs appointed by the Florida Fire Chiefs Association;
- Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association;
- Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal;
- One individual appointed by the Florida League of Cities;
- One individual appointed by the Florida Association of Counties;
- One individual appointed by the Florida Association of Special Districts;
- One individual appointed by the Florida Fire Marshals' and Inspectors' Association;
- One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service;
- One individual appointed by the State Fire Marshal;
- One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal; and
- The remaining member, who shall be appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government.⁹²

⁸⁶ Section 633.416(1)(a), F.S.

⁸⁷ Section 633.408, F.S.

⁸⁸ See *Supra* note 4.

⁸⁹ Section 843.08, F.S., contains a list specifying which types of officers it is unlawful to impersonate. This list includes, but is not limited to, firefighters, sheriffs, officers of agencies, and school guardians.

⁹⁰ Section 843.08, F.S.

⁹¹ See *Supra* note 4.

⁹² Section 633.402(1), F.S.

There are certain eligibility requirements set forth for membership. Members shall serve only as long as they continue to meet the criteria under which they were appointed or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.⁹³ Members are appointed for four year terms and are not eligible to serve more than two consecutive terms⁹⁴ and serve without compensation⁹⁵ but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.⁹⁶

The Council has special powers in connection with the employment and training of firefighters⁹⁷ to recommend for adoption by the Division of State Fire Marshal:

- Uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters;⁹⁸
- Minimum curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters;⁹⁹
- Matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter;¹⁰⁰

In addition, the Council may make or support studies on any aspect of firefighting employment, education, and training or recruitment¹⁰¹ or may make recommendations concerning any matter within its purview pursuant to this section.¹⁰²

Florida Blockchain Task Force

In 2019, the Florida Blockchain Task Force was established within DFS,¹⁰³ to explore and develop a master plan for fostering the expansion of the blockchain industry in the state. Consisting of 13 appointed members, the task force's master plan must do the following: Identify the economic growth and development opportunities presented by blockchain technology;

- Assess the existing blockchain industry in the state;
- Identify innovative and successful blockchain applications currently used by industry and other governments to determine viability for state applications;
- Review workforce needs and academic programs required to build blockchain technology expertise across all relevant industries; and

⁹³ Section 633.402(1)(b), F.S.

⁹⁴ Section 633.402(2), F.S.

⁹⁵ Section 633.402(7), F.S.

⁹⁶ *Id.*

⁹⁷ Section 633.402(9), F.S.

⁹⁸ Section 633.402(9)(a), F.S.

⁹⁹ Section 633.402(9)(b), F.S.

¹⁰⁰ Section 633.402(9)(c), F.S.

¹⁰¹ Section 633.402(9)(d), F.S.

¹⁰² Section 633.402(9)(e), F.S.

¹⁰³ Chapter 2019-140, Laws of Fla.

- Make recommendations to the Governor and the Legislature that will promote innovation and economic growth by reducing barriers to and expediting the expansion of the state's blockchain industry.¹⁰⁴

The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as well as present its findings to the appropriate legislative committees in each house of the Florida Legislature. The report must include the following:

- A general description of the costs and benefits of state and local government agencies using blockchain technology;
- Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation;
- Recommendations for specific implementations to be developed by relevant state agencies;
- Any draft legislation the task force deems appropriate to implement such blockchain technologies;
- Identification of one pilot project that may be implemented in the state; and
- Any other information deemed relevant by the task force.

The report is to be submitted within 180 days after the initial meeting. The task force's initial meeting was September 23, 2019, making the current due date for the report March 21, 2020.

Public Records Law

Overview

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹⁰⁵ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.¹⁰⁶

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.¹⁰⁷ The Public Records Act states:

It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.¹⁰⁸

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

¹⁰⁴ Chapter 2019-140, Laws of Fla.

¹⁰⁵ FLA. CONST., art. I, s. 24(a).

¹⁰⁶ *Id.*

¹⁰⁷ Public records laws are found throughout the Florida Statutes.

¹⁰⁸ Section 119.01(1), F.S.

Legislative and Judicial Records

The Public Records Act does not apply to legislative or judicial records.¹⁰⁹ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

Definition

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.¹¹⁰ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”¹¹¹

Access

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.¹¹² A violation of the Public Records Act may result in civil or criminal liability.¹¹³

Exemptions

The Legislature has the sole authority to create an exemption to public records requirements.¹¹⁴ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹⁵ An exemption serves an identifiable purpose if it meets one of the following statutory purposes, the Legislature finds that the purpose of the exemption outweighs open government policy, and the purpose cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹¹⁶
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹¹⁷ or

¹⁰⁹ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995)

¹¹⁰ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

¹¹¹ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

¹¹² Section 119.07(1)(a), F.S.

¹¹³ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹¹⁴ FLA. CONST., art. I, s. 24(c).

¹¹⁵ *Id.*

¹¹⁶ Section 119.15(6)(b)1., F.S.

¹¹⁷ Section 119.15(6)(b)2., F.S.

- It protects trade or business secrets.¹¹⁸

Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. Additionally, a bill enacting an exemption may not contain other substantive provisions¹¹⁹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²⁰

“Confidential and Exempt” or “Exempt” Designations

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹²¹ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹²²

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹²³ with specified exceptions.¹²⁴ It requires the automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹²⁵ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹²⁶

¹¹⁸ Section 119.15(6)(b)3., F.S.

¹¹⁹ The bill may, however, contain multiple exemptions that relate to one subject.

¹²⁰ FLA. CONST., art. I, s. 24(c) and FLA. CONST., art. X, s. 12(e).

¹²¹ If the Legislature designates a record as confidential, the record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004)

¹²² *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹²³ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹²⁴ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹²⁵ Section 119.15(3), F.S.

¹²⁶ Section 119.15(6)(b), F.S. Section 119.15(6)(a), F.S., asks the Legislature to carefully question the purpose and necessity of reenacting the exemption, and specifically requires that the Legislature consider the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

General Public Records Exemptions for State Agency Personnel

There are three general public records exemptions that apply to all state agency personnel: disclosure of an employee's (1) social security number, (2) medical information, and (3) personal identifying information of dependent children who are insured by an agency group insurance plan.¹²⁷

(1) Social Security Numbers

Social security numbers of all current and former agency personnel are confidential and exempt when held by the employing agency.¹²⁸ An employing agency may only release social security numbers for the following reasons:

- It is required by law.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.¹²⁹

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.¹³⁰ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.¹³¹

(2) Medical Information

An agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. This exemption applies to prospective, current, and former employees.¹³²

(3) Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the children of current and former employees and is also retroactively applied.¹³³

Public Records Exemptions for Enumerated Personnel

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency which holds the employee's information.¹³⁴ Additionally, all of these exemptions have retroactive application.¹³⁵ In order to have such exemption applied to a

¹²⁷ Section 119.071(4)(a) and (b), F.S.

¹²⁸ Section 119.071(4)(a)1., F.S.

¹²⁹ Section 119.071(4)(a), F.S.

¹³⁰ Section 119.071(5)(a)5., F.S.

¹³¹ Section 119.071(5)(a)5.f. and g., F.S.

¹³² Section 119.071(4)(b)1., F.S.

¹³³ Section 119.071(4)(b)2., F.S.

¹³⁴ Section 119.071(4)(d)3., F.S.

¹³⁵ Section 119.071(4)(d)5., F.S.

court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.¹³⁶ Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.¹³⁷

Confidential and Exempt –Alleged Sexual Harassment Victim

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt.¹³⁸ Such information may be disclosed to another governmental entity in the furtherance of its official duties.¹³⁹

Section 119.10(2)(a), F.S. provides that any person who willfully and knowingly violates any provisions of chapter 119 commits a first degree misdemeanor punishable by imprisonment up to one year or a fine up to \$1,000.

III. Effect of Proposed Changes:

Division of Public Assistance Fraud (Sections 1 and 20)

Section 1 amends s. 20.121(2)(f), F.S., to designate the Division of Public Assistance Fraud (PAF) as a criminal justice agency for the purposes of ss. 943.045-943.08, F.S. The designation allows the PAF to continue having access to criminal justice information contained in Florida Crime Information Center (FCIC) and National Crime Center Information Center (NCIC) systems of criminal records when conducting criminal investigations and other law enforcement support functions.¹⁴⁰

Section 20 amends s. 943.045, F.S., to include the PAF in the definition of “criminal justice agency.”

State Risk Management

Section 2 creates s. 284.45, F.S., to define a sexual harassment victim as an individual employed with or being considered for employment with an entity participating in the State Risk Management Trust Fund (FUND), who becomes a victim of workplace sexual harassment within the entity. The bill prohibits individuals working for an entity covered by the Fund from engaging in retaliatory conduct, of any kind, toward a sexual harassment victim. The PCS also prohibits the willful and knowing distribution of personal identifying information of a sexual harassment victim, and specifically provides that personal identifying information includes the victim’s name and his or her:

- Home address;
- Home phone number;
- Cellular phone number;

¹³⁶ Section 119.0714(2)(f) and (3)(f), F.S.

¹³⁷ Section 119.071(4)(d)4., F.S.

¹³⁸ Section 119(2)n, F.S., and s. 24(a), Art. 1 of the State Constitution

¹³⁹ Subject to the Open Government Sunset Review Act and stands repeal on October 2, 2022 unless reviewed and saved from repeal through reenactment by the Legislature.

¹⁴⁰ See *supra* note 4.

- E-mail address;
- Social media account username or uniform resource locator (URL); or
- Any other information that could reasonably be used to identify the alleged sexual harassment victim.

Personal identifying information of a victim may not be distributed to any party other than a government entity, in furtherance of its official duties, or pursuant to a court order. Any violation results in a first degree misdemeanor, punishable as provided in s. 775.082, F.S.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services (Board)

Section 3 amends s. 497.101, F.S., to reduce the minimum number of nominations the Chief Financial Officer (CFO) must make for nine board member positions from three nominations to one. The bill also reduces from three to two the number of positions on the Board that must be filled by consumers who are residents of Florida; have never been licensed funeral directors or embalmers; are not connected with a cemetery or licensed cemetery company nor connected to the death care industry or the practice of embalming, funeral directing, or direct disposition. The Board must also now have a consumer member who is: a resident; a licensed certified public accountant who has never been licensed as a funeral director or embalmer; not a principal or employee of any ch. 497, F.S., licensee; and not otherwise in control (as defined in s. 497.005, F.S.) over any ch. 497, F.S., licensee. This change requires the appointment of a licensed CPA who has some knowledge of and association with, but not a controlling interest in, licensees in the death care industry.

The definition of a “quorum” for the purposes of conducting Board business is amended to constitute a simple majority of eligible members instead of six members.

The section eliminates unnecessary statutory provisions regarding the staggered terms of board members, which have already been established. The statutory change will also eliminate the Department of Financial Services’ (DFS) rulemaking responsibilities concerning the application process, which the DFS asserts is unnecessary, as the Governor makes the appointments.¹⁴¹

Disqualification of Licensure Applicants

Section 4 of the bill creates s. 497.1411, F.S., to provide and clarify grounds for disqualification of licensure applicants based on criminal history. Subsection (1) provides definitions of “applicant,” “felony of the first degree,” “capital felony,” and “financial services business.” Subsection (2) provides an enumerated list of crimes which, if an applicant is found guilty of or pleads nolo contendere to, regardless of adjudication, permanently bars the applicant from licensure under ch. 497, F.S. These crimes are a first degree felony, a capital felony, a felony money laundering offense, or a felony embezzlement.

Subsection (3) provides the following disqualifying periods for other specified crimes:

¹⁴¹ *Id.*

- A 10-year disqualifying period for all felonies involving moral turpitude not subject to a permanent bar on licensure; and
- A five-year disqualifying period for all other felonies and for all misdemeanors directly related to the financial services business, defined as any financial activity regulated by the DFS, the Office of Insurance Regulation, or the Office of Financial Regulation.

These specifications are intended to provide clarity beyond the current statutory scheme, which provides no guidelines to determine whether a specific crime is considered “directly or indirectly related to or involving any aspect of the practice or business” of death care industry functions. The DFS suggests that the lack of clarity and guidance in current statute has led to inconsistencies in recommendations and Board rulings on applications.¹⁴²

Subsection (4) requires the DFS to adopt rules to administer the section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant’s criminal history. The rules must also provide mitigating and aggravating factors, except that mitigation may not result in a disqualification period of less than five years.

Subsection (5) specifies that a disqualifying period begins upon an applicant’s final release from supervision or upon completion of the applicant’s criminal sentence. The subsection further prohibits the DFS from issuing a license unless all related fines, court costs and fees, and court-ordered restitutions have been paid. Subsection (6) places the burden of proof for rehabilitation on the applicant.

Subsection (7) allows the DFS to award a license, despite a conviction, upon a grant of a pardon or restoration of civil rights. Subsection (8) authorizes the Board to grant an exemption from a criminal record related disqualification, and provides standards for mitigating factors. Chapter 120, F.S., provides administrative remedies available to applicants for whom the Board has granted or denied an exemption. Subsection (9) clarifies the disqualification periods provided in this section do not apply to the renewal of a license or to a new licensure application if the applicant has an active license as of July 1, 2020 and the applicable criminal history was considered by the Board on the prior active license approval.

Licensing Background Checks

Section 5 amends s. 497.142, F.S., to require certified true copies of any crime committed in any jurisdiction in order to deem an application complete, regardless of how many years have passed. The bill requires disclosure of all felonies, regardless of when committed and regardless of adjudication. It also requires disclosure of any misdemeanor directly or indirectly related to the financial services business,¹⁴³ no matter when committed.

¹⁴² *Id.*

¹⁴³ The bill defines financial services business as “any financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation.”

Unlicensed Practice

Section 6 of the bill amends s. 497.157, F.S., to increase penalties for unlicensed activity from a misdemeanor to a felony of the third degree. Section 6 also expands unlicensed activity to include acting, advertising, or otherwise holding oneself out to be a funeral director, embalmer, direct disposer, or preneed sales agent, unless currently licensed or appointed as such.

Section 7 of the bill amends s. 497.159, F.S., by removing the second-degree misdemeanor penalty for unlicensed activity under ch. 497, F.S.

Preneed Contract and Notice to Purchaser

Section 8 amends s. 497.459, F.S., to require a preneed licensee to conduct an analysis of his or her preneed contracts at least every three years. The three year period will begin when the first analysis pursuant to this section is conducted, which must occur at least by July 1, 2021. If an analysis finds the contract was executed at least 50 years ago or the beneficiary has reached 105 years of age, the preneed licensee must provide written notice with intent to distribute funds in accordance with the contract. The bill removes the written notice requirement when the social security number of the beneficiary of the contract is contained within the United States Social Security Administration Death Master File. The bill clarifies that such notice is to be provided by the preneed licensee, instead of the trustee.

The bill allows the purchaser or the beneficiary's legally authorized person three years to respond to the written notice. If the purchaser or the beneficiary's legally authorized person fails to respond, the funds held in trust will be distributed within 60 days of the end of the three year period as follows:

- The principle deposited into trust will be remitted to the Unclaimed Property Trust Fund; and
- Any additional funds in trust will be remitted to the preneed licensee.

If funds are distributed from trust, the preneed licensee is absolved of all liability associated with the preneed contract for which the funds were distributed, including any obligation to refund any monies paid by a purchaser. At the time funds are remitted to the Unclaimed Property Trust Fund, the names of the purchaser and beneficiary will be provided to the Division of Unclaimed Property.

The bill clarifies that any purchaser and beneficiary, or legally authorized persons of such, who receives written notice from a preneed licensee, retains all rights to both cancellation and fulfillment between the time of written notice and the distribution of funds. Fulfillment may include identifying a new beneficiary on the preneed contract, which makes the contract effective as of the date of the identification of the new beneficiary.

Explosives

Section 9 updates the definition of "two-component explosives" in s. 552.081, F.S., by removing the requirement of a "No. 6 cap," which is no longer manufactured.

Fire Alarm Permits

Section 10 amends s. 553.7921, F.S., to authorize contractors to begin repairs on existing permitted fire alarms upon filing a Uniform Fire Alarm Permit Application but prior to receiving the permit for the repair. Fire alarms repaired under such circumstances are not considered compliant until the permit is issued and the local law enforcement agency approves the repair.

Continuing Education Requirements

Section 11 amends s. 626.2815, F.S., by lowering the update course requirement to four hours for individuals licensed to solicit, sell, or adjust insurance in the state, barring title insurance agents. The update course is raised to six hours for an individual who holds a license as a customer representative, and who is not a licensed life or health agent. Licensees must complete 20 hours of elective continuing education every two years, and if a licensee has been licensed for six years or more, he or she must complete 16 hours of continuing education every two years. Lastly, individuals who fall under chapter 648, F.S., relating to bail bond agents, are required to complete a four hour update course and a minimum of ten hours of continuing education every two years.

Florida Fire Marshal - Florida Fire Prevention and Control

Fire Sprinkler Systems

Section 12 amends s. 633.102, F.S., to allow a person certified as a Contractor I or a Contractor II to design new fire protection systems of 49 or fewer sprinklers, and to design the alteration of an existing system if it adds 49 or fewer sprinklers. A person certified as a Contractor IV can no longer design or alter fire protection systems. Additionally, the bill allows a Contractor I or II to alter an existing fire sprinkler system, as long as it entails the relocation or deletion of 249 or fewer sprinklers, and such alteration requires no change in occupancy as defined in the Florida Building Code, no change in water demand as defined in National Fire Protection Association Publication (NFPA) No. 13, and the occupancy hazard classification, as defined in NFPA No. 13, is either reduced or remains the same following the alteration.

Fire and Emergency Incident Information Reporting Program

Section 13 amends s. 633.136, F.S., by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider.” This section also revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel (Panel) to:

- Retain 15 members on the Panel;
- Remove one member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- Remove one member from the Department of Health.

Fire services provider is defined as a municipality or county, the state, the division, or any political subdivision of the state, including authorities and special districts, that employs firefighters or uses volunteer firefighters to provide fire extinguishment or fire prevention

services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.¹⁴⁴

Florida Fire Prevention Code

Section 14 amends s. 633.202(18), F.S., to extend the deadlines for certain buildings to comply with requirements for minimum radio strength for fire department communications by three years.

The bill also amends s. 633.202(20), F.S., to extend, by three years, the current expiration of exemptions that allow doorstep refuse and recycling collection containers in apartments with enclosed corridors under certain circumstances.

Influencing a Firesafety Inspector

Section 15 creates s. 633.217, F.S., to prohibit influencing or attempting to influence a firesafety inspector by threatening, coercing, tricking, or offering compensation for the purpose of inducing the firesafety inspector to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Subsection (2) prohibits a firesafety inspector from knowingly and willingly accepting an attempt by a person to influence them into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Section 633.124(1), F.S., provides that any person who violates any provision of ch. 633, F.S., commits a misdemeanor of the second degree. Violations of s. 633.217, F.S., relating to influencing a firesafety inspector carry the criminal penalty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

State Fire College Training

Section 16 amends s. 633.304, F.S., to require any organization or individual engaging in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or preengineered system seeking licensure in this state to complete a prescribed training course that:

- Includes both written and practical training;
- Is offered at the State Fire College; and
- Is approved by the State Fire Marshal, as applicable to the class of license being sought.

Firefighters Employment, Standards and Training Council

Section 17 amends s. 633.402, F.S., to revise the composition of the Firefighters Employment, Standards, and Training Council to include:

- One member appointed by the State Fire Marshal, who may not be a representative of the firefighting profession or of any local government; and
- One individual from the Department of Health, appointed by the Surgeon General.

¹⁴⁴ Fire service provider is defined in s. 633.102, F.S.

Volunteer Firefighter Employment

Section 18 amends s. 633.416, F.S., to authorize fire service providers to employ volunteer firefighters and allow them to act in volunteer firefighter capacity for up to one year under the direct supervision of an individual holding a valid firefighter certificate of compliance while they obtain career firefighter certifications. This will increase the availability of firefighters capable of entering immediately dangerous to life and health (IDLH) environments and protecting their communities. The DFS anticipates that this change will improve rural and small agency recruitment and retention efforts by facilitating the hiring of local candidates who are more inclined to remain in the area instead of hiring candidates from other parts of the state who are inclined to return to their home communities once gaining some experience.¹⁴⁵

False Personation

Section 19 of the bill amends s. 843.08, F.S., to expand the applicability of criminal penalties associated with false personation of a fire or arson investigator of the DFS to any personnel or representative of the Division of Investigative and Forensic Services.

Florida Blockchain Task Force

Section 21 amends ch. 2019-140, L.O.F., to rename the Florida Blockchain Task Force to the “Florida Financial Technology and Blockchain Task Force.” The bill incorporates financial technology throughout the duties of the task force, including a requirement that the task force consider financial technology innovations related to money transmitters¹⁴⁶ and payment instrument sellers.¹⁴⁷ Specifically, this requirement includes consideration of mediums of exchange that are in electronic or digital form, and identifying new products and services that could lead to business growth in the state.

The bill extends the due date for the task force’s report from March 21, 2020, to January 21, 2021. All other aspects of the task force remain unchanged.

Section 22 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁴⁵ See *supra* note 4.

¹⁴⁶ “Money transmitter” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country.” s. 560.103(23), F.S.

¹⁴⁷ “Payment instrument seller” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which sells a payment instrument.” s. 560.103(30), F.S.

B. Public Records/Open Meetings Issues:

To the extent that an email address or social media account username or uniform resource locator may not actually identify a person, this provision may constitute an expansion of the public records exemption which requires a standalone bill and a two-thirds vote to pass.

Vote Requirement

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of each house for final passage of a bill creating an exemption to the public records requirements.¹⁴⁸ This bill may create an exemption for certain information relating to alleged sexual harassment victims, if it does, the bill requires a two-thirds vote of each house to be enacted.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill, in its current form, does not address public necessity for an exemption.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article 1, s. 24(a) of the State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business. This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government. Public records laws are codified in Chapter 119, F.S., the Public Records Act. Section 119.071(2)(n), F.S., makes confidential and exempt from the public disclosure personal identifying information of an alleged victim of sexual harassment. For the purposes of this public records exemption, “personal identifying information” is undefined.

Section 2 of the bill prohibits an individual working for certain agencies from disseminating “personal identifying information” of a sexual harassment victim to any party other than a governmental entity or pursuant to a court order, under threat of criminal punishment. Section 2 of the bill defines “personal identifying information” for

¹⁴⁸ Article X, s. 12(e), of the State Constitution, Rules of Construction, states that a “Vote or other action of a legislative house . . . means the vote or action of a majority or other specified percentage of those members voting on the matter.” Accordingly, this two-thirds vote requirement means a favorable two-thirds vote of the members present and voting for final passage.

the purposes of s. 284.45, F.S., to include the victim's name, home address, home and cellular phone numbers, E-mail address, social media account username or URL, or any other information that could reasonably be used to identify the victim.

In some instances, an e-mail address or social media account information may not, in reality, be personally identifying information under the public records exemption codified in s. 119.071(2)(n), F.S. If that is the case, then the language contained in section 2 of the bill may be viewed as an expansion of the public records exemption. If that is the legislative intent, the Legislature should consider the expanded exemption in a separate bill that otherwise meets the constitutional requirements of an exemption to Art. I, s. 24(a) of the State Constitution – namely a public necessity statement and a two-thirds vote of each chamber of the legislature to be enacting.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures. However, in section 6 of the PCS, s. 497.157, F.S., is amended to increase the criminal penalty to a third degree felony for impersonating a funeral director, embalmer, direct disposer, or a preneed sales agent. Also, in section 19 of the PCS, s. 843.08, F.S., relating to false impersonation is amended by expanding the subjects of false impersonation from fire or arson investigators within the Department of Financial Services to all personnel or representatives of the Division of Investigative and Forensic Services. These changes could increase the number of people subject to a felony penalty, but would seem to be insignificant. The Criminal Justice Impact Conference (CJIC) has not adopted a prison bed impact for this legislation.

VI. Technical Deficiencies:

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt. The bill creates s. 284.45, F.S., which defines "personal identifying information" for sexual harassment victims to include the victim's name, home address, home and cellular phone numbers, E-mail address, social media account username or URL, or any other information that could reasonably be used to identify the victim.

In some instances, an e-mail address or social media account information may not, in reality, be personally identifying information under the public records exemption codified in s. 119.071(2)(n), F.S. If that is the case, then the language contained in the newly created s. 284.45, F.S., may be viewed as an expansion of the public records exemption. If that is the

legislative intent, the Legislature should consider the expanded exemption in a separate bill that otherwise meets the constitutional requirements of an exemption to Art. I, sec. 24(a) of the State Constitution – namely a public necessity statement and a 2/3 vote of each chamber of the legislature to be enacting.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 497.101, 497.142, 497.157, 497.159, 497.459, 552.081, 553.7921, 626.2815, 633.102, 633.136, 633.202, 633.217, 633.304, 633.402, 633.416, 843.08, and 943.045.

The bill substantially amends chapter 2019-140, Laws of Florida.

This bill creates sections 284.45, 497.1411, and 633.217 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.)

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 18, 2020:

The committee substitute:

- Prohibits retaliatory conduct against a sexual harassment victim;
- Prohibits willful and knowledgeable distribution of a victim's personal identifying information and provides criminal penalties for violations;
- Revises the crimes which must be disclosed in order to apply for a license, and deleted conflicting penalties, under ch. 497, F.S., related to Funeral, Cemetery, and Consumer Services;
- Revises provisions concerning notice to purchasers of preneed contracts;
- Adds the ability for a Contractor I or II licensee to alter an existing fire sprinkler system involving 249 or fewer sprinkler heads if there is no change in occupancy of the affected areas, no change in the water demand, and the occupancy hazard classification is reduced or remains the same;
- Extends the current expiration date of July 1, 2021 to July 1, 2024, for provisions that allow residents in apartment buildings to place garbage cans containing combustible waste and refuse in exit access corridors during certain hours;
- Creates parity between residential and high rise apartments for compliance with minimum radio strength for fire department communications and two-way radio system enhancements under the Florida Fire Prevention Code and extended the requirement for assessment and compliance by three years;
- Specifies that training courses offered by the State Fire College must include a written and a practical element and be approved by the State Fire Marshal;

- Revises the Fire and Emergency Incident Information Reporting Program to include a reference to fire service providers; defined the term “fire service providers” and revised the membership of the Fire and Emergency Incident Information System Technical Advisory Panel to delete two state agency members;
- Increases by one the membership of the Firefighters Employment, Standards, and Training Council;
- Revises the continued education hours required for individuals licensed to solicit, sell, or adjust insurance in the state;
- Renames the Florida Blockchain Task Force to the “Florida Financial Technology and Blockchain Task Force;” required the task force to consider financial technology innovations related to money transmitters and payment instrument sellers; and extended the expiration date of the task force to January 31, 2021.

CS by Banking and Insurance on January 21, 2020:

Creates s. 633.217, F.S., prohibiting the act of threatening, coercing, tricking, or attempting to threaten, coerce, or trick, or bribe a firesafety inspector for the purpose of influencing or inducing the firesafety officer to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any other provision of ch. 633, F.S., which governs Fire Prevention and Control.

B. Amendments:

None.



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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RS | . | |
| 03/04/2020 | . | |
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The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (f) of subsection (2) of section
20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a
Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall
consist of the following divisions and office:



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11 (f) The Division of Public Assistance Fraud, which shall
12 function as a criminal justice agency for purposes of ss.
13 943.045-943.08. The division shall conduct investigations
14 pursuant to s. 414.411 within or outside of this state as it
15 deems necessary. If, during an investigation, the division has
16 reason to believe that any criminal law of this state has or may
17 have been violated, it shall refer any records tending to show
18 such violation to state or federal law enforcement or
19 prosecutorial agencies and shall provide investigative
20 assistance to those agencies as required.

21 Section 2. Section 284.45, Florida Statutes, is created to
22 read:

23 284.45 Sexual harassment victims.-

24 (1) An individual working for an entity covered by the
25 State Risk Management Trust Fund may not engage in retaliatory
26 conduct of any kind against a sexual harassment victim. As used
27 in this section, the term "sexual harassment victim" means an
28 individual employed, or being considered for employment, with an
29 entity participating in the State Risk Management Trust Fund,
30 who becomes a victim of workplace sexual harassment through the
31 course of employment, or while being considered for employment,
32 with the entity.

33 (2) The willful and knowing dissemination of personal
34 identifying information of a sexual harassment victim to any
35 party other than a governmental entity in furtherance of its
36 official duties or pursuant to a court order is a misdemeanor of
37 the first degree, punishable as provided in s. 775.082. For
38 purposes of this subsection, personal identifying information
39 includes the name of the sexual harassment victim and his or



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40 her:

41 (a) Home address;

42 (b) Home phone number;

43 (c) Cellular phone number;

44 (d) E-mail address;

45 (e) Social media account username or uniform resource

46 locator (URL); or

47 (f) Any other information that could reasonably be used to

48 identify an alleged sexual harassment victim.

49 Section 3. Subsections (1), (2), (3), (6), and (8) of
50 section 497.101, Florida Statutes, are amended to read:

51 497.101 Board of Funeral, Cemetery, and Consumer Services;
52 membership; appointment; terms.—

53 (1) The Board of Funeral, Cemetery, and Consumer Services
54 is created within the Department of Financial Services and shall
55 consist of 10 members, 9 of whom shall be appointed by the
56 Governor from nominations made by the Chief Financial Officer
57 and confirmed by the Senate. The Chief Financial Officer shall
58 nominate one to three persons for each of the nine vacancies on
59 the board, and the Governor shall fill each vacancy on the board
60 by appointing one of the ~~three~~ persons nominated by the Chief
61 Financial Officer to fill that vacancy. If the Governor objects
62 to each of the ~~three~~ nominations for a vacancy, she or he shall
63 inform the Chief Financial Officer in writing. Upon notification
64 of an objection by the Governor, the Chief Financial Officer
65 shall submit one to three additional nominations for that
66 vacancy until the vacancy is filled. One member must be the
67 State Health Officer or her or his designee.

68 (2) Two members of the board shall be funeral directors



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69 licensed under part III of this chapter who are associated with
70 a funeral establishment. One member of the board shall be a
71 funeral director licensed under part III of this chapter who is
72 associated with a funeral establishment licensed under part III
73 of this chapter that has a valid preneed license issued pursuant
74 to this chapter and who owns or operates a cinerator facility
75 approved under chapter 403 and licensed under part VI of this
76 chapter. Two members of the board shall be persons whose primary
77 occupation is associated with a cemetery company licensed
78 pursuant to this chapter. Two ~~Three~~ members of the board shall
79 be consumers who are residents of the state, have never been
80 licensed as funeral directors or embalmers, are not connected
81 with a cemetery or cemetery company licensed pursuant to this
82 chapter, and are not connected with the death care industry or
83 the practice of embalming, funeral directing, or direct
84 disposition. One of the two consumer members shall be at least
85 60 years of age, ~~and one shall be licensed as a certified public~~
86 ~~accountant under chapter 473.~~ One member of the board shall be a
87 consumer who is a resident of this state; is licensed as a
88 certified public accountant under chapter 473; has never been
89 licensed as a funeral director or embalmer; is not a principal
90 or employee of any licensee licensed under this chapter; and
91 does not otherwise have control, as defined in s. 497.005, over
92 any licensee licensed under this chapter. One member of the
93 board shall be a principal of a monument establishment licensed
94 under this chapter as a monument builder. One member shall be
95 the State Health Officer or her or his designee. There shall not
96 be two or more board members who are principals or employees of
97 the same company or partnership or group of companies or



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98 partnerships under common control.

99 (3) Board members shall be appointed for terms of 4 years,
100 and the State Health Officer shall serve as long as that person
101 holds that office. The designee of the State Health Officer
102 shall serve at the pleasure of the Governor. ~~When the terms of~~
103 ~~the initial board members expire, the Chief Financial Officer~~
104 ~~shall stagger the terms of the successor members as follows: one~~
105 ~~funeral director, one cemetery representative, the monument~~
106 ~~builder, and one consumer member shall be appointed for terms of~~
107 ~~2 years, and the remaining members shall be appointed for terms~~
108 ~~of 4 years. All subsequent terms shall be for 4 years.~~

109 (6) The headquarters and records of the board shall be in
110 the Division of Funeral, Cemetery, and Consumer Services of the
111 Department of Financial Services in the City of Tallahassee. The
112 board may be contacted through the Division of Funeral,
113 Cemetery, and Consumer Services of the Department of Financial
114 Services in the City of Tallahassee. The Chief Financial Officer
115 shall annually appoint from among the board members a chair and
116 vice chair of the board. The board shall meet at least every 6
117 months, and more often as necessary. Special meetings of the
118 board shall be convened upon the direction of the Chief
119 Financial Officer. A quorum is necessary for the conduct of
120 business by the board. Unless otherwise provided by law, a
121 majority of the board members eligible to vote shall constitute
122 a quorum for the purpose of conducting its business ~~six board~~
123 ~~members shall constitute a quorum for the conduct of the board's~~
124 ~~business.~~

125 ~~(8) The department shall adopt rules establishing forms by~~
126 ~~which persons may apply for membership on the board and~~



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127 ~~procedures for applying for such membership. Such forms shall~~
128 ~~require disclosure of the existence and nature of all current~~
129 ~~and past employments by or contracts with, and direct or~~
130 ~~indirect affiliations or interests in, any entity or business~~
131 ~~that at any time was licensed by the board or by the former~~
132 ~~Board of Funeral and Cemetery Services or the former Board of~~
133 ~~Funeral Directors and Embalmers or that is or was otherwise~~
134 ~~involved in the death care industry, as specified by department~~
135 ~~rule.~~

136 Section 4. Section 497.1411, Florida Statutes, is created
137 to read:

138 497.1411 Disqualification of applicants and licensees;
139 penalties against licensees; rulemaking.-

140 (1) For purposes of this section, the term:

141 (a) "Applicant" means an individual applying for licensure
142 or relicensure under this chapter, and an officer, a director, a
143 majority owner, a partner, a manager, or other person who
144 manages or controls an entity applying for licensure or
145 relicensure under this chapter.

146 (b) "Felony of the first degree" and "capital felony"
147 include all felonies designated as such in this state at the
148 time of the commission of the offense, as well as any offense in
149 another jurisdiction that is substantially similar to an offense
150 so designated in this state.

151 (c) "Financial services business" means any financial
152 activity regulated by the department, the Office of Insurance
153 Regulation, or the Office of Financial Regulation.

154 (2) An applicant who has been found guilty of or has
155 pleaded guilty or nolo contendere to any of the following



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156 crimes, regardless of adjudication, is permanently barred from
157 licensure under this chapter:

158 (a) A felony of the first degree.

159 (b) A capital felony.

160 (c) A felony money laundering offense.

161 (d) A felony embezzlement.

162 (3) An applicant who has been found guilty of or has
163 pleaded guilty or nolo contendere to a crime not included in
164 subsection (2), regardless of adjudication, is subject to:

165 (a) A 10-year disqualifying period for all felonies
166 involving moral turpitude that are not specifically included in
167 the permanent bar contained in subsection (2).

168 (b) A 5-year disqualifying period for all felonies to which
169 neither the permanent bar in subsection (2) nor the 10-year
170 disqualifying period in paragraph (a) applies.

171 (c) A 5-year disqualifying period for all misdemeanors
172 directly related to the financial services business.

173 (4) The board shall adopt rules to administer this section.
174 The rules must provide for additional disqualifying periods due
175 to the commitment of multiple crimes and may include other
176 factors reasonably related to the applicant's criminal history.
177 The rules shall provide for mitigating and aggravating factors.
178 However, mitigation may not result in a period of
179 disqualification of less than 5 years and may not mitigate the
180 disqualifying periods in paragraphs (3) (b) and (c).

181 (5) For purposes of this section, a disqualifying period
182 begins upon the applicant's final release from supervision or
183 upon completion of the applicant's criminal sentence. The
184 department may not issue a license to an applicant unless all



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185 related fines, court costs and fees, and court-ordered
186 restitution have been paid.

187 (6) After the disqualifying period has expired, the burden
188 is on the applicant to demonstrate that he or she has been
189 rehabilitated, does not pose a risk to the public, is fit and
190 trustworthy to engage in business regulated by this chapter, and
191 is otherwise qualified for licensure.

192 (7) Notwithstanding subsections (2) and (3), an applicant
193 who has been found guilty of, or has pleaded guilty or nolo
194 contendere to, a crime in subsection (2) or subsection (3) and
195 who has subsequently been granted a pardon or the restoration of
196 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
197 State Constitution, or a pardon or the restoration of civil
198 rights under the laws of another jurisdiction with respect to a
199 conviction in that jurisdiction, is not barred or disqualified
200 from licensure under this chapter. However, such a pardon or
201 restoration of civil rights does not require the department to
202 award such license.

203 (8) (a) The board may grant an exemption from
204 disqualification to any person disqualified from licensure under
205 subsection (3) if:

206 1. The applicant has paid in full any fee, fine, fund,
207 lien, civil judgment, restitution, or cost of prosecution
208 imposed by the court as part of the judgment and sentence for
209 any disqualifying offense; and

210 2. At least 5 years have elapsed since the applicant
211 completed or has been lawfully released from confinement,
212 supervision, or nonmonetary condition imposed by the court for a
213 disqualifying offense.



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214 (b) For the board to grant an exemption under this
215 subsection, the applicant must clearly and convincingly
216 demonstrate that he or she would not pose a risk to persons or
217 property if licensed under this chapter, evidence of which must
218 include, but need not be limited to, facts and circumstances
219 surrounding the disqualifying offense, the time that has elapsed
220 since the offense, the nature of the offense and harm caused to
221 the victim, the applicant's history before and after the
222 offense, and any other evidence or circumstances indicating that
223 the applicant will not present a danger if licensed or
224 certified.

225 (c) The board has discretion whether to grant or deny an
226 exemption under this subsection. The board's decision is subject
227 to chapter 120.

228 (9) The disqualification periods provided in this section
229 do not apply to the renewal of a license or to a new application
230 for licensure if the applicant has an active license as of July
231 1, 2020, and the applicable criminal history was considered by
232 the board on the prior approval of any active license held by
233 the applicant. This subsection does not affect any criminal
234 history disclosure requirement of this chapter.

235 Section 5. Subsection (9) and paragraph (c) of subsection
236 (10) of section 497.142, Florida Statutes, are amended to read:

237 497.142 Licensing; fingerprinting and criminal background
238 checks.—

239 (9) If any applicant under this chapter has been, ~~within~~
240 ~~the 10 years preceding the application under this chapter,~~
241 convicted or found guilty of, or entered a plea of nolo
242 contendere to, regardless of adjudication, any crime in any



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243 jurisdiction, the application shall not be deemed complete until
244 such time as the applicant provides such certified true copies
245 of the court records evidencing the conviction, finding, or plea
246 as required by this section or, as the licensing authority may
247 by rule require.

248 (10) (c) Crimes to be disclosed are:

249 1. Any felony ~~or misdemeanor~~, no matter when committed,
250 ~~that was directly or indirectly related to or involving any~~
251 ~~aspect of the practice or business of funeral directing,~~
252 ~~embalming, direct disposition, cremation, funeral or cemetery~~
253 ~~preneed sales, funeral establishment operations, cemetery~~
254 ~~operations, or cemetery monument or marker sales or~~
255 ~~installation.~~

256 2. Any misdemeanor, no matter when committed, which was
257 directly or indirectly related to the financial services
258 business as defined in s. 497.1411 ~~Any other felony not already~~
259 ~~disclosed under subparagraph 1. that was committed within the 20~~
260 ~~years immediately preceding the application under this chapter.~~

261 3. Any other misdemeanor not already disclosed under
262 subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5
263 years immediately preceding the application under this chapter.

264 Section 6. Present subsections (2) through (5) of section
265 497.157, Florida Statutes, are redesignated as subsections (4)
266 through (7), respectively, new subsections (2) and (3) and
267 subsection (8) are added to that section, and present subsection
268 (3) of that section is amended, to read:

269 497.157 Unlicensed practice; remedies concerning violations
270 by unlicensed persons.-

271 (2) A person may not be, act as, or advertise or hold



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272 himself or herself out to be a funeral director, embalmer, or
273 direct disposer unless he or she is currently licensed by the
274 department.

275 (3) A person may not be, act as, or advertise or hold
276 himself or herself out to be a preneed sales agent unless he or
277 she is currently licensed by the department and appointed by a
278 preneed main licensee for which they are executing preneed
279 contracts.

280 (5)~~(3)~~ Where the department determines that an emergency
281 exists regarding any violation of this chapter by any unlicensed
282 person or entity, the department may issue and serve an
283 immediate final order upon such unlicensed person or entity, in
284 accordance with s. 120.569(2)(n). Such an immediate final order
285 may impose such prohibitions and requirements as are reasonably
286 necessary to protect the public health, safety, and welfare, and
287 shall be effective when served.

288 (a) For the purpose of enforcing such an immediate final
289 order, the department may file an emergency or other proceeding
290 in the circuit courts of the state seeking enforcement of the
291 immediate final order by injunctive or other order of the court.
292 The court shall issue its injunction or other order enforcing
293 the immediate final order pending administrative resolution of
294 the matter under subsection (4) ~~(2)~~, unless the court determines
295 that such action would work a manifest injustice under the
296 circumstances. Venue for judicial actions under this paragraph
297 shall be, at the election of the department, in the courts of
298 Leon County, or in a county where the respondent resides or has
299 a place of business.

300 (b) After serving an immediate final order to cease and



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301 desist upon any person or entity, the department shall within 10
302 days issue and serve upon the same person or entity an
303 administrative complaint as set forth in subsection (4) ~~(2)~~,
304 except that, absent order of a court to the contrary, the
305 immediate final order shall be effective throughout the pendency
306 of proceedings under subsection (4) ~~(2)~~.

307 (8) Any person who is not licensed under this chapter and
308 who engages in activity requiring licensure under this chapter
309 commits a felony of the third degree, punishable as provided in
310 s. 775.082, s. 775.083, or s. 775.084.

311 Section 7. Subsection (6) of section 497.159, Florida
312 Statutes, is amended to read:

313 497.159 Crimes.—

314 ~~(6) Any person who is not licensed under this chapter who~~
315 ~~engages in activity requiring licensure under this chapter,~~
316 ~~commits a misdemeanor of the second degree, punishable as~~
317 ~~provided in s. 775.082 or s. 775.083.~~

318 Section 8. Subsection (13) of section 552.081, Florida
319 Statutes, is amended to read:

320 552.081 Definitions.—As used in this chapter:

321 (13) "Two-component explosives" means any two inert
322 components which, when mixed, become capable of detonation by
323 any detonator ~~a No. 6 blasting cap~~, and shall be classified as a
324 Class "A" explosive when so mixed.

325 Section 9. Present subsection (2) of section 553.7921,
326 Florida Statutes, is redesignated as subsection (3), a new
327 subsection (2) is added to that section, and subsection (1) of
328 that section is amended, to read:

329 553.7921 Fire alarm permit application to local enforcement



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330 agency.-

331 (1) A contractor must file a Uniform Fire Alarm Permit
332 Application as provided in subsection (3) ~~(2)~~ with the local
333 enforcement agency and must receive the fire alarm permit
334 before:

335 ~~(a) installing or replacing a fire alarm,~~ if the local
336 enforcement agency requires a plan review for the installation
337 or replacement; ~~or~~

338 ~~(b) Repairing an existing alarm system that was previously~~
339 ~~permitted by the local enforcement agency if the local~~
340 ~~enforcement agency requires a fire alarm permit for the repair.~~

341 (2) If the local enforcement agency requires a fire alarm
342 permit to repair an existing alarm system that was previously
343 permitted by the local enforcement agency, a contractor may
344 begin work after filing a Uniform Fire Alarm Permit Application
345 as provided in subsection (3). A fire alarm repaired pursuant to
346 this subsection may not be considered compliant until the
347 required permit is issued and the local enforcement agency
348 approves the repair.

349 Section 10. Effective January 1, 2021, subsection (3) of
350 section 626.2815, Florida Statutes, is amended to read:

351 626.2815 Continuing education requirements.-

352 (3) Each licensee except a title insurance agent must
353 complete a 4-hour ~~5-hour~~ update course every 2 years which is
354 specific to the license held by the licensee. The course must be
355 developed and offered by providers and approved by the
356 department. The content of the course must address all lines of
357 insurance for which examination and licensure are required and
358 include the following subject areas: insurance law updates,



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359 ethics for insurance professionals, disciplinary trends and case
360 studies, industry trends, premium discounts, determining
361 suitability of products and services, and other similar
362 insurance-related topics the department determines are relevant
363 to legally and ethically carrying out the responsibilities of
364 the license granted. A licensee who holds multiple insurance
365 licenses must complete an update course that is specific to at
366 least one of the licenses held. Except as otherwise specified,
367 any remaining required hours of continuing education are
368 elective and may consist of any continuing education course
369 approved by the department under this section.

370 (a) Except as provided in paragraphs (b), (c), (d), (e),
371 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
372 elective continuing education courses every 2 years.

373 (b) A licensee who has been licensed for 6 or more years
374 must also complete a minimum of 16 ~~15~~ hours of elective
375 continuing education every 2 years.

376 (c) A licensee who has been licensed for 25 years or more
377 and is a CLU or a CPCU or has a Bachelor of Science degree in
378 risk management or insurance with evidence of 18 or more
379 semester hours in insurance-related courses must also complete a
380 minimum of 6 ~~5~~ hours of elective continuing education courses
381 every 2 years.

382 (d) An individual who holds a license as a customer
383 representative and who is not a licensed life or health agent
384 must also complete a minimum of 6 ~~5~~ hours of continuing
385 education courses every 2 years.

386 (e) An individual subject to chapter 648 must complete the
387 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of



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388 elective continuing education courses every 2 years.

389 (f) Elective continuing education courses for public
390 adjusters must be specifically designed for public adjusters and
391 approved by the department. Notwithstanding this subsection,
392 public adjusters for workers' compensation insurance or health
393 insurance are not required to take continuing education courses
394 pursuant to this section.

395 (g) Excess hours accumulated during any 2-year compliance
396 period may be carried forward to the next compliance period.

397 (h) An individual teaching an approved course of
398 instruction or lecturing at any approved seminar and attending
399 the entire course or seminar qualifies for the same number of
400 classroom hours as would be granted to a person taking and
401 successfully completing such course or seminar. Credit is
402 limited to the number of hours actually taught unless a person
403 attends the entire course or seminar. An individual who is an
404 official of or employed by a governmental entity in this state
405 and serves as a professor, instructor, or in another position or
406 office, the duties and responsibilities of which are determined
407 by the department to require monitoring and review of insurance
408 laws or insurance regulations and practices, is exempt from this
409 section.

410 (i) For compliance periods beginning on or after October 1,
411 2014, any person who holds a license as a title insurance agent
412 must complete a minimum of 10 hours of continuing education
413 credit every 2 years in title insurance and escrow management
414 specific to this state and approved by the department, which
415 shall include at least 3 hours of continuing education on the
416 subject matter of ethics, rules, or compliance with state and



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417 federal regulations relating specifically to title insurance and
418 closing services.

419 (j) For a licensee who is an active participant in an
420 association, 2 hours of elective continuing education credit per
421 calendar year may be approved by the department, if properly
422 reported by the association.

423 Section 11. Section 627.70132, Florida Statutes, is amended
424 to read:

425 627.70132 Notice of windstorm or hurricane claim.—A claim,
426 supplemental claim, or reopened claim under an insurance policy
427 that provides property insurance, as defined in s. 624.604, for
428 loss or damage caused by the peril of windstorm or hurricane is
429 barred unless notice of the claim, supplemental claim, or
430 reopened claim was given to the insurer in accordance with the
431 terms of the policy within 24 months ~~3 years~~ after the hurricane
432 first made landfall or the windstorm caused the covered damage.
433 For purposes of this section, the term "supplemental claim" or
434 "reopened claim" means any additional claim for recovery from
435 the insurer for losses from the same hurricane or windstorm
436 which the insurer has previously adjusted pursuant to the
437 initial claim. This section does not affect any applicable
438 limitation on civil actions provided in s. 95.11 for claims,
439 supplemental claims, or reopened claims timely filed under this
440 section.

441 Section 12. Section 627.7154, Florida Statutes, is created
442 to read:

443 627.7154 Water damage limitation.—

444 (1) As used in this section, the term "water damage" means
445 damage caused by any of the following:



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446 (a) Water, waterborne material, sewage, or any other
447 substance that backs up, overflows, or is discharged through or
448 from a sewer, sewer system, drain, septic tank system, drain
449 field, sump, sump pump, or related equipment.

450 (b) Water, waterborne material, sewage, or any other
451 substance that overflows from a sump pump, sump pump well, or
452 any other system designed for the removal of subsurface water
453 that is drained from foundation areas of a structure.

454 (c) Water, waterborne material, sewage, or any other
455 substance on or below the surface of the ground, regardless of
456 its source, including water or any other substance that exerts
457 pressure on or flows, seeps, or leaks through a building,
458 sidewalk, driveway, foundation, swimming pool, or other
459 structure.

460 (d) Discharge or overflow of water or steam from within a
461 plumbing, heating, air conditioning, or automatic fire sprinkler
462 system or from within a household appliance.

463 (e) Water penetration through the roof system or exterior
464 walls or windows, unless water penetration is a direct result of
465 damage caused by a peril other than water.

466 (f) Escape, overflow, or discharge, for any reason, of
467 water or waterborne material from a dam, levee, seawall, or any
468 other boundary or containment system.

469 (2) (a) An insurer offering homeowners' policies or
470 endorsements may offer the option of a policy or endorsement
471 with a policy limit for water damage as low as 5 percent of the
472 coverage A policy limit per occurrence, and may also offer
473 homeowners' policies or endorsements with greater policy limits
474 for water damage. Such policy or endorsement may be offered on



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475 all new business and on all renewals. Except as provided in
476 paragraph (b), an insurer may not condition renewals upon
477 acceptance of the base 5 percent of the coverage A policy limit
478 per occurrence or upon acceptance of an optional higher limit. A
479 policyholder who accepts the base 5 percent of the coverage A
480 policy limit per occurrence option must receive at least a 10
481 percent discount on the non-wind portion of the premium, and a
482 policyholder who accepts a limit that is greater than 5 percent
483 of the coverage A policy limit must be provided an actuarially
484 reasonable premium credit or discount. An insurer that issues or
485 renews a homeowner's policy with a sublimit pursuant to this
486 subsection must include within the policy documents at initial
487 issuance and at every renewal, in no smaller than 18-point bold
488 type, the following statement: "THIS POLICY LIMITS COVERAGE FOR
489 WATER DAMAGE. YOU MAY WISH TO PURCHASE FULL COVERAGE FOR WATER
490 DAMAGE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

491 (b) An insurer may condition the issuance or renewal of a
492 homeowner's insurance policy on a home older than 40 years of
493 age on the policyholder's acceptance of a policy limit for water
494 damage which is less than the coverage A policy limit.

495 (c) An insurer may condition the provision of full water
496 damage coverage under a homeowner's insurance policy on the use
497 of a managed repair or preferred vendor program approved by the
498 office.

499 (d) An insurer may require a water intrusion inspection
500 before binding full water damage coverage under a homeowner's
501 insurance policy.

502 Section 13. Subsection (3) of section 633.102, Florida
503 Statutes, is amended to read:



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504 633.102 Definitions.—As used in this chapter, the term:
505 (3) (a) “Contractor I” means a contractor whose business
506 includes the execution of contracts requiring the ability to lay
507 out, fabricate, install, inspect, alter, repair, and service all
508 types of fire protection systems, excluding preengineered
509 systems.
510 (b) “Contractor II” means a contractor whose business is
511 limited to the execution of contracts requiring the ability to
512 lay out, fabricate, install, inspect, alter, repair, and service
513 water sprinkler systems, water spray systems, foam-water
514 sprinkler systems, foam-water spray systems, standpipes,
515 combination standpipes and sprinkler risers, all piping that is
516 an integral part of the system beginning at the point of service
517 as defined in this section, sprinkler tank heaters, air lines,
518 thermal systems used in connection with sprinklers, and tanks
519 and pumps connected thereto, excluding preengineered systems.
520 (c) “Contractor III” means a contractor whose business is
521 limited to the execution of contracts requiring the ability to
522 fabricate, install, inspect, alter, repair, and service carbon
523 dioxide systems, foam extinguishing systems, dry chemical
524 systems, and Halon and other chemical systems, excluding
525 preengineered systems.
526 (d) “Contractor IV” means a contractor whose business is
527 limited to the execution of contracts requiring the ability to
528 lay out, fabricate, install, inspect, alter, repair, and service
529 automatic fire sprinkler systems for detached one-family
530 dwellings, detached two-family dwellings, and mobile homes,
531 excluding preengineered systems and excluding single-family
532 homes in cluster units, such as apartments, condominiums, and



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533 assisted living facilities or any building that is connected to
534 other dwellings. A Contractor IV is limited to the scope of
535 practice specified in NFPA 13D.

536 (e) "Contractor V" means a contractor whose business is
537 limited to the execution of contracts requiring the ability to
538 fabricate, install, inspect, alter, repair, and service the
539 underground piping for a fire protection system using water as
540 the extinguishing agent beginning at the point of service as
541 defined in this act and ending no more than 1 foot above the
542 finished floor.

543
544 The definitions in this subsection may not be construed to
545 include engineers or architects and do not limit or prohibit a
546 licensed fire protection engineer or architect with fire
547 protection design experience from designing any type of fire
548 protection system. A distinction is made between system design
549 concepts prepared by the design professional and system layout
550 as defined in this section and typically prepared by the
551 contractor. However, a person certified as a Contractor I or
552 Contractor II, ~~or Contractor IV~~ under this chapter may design
553 new fire protection systems of 49 or fewer sprinklers; ~~and~~ may
554 design the alteration of an existing fire sprinkler system if
555 the alteration consists of the relocation, addition, or deletion
556 of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the
557 size of the existing fire sprinkler system; or may design the
558 alteration of an existing fire sprinkler system if the
559 alteration consists of the relocation or deletion of 249 or
560 fewer sprinklers, notwithstanding the size of the existing fire
561 sprinkler system, if there is no change of occupancy, as defined



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562 in the Florida Building Code, of the affected areas and there is
563 no change in the water demand as defined in National Fire
564 Protection Association publication NFPA 13 "Standard for the
565 Installation of Sprinkler Systems," and if the occupancy hazard
566 classification as defined in NFPA 13 is reduced or remains the
567 same as a result of the alteration. A person certified as a
568 Contractor I, Contractor II, or Contractor IV may design or
569 alter a fire protection system, the scope of which complies with
570 NFPA 13D, Standard for the Installation of Sprinkler Systems in
571 One- and Two-Family Dwellings and Manufactured Homes, as adopted
572 by the State Fire Marshal, notwithstanding the number of fire
573 sprinklers. Contractor-developed plans may not be required by
574 any local permitting authority to be sealed by a registered
575 professional engineer.

576 Section 14. Section 633.136, Florida Statutes, is amended
577 to read:

578 633.136 Fire and Emergency Incident Information Reporting
579 Program; duties; fire reports.—

580 (1) (a) The Fire and Emergency Incident Information
581 Reporting Program is created within the division. The program
582 shall:

583 1. Establish and maintain an electronic communication
584 system capable of transmitting fire and emergency incident
585 information to and between fire service providers ~~protection~~
586 ~~agencies~~.

587 2. Initiate a Fire and Emergency Incident Information
588 Reporting System that shall be responsible for:

589 a. Receiving fire and emergency incident information from
590 fire service providers ~~protection agencies~~.



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591 b. Preparing and disseminating annual reports to the
592 Governor, the President of the Senate, the Speaker of the House
593 of Representatives, fire service providers ~~protection agencies~~,
594 and, upon request, the public. Each report shall include, but
595 not be limited to, the information listed in the National Fire
596 Incident Reporting System.

597 c. Upon request, providing other states and federal
598 agencies with fire and emergency incident data of this state.

599 3. Adopt rules to effectively and efficiently implement,
600 administer, manage, maintain, and use the Fire and Emergency
601 Incident Information Reporting Program. The rules shall be
602 considered minimum requirements and shall not preclude a fire
603 service provider ~~protection agency~~ from implementing its own
604 requirements which may not conflict with the rules of the
605 division.

606 4. By rule, establish procedures and a format for each fire
607 service provider ~~protection agency~~ to voluntarily monitor its
608 records and submit reports to the program.

609 5. Maintain ~~Establish~~ an electronic information database
610 that is accessible and searchable by fire service providers
611 ~~protection agencies~~.

612 (b) The division shall consult with the Florida Forest
613 Service of the Department of Agriculture and Consumer Services
614 and the State Surgeon General of the Department of Health to
615 coordinate data, ensure accuracy of the data, and limit
616 duplication of efforts in data collection, analysis, and
617 reporting.

618 (2) The Fire and Emergency Incident Information System
619 Technical Advisory Panel is created within the division. The



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620 panel shall advise, review, and recommend to the State Fire
621 Marshal with respect to the requirements of this section. The
622 membership of the panel shall consist of the ~~following~~ 15
623 members:

624 ~~(a) The current 13 members of the Firefighters Employment,~~
625 ~~Standards, and Training Council as established in s. 633.402.~~

626 ~~(b) One member from the Florida Forest Service of the~~
627 ~~Department of Agriculture and Consumer Services, appointed by~~
628 ~~the director of the Florida Forest Service.~~

629 ~~(c) One member from the Department of Health, appointed by~~
630 ~~the State Surgeon General.~~

631 (3) As used in ~~For the purpose of~~ this section, the term
632 "fire service provider" has the same meaning as in s. 633.102
633 ~~"fire protection agency" shall be defined by rule by the~~
634 ~~division.~~

635 Section 15. Subsections (18) and (20) of section 633.202,
636 Florida Statutes, are amended to read:

637 633.202 Florida Fire Prevention Code.—

638 (18) The authority having jurisdiction shall determine the
639 minimum radio signal strength for fire department communications
640 in all new high-rise and existing high-rise buildings. Existing
641 buildings are not required to comply with minimum radio strength
642 for fire department communications and two-way radio system
643 enhancement communications as required by the Florida Fire
644 Prevention Code until January 1, 2023 ~~2022~~. However, by January
645 1, 2022 ~~December 31, 2019~~, an existing building that is not in
646 compliance with the requirements for minimum radio strength for
647 fire department communications must have completed a minimum
648 radio strength assessment ~~apply for an appropriate permit for~~



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649 the required installation with the local government agency
650 having jurisdiction and must demonstrate that the building will
651 become compliant by January 1, 2023 ~~2022~~. Existing apartment
652 buildings are not required to comply until January 1, 2025.
653 However, existing apartment buildings are required to apply for
654 the appropriate permit for the required communications
655 installation by December 31, 2022.

656 (20) (a) In apartment occupancies with enclosed corridors
657 served by interior or exterior exit stairs, doorstep refuse and
658 recycling collection containers, which stand upright on their
659 own and do not leak liquids when standing upright, must be
660 allowed in exit access corridors when all of the following
661 conditions exist:

662 1. The maximum doorstep refuse and recycling collection
663 container size does not exceed 13 gallons.

664 2. Waste, which is in a doorstep refuse and recycling
665 collection container, is not placed in the exit access corridors
666 for single periods exceeding 5 hours.

667 3. Doorstep refuse and recycling collection containers do
668 not occupy the exit access corridors for single periods
669 exceeding 12 hours.

670 4. Doorstep refuse and recycling collection containers do
671 not reduce the means of egress width below that required under
672 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
673 Prevention Code.

674 5. Management staff have written policies and procedures in
675 place and enforce them to ensure compliance with this paragraph,
676 and, upon request, provide a copy of such policies and
677 procedures to the authority having jurisdiction.



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678 (b) In apartment occupancies with open-air corridors or
679 balconies served by exterior exit stairs, doorstep refuse and
680 recycling collection containers, which stand upright on their
681 own and do not leak liquids when standing upright, must be
682 allowed in exit access corridors when all of the following
683 conditions exist:

684 1. The maximum doorstep refuse and recycling collection
685 container size does not exceed 27 gallons.

686 2. Waste, which is in a doorstep refuse and recycling
687 collection container, is not placed in the exit access corridors
688 for single periods exceeding 5 hours.

689 3. Doorstep refuse and recycling collection containers do
690 not reduce the means of egress width below that required under
691 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
692 Prevention Code.

693 4. Management staff have written policies and procedures in
694 place and enforce them to ensure compliance with this paragraph,
695 and, upon request, provide a copy of such policies and
696 procedures to the authority having jurisdiction.

697 (c) The authority having jurisdiction may approve
698 alternative containers and storage arrangements that are
699 demonstrated to provide an equivalent level of safety to that
700 provided under paragraphs (a) and (b).

701 (d) The authority having jurisdiction shall allow apartment
702 occupancies a phase-in period until December 31, 2020, to comply
703 with this subsection.

704 (e) This subsection is repealed on January 1, 2024 ~~July 1,~~
705 ~~2021~~.

706 Section 16. Section 633.217, Florida Statutes, is created



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707 to read:

708 633.217 Influencing a firesafety inspector; prohibited
709 acts.—

710 (1) A person may not influence a firesafety inspector by:

711 (a) Threatening, coercing, tricking, or attempting to
712 threaten, coerce, or trick the firesafety inspector into
713 violating any provision of the Florida Fire Prevention Code, any
714 rule adopted by the State Fire Marshal, or any provision of this
715 chapter.

716 (b) Offering any compensation to the firesafety inspector
717 to induce a violation of the Florida Fire Prevention Code, any
718 rule adopted by the State Fire Marshal, or any provision of this
719 chapter.

720 (2) A firesafety inspector may not knowingly and willfully
721 accept an attempt by a person to influence the firesafety
722 inspector into violating any provision of the Florida Fire
723 Prevention Code, any rule adopted by the State Fire Marshal, or
724 any provision of this chapter.

725 Section 17. Paragraphs (d), (g), and (h) of subsection (4)
726 of section 633.304, Florida Statutes, are amended to read:

727 633.304 Fire suppression equipment; license to install or
728 maintain.—

729 (4)

730 (d) A license of any class may not be issued or renewed by
731 the division and a license of any class does not remain
732 operative unless:

733 1. The applicant has submitted to the State Fire Marshal
734 evidence of registration as a Florida corporation or evidence of
735 compliance with s. 865.09.



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736 2. The State Fire Marshal or his or her designee has by
737 inspection determined that the applicant possesses the equipment
738 required for the class of license sought. The State Fire Marshal
739 shall give an applicant a reasonable opportunity to correct any
740 deficiencies discovered by inspection. To obtain such
741 inspection, an applicant with facilities located outside this
742 state must:

743 a. Provide a notarized statement from a professional
744 engineer licensed by the applicant's state of domicile
745 certifying that the applicant possesses the equipment required
746 for the class of license sought and that all such equipment is
747 operable; or

748 b. Allow the State Fire Marshal or her or his designee to
749 inspect the facility. All costs associated with the State Fire
750 Marshal's inspection must be paid by the applicant. The State
751 Fire Marshal, in accordance with s. 120.54, may adopt rules to
752 establish standards for the calculation and establishment of the
753 amount of costs associated with any inspection conducted by the
754 State Fire Marshal under this section. Such rules must include
755 procedures for invoicing and receiving funds in advance of the
756 inspection.

757 3. The applicant has submitted to the State Fire Marshal
758 proof of insurance providing coverage for comprehensive general
759 liability for bodily injury and property damage, products
760 liability, completed operations, and contractual liability. The
761 State Fire Marshal shall adopt rules providing for the amounts
762 of such coverage, but such amounts may not be less than \$300,000
763 for Class A or Class D licenses, \$200,000 for Class B licenses,
764 and \$100,000 for Class C licenses; and the total coverage for



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765 any class of license held in conjunction with a Class D license
766 may not be less than \$300,000. The State Fire Marshal may, at
767 any time after the issuance of a license or its renewal, require
768 upon demand, and in no event more than 30 days after notice of
769 such demand, the licensee to provide proof of insurance, on the
770 insurer's form, containing confirmation of insurance coverage as
771 required by this chapter. Failure, for any length of time, to
772 provide proof of insurance coverage as required must result in
773 the immediate suspension of the license until proof of proper
774 insurance is provided to the State Fire Marshal. An insurer that
775 provides such coverage shall notify the State Fire Marshal of
776 any change in coverage or of any termination, cancellation, or
777 nonrenewal of any coverage.

778 4. The applicant applies to the State Fire Marshal,
779 provides proof of experience, and successfully completes a
780 prescribed training course that includes both written and
781 practical training offered at by the State Fire College and ~~or~~
782 an equivalent course approved by the State Fire Marshal as
783 applicable to the class of license being sought. This
784 subparagraph does not apply to any holder of or applicant for a
785 permit under paragraph (g) or to a business organization or a
786 governmental entity seeking initial licensure or renewal of an
787 existing license solely for the purpose of inspecting,
788 servicing, repairing, marking, recharging, and maintaining fire
789 extinguishers used and located on the premises of and owned by
790 such organization or entity.

791 5. The applicant has a current retestor identification
792 number that is appropriate for the license for which the
793 applicant is applying and that is listed with the United States



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794 Department of Transportation.

795 6. The applicant has passed, with a grade of at least 70
796 percent, a written examination testing his or her knowledge of
797 the rules and statutes governing the activities authorized by
798 the license and demonstrating his or her knowledge and ability
799 to perform those tasks in a competent, lawful, and safe manner.
800 Such examination must be developed and administered by the State
801 Fire Marshal, or his or her designee in accordance with policies
802 and procedures of the State Fire Marshal. An applicant shall pay
803 a nonrefundable examination fee of \$50 for each examination or
804 reexamination scheduled. A reexamination may not be scheduled
805 sooner than 30 days after any administration of an examination
806 to an applicant. An applicant may not be permitted to take an
807 examination for any level of license more than a total of four
808 times during 1 year, regardless of the number of applications
809 submitted. As a prerequisite to licensure of the applicant, he
810 or she:

811 a. Must be at least 18 years of age.

812 b. Must have 4 years of proven experience as a fire
813 equipment permittee at a level equal to or greater than the
814 level of license applied for or have a combination of education
815 and experience determined to be equivalent thereto by the State
816 Fire Marshal. Having held a permit at the appropriate level for
817 the required period constitutes the required experience.

818 c. Must not have been convicted of a felony or a crime
819 punishable by imprisonment of 1 year or more under the law of
820 the United States or of any state thereof or under the law of
821 any other country. "Convicted" means a finding of guilt or the
822 acceptance of a plea of guilty or nolo contendere in any federal



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823 or state court or a court in any other country, without regard
824 to whether a judgment of conviction has been entered by the
825 court having jurisdiction of the case. If an applicant has been
826 convicted of any such felony, the applicant is excluded from
827 licensure for a period of 4 years after expiration of sentence
828 or final release by the Florida Commission on Offender Review
829 unless the applicant, before the expiration of the 4-year
830 period, has received a full pardon or has had her or his civil
831 rights restored.

832

833 This subparagraph does not apply to any holder of or applicant
834 for a permit under paragraph (g) or to a business organization
835 or a governmental entity seeking initial licensure or renewal of
836 an existing license solely for the purpose of inspecting,
837 servicing, repairing, marking, recharging, hydrotesting, and
838 maintaining fire extinguishers used and located on the premises
839 of and owned by such organization or entity.

840 (g) A permit of any class may not be issued or renewed to a
841 person by the division, and a permit of any class does not
842 remain operative, unless the person has:

843 1. Submitted a nonrefundable examination fee in the amount
844 of \$50.

845 2. Successfully completed a training course that includes
846 both written and practical training offered at by the State Fire
847 College and or an equivalent course approved by the State Fire
848 Marshal as applicable to the class of license being sought.

849 3. Passed, with a grade of at least 70 percent, a written
850 examination testing his or her knowledge of the rules and
851 statutes governing the activities authorized by the permit and



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852 demonstrating his or her knowledge and ability to perform those
853 tasks in a competent, lawful, and safe manner. Such examination
854 must be developed and administered by the State Fire Marshal in
855 accordance with the policies and procedures of the State Fire
856 Marshal. An examination fee must be paid for each examination
857 scheduled. A reexamination may not be scheduled sooner than 30
858 days after any administration of an examination to an applicant.
859 An applicant may not be permitted to take an examination for any
860 level of permit more than four times during 1 year, regardless
861 of the number of applications submitted. As a prerequisite to
862 taking the permit examination, the applicant must be at least 16
863 years of age.

864 (h) An applicant for a license or permit under this section
865 who fails the examination may take it three more times during
866 the 1-year period after he or she originally filed an
867 application for the examination. If the applicant fails the
868 examination within 1 year after the application date and he or
869 she seeks to retake the examination, he or she must file a new
870 application, pay the application and examination fees, and
871 successfully complete a prescribed training course that includes
872 both written and practical training offered at by the State Fire
873 College and ~~or an equivalent~~ course approved by the State Fire
874 Marshal as applicable to the class of license being sought. The
875 applicant may not submit a new application within 6 months after
876 the date of his or her fourth reexamination. An applicant who
877 passes the examination but does not meet the remaining
878 qualifications prescribed by law and rule within 1 year after
879 the application date must file a new application, pay the
880 application and examination fee, successfully complete a



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881 prescribed training course that includes both written and
882 practical training offered at ~~approved by~~ the State Fire College
883 and or an equivalent course approved by the State Fire Marshal
884 as applicable to the class of license being sought, and pass the
885 written examination.

886 Section 18. Subsection (1) of section 633.402, Florida
887 Statutes, is amended to read:

888 633.402 Firefighters Employment, Standards, and Training
889 Council; organization; meetings; quorum; compensation; seal;
890 special powers; firefighter training.-

891 (1) There is created within the department a Firefighters
892 Employment, Standards, and Training Council of 15 ~~14~~ members.

893 (a) The members shall be appointed as follows:

894 1. Two fire chiefs appointed by the Florida Fire Chiefs
895 Association.

896 2. Two firefighters, who are not officers, appointed by the
897 Florida Professional Firefighters Association.

898 3. Two firefighter officers, who are not fire chiefs,
899 appointed by the State Fire Marshal.

900 4. One individual appointed by the Florida League of
901 Cities.

902 5. One individual appointed by the Florida Association of
903 Counties.

904 6. One individual appointed by the Florida Association of
905 Special Districts.

906 7. One individual appointed by the Florida Fire Marshals'
907 and Inspectors' Association.

908 8. One employee of the Florida Forest Service of the
909 Department of Agriculture and Consumer Services appointed by the



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910 director of the Florida Forest Service.

911 9. One individual appointed by the State Fire Marshal.

912 10. One director or instructor of a state-certified
913 firefighting training facility appointed by the State Fire
914 Marshal.

915 11. One individual ~~The remaining member, who shall be~~
916 appointed by the State Fire Marshal, who may not be a member or
917 representative of the firefighting profession or of any local
918 government.

919 12. One individual from the Department of Health, appointed
920 by the Surgeon General.

921 (b) To be eligible for appointment as a member under
922 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
923 subparagraph (a)8., or subparagraph (a)10., a person must have
924 had at least 4 years' experience in the firefighting profession.
925 Members shall serve only as long as they continue to meet the
926 criteria under which they were appointed, or unless a member has
927 failed to appear at three consecutive and properly noticed
928 meetings unless excused by the chair.

929 Section 19. Subsection (1) of section 633.416, Florida
930 Statutes, is amended to read:

931 633.416 Firefighter employment and volunteer firefighter
932 service; saving clause.—

933 (1) A fire service provider may not employ an individual
934 to:

935 (a) Extinguish fires for the protection of life or property
936 or to supervise individuals who perform such services unless the
937 individual holds a current and valid Firefighter Certificate of
938 Compliance. However, a person who is currently serving as a



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939 volunteer firefighter and holds a volunteer firefighter
940 certificate of completion with a fire service provider, who is
941 then employed as a regular or permanent firefighter by such fire
942 service provider, may function, for a period of 1 year under the
943 direct supervision of an individual holding a valid firefighter
944 certificate of compliance, in the same capacity in which he or
945 she acted as a volunteer firefighter, provided that he or she
946 has completed all training required by the volunteer
947 organization. Under no circumstance can this period extend
948 beyond 1 year either collectively or consecutively from the
949 start of employment to obtain a Firefighter Certificate of
950 Compliance; or

951 (b) Serve as the administrative and command head of a fire
952 service provider for a period in excess of 1 year unless the
953 individual holds a current and valid Firefighter Certificate of
954 Compliance or Special Certificate of Compliance.

955 Section 20. Section 843.08, Florida Statutes, is amended to
956 read:

957 843.08 False personation.—A person who falsely assumes or
958 pretends to be a firefighter, a sheriff, an officer of the
959 Florida Highway Patrol, an officer of the Fish and Wildlife
960 Conservation Commission, an officer of the Department of
961 Environmental Protection, ~~a fire or arson investigator of the~~
962 ~~Department of Financial Services,~~ an officer of the Department
963 of Financial Services, any personnel or representative of the
964 Division of Investigative and Forensic Services, an officer of
965 the Department of Corrections, a correctional probation officer,
966 a deputy sheriff, a state attorney or an assistant state
967 attorney, a statewide prosecutor or an assistant statewide



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968 prosecutor, a state attorney investigator, a coroner, a police
969 officer, a lottery special agent or lottery investigator, a
970 beverage enforcement agent, a school guardian as described in s.
971 30.15(1)(k), a security officer licensed under chapter 493, any
972 member of the Florida Commission on Offender Review or any
973 administrative aide or supervisor employed by the commission,
974 any personnel or representative of the Department of Law
975 Enforcement, or a federal law enforcement officer as defined in
976 s. 901.1505, and takes upon himself or herself to act as such,
977 or to require any other person to aid or assist him or her in a
978 matter pertaining to the duty of any such officer, commits a
979 felony of the third degree, punishable as provided in s.
980 775.082, s. 775.083, or s. 775.084. However, a person who
981 falsely personates any such officer during the course of the
982 commission of a felony commits a felony of the second degree,
983 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
984 If the commission of the felony results in the death or personal
985 injury of another human being, the person commits a felony of
986 the first degree, punishable as provided in s. 775.082, s.
987 775.083, or s. 775.084.

988 Section 21. Paragraph (f) is added to subsection (11) of
989 section 943.045, Florida Statutes, to read:

990 943.045 Definitions; ss. 943.045-943.08.—The following
991 words and phrases as used in ss. 943.045-943.08 shall have the
992 following meanings:

993 (11) "Criminal justice agency" means:

994 (f) The investigations component of the Department of
995 Financial Services which investigates the crimes of fraud and
996 official misconduct in all public assistance given to residents



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997 of the state or provided to others by the state.

998 Section 22. Effective upon this act becoming a law,
999 subsection (3) of section 40 of chapter 2019-140, Laws of
1000 Florida, is amended to read:

1001 Section 40. (3) The task force shall submit a report to the
1002 Governor, the President of the Senate, and the Speaker of the
1003 House of Representatives and present its findings to the
1004 appropriate legislative committees in each house of the
1005 Legislature by January 31, 2021 ~~within 180 days after the~~
1006 ~~initial meeting of the task force.~~ The report must include:

1007 (a) A general description of the costs and benefits of
1008 state and local government agencies using blockchain technology.

1009 (b) Recommendations concerning the feasibility of
1010 implementing blockchain technology in the state and the best
1011 approach to finance the cost of implementation.

1012 (c) Recommendations for specific implementations to be
1013 developed by relevant state agencies.

1014 (d) Any draft legislation the task force deems appropriate
1015 to implement such blockchain technologies.

1016 (e) Identification of one pilot project that may be
1017 implemented in the state.

1018 (f) Any other information deemed relevant by the task
1019 force.

1020 Section 23. Except as otherwise expressly provided in this
1021 act and except for this section, which shall take effect upon
1022 this act becoming a law, this act shall take effect July 1,
1023 2020.

1024
1025 ===== T I T L E A M E N D M E N T =====



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1026 And the title is amended as follows:

1027 Delete everything before the enacting clause
1028 and insert:

1029 A bill to be entitled

1030 An act relating to financial services; amending s.
1031 20.121, F.S.; specifying powers and duties of the
1032 Division of Public Assistance Fraud; creating s.
1033 284.45, F.S.; prohibiting individuals working for
1034 entities covered by the State Risk Management Trust
1035 Fund from engaging in retaliatory conduct against
1036 sexual harassment victims; defining the term "sexual
1037 harassment victim"; specifying a criminal penalty for
1038 the willful and knowing dissemination of a sexual
1039 harassment victim's personal identifying information,
1040 except under certain circumstances; specifying
1041 protected personal identifying information; amending
1042 s. 497.101, F.S.; revising provisions relating to
1043 membership of the Board of Funeral, Cemetery, and
1044 Consumer Services within the department; deleting a
1045 requirement for the department to adopt certain rules;
1046 creating s. 497.1411, F.S.; defining terms; providing
1047 for permanent disqualification of applicants for
1048 licensure under ch. 497, F.S., for certain offenses;
1049 providing for disqualifying periods for applicants for
1050 certain offenses; requiring the board to adopt rules;
1051 providing for calculation of disqualifying periods;
1052 providing conditions for licensure after completion of
1053 a disqualifying period; specifying the effect of a
1054 pardon or clemency; providing for exemptions from



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1055 disqualification in certain circumstances; providing
1056 procedures for consideration of applications for such
1057 exemptions; providing construction; amending s.
1058 497.142, F.S.; revising criminal history disclosure
1059 requirements for applicants seeking licensure under
1060 ch. 497, F.S.; amending s. 497.157, F.S.; prohibiting
1061 persons from acting as or advertising themselves as
1062 being funeral directors, embalmers, direct disposers,
1063 or preneed sales agents unless they are so licensed;
1064 prohibiting persons from engaging in certain
1065 activities requiring licensure without holding
1066 required licenses; revising the criminal penalty for
1067 unlicensed activity; amending s. 497.159, F.S.;
1068 conforming a provision to changes made by the act;
1069 amending s. 552.081, F.S.; revising the definition of
1070 the term "two-component explosives" for the purpose of
1071 regulation by the Division of State Fire Marshal;
1072 amending s. 553.7921, F.S.; authorizing a contractor
1073 repairing certain existing fire alarm systems to begin
1074 work after filing an application for a required permit
1075 but before receiving the permit; providing
1076 construction; amending s. 626.2815, F.S.; revising
1077 continuing education requirements for certain persons
1078 licensed to solicit, sell, or adjust insurance;
1079 amending s. 627.70132, F.S.; reducing the timeframe in
1080 which a notice of windstorm or hurricane claim must be
1081 given to a property insurer; creating s. 627.7154,
1082 F.S.; defining the term "water damage"; authorizing
1083 insurers offering homeowners' insurance policies or



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1084 endorsements to offer policies or endorsements with
1085 policy limits for water damage as low as a specified
1086 percentage; prohibiting such insurers from
1087 conditioning renewals upon the acceptance of certain
1088 policy limits; specifying premium discounts or credits
1089 that must be provided to policyholders who accept
1090 certain policy limits; requiring such insurers to
1091 provide a specified statement in policy documents;
1092 authorizing an insurer to condition the issuance or
1093 renewal of a homeowner's insurance policy or the
1094 provision of full water damage coverage under certain
1095 circumstances; authorizing an insurer to require a
1096 water intrusion inspection before binding full water
1097 damage coverage; amending s. 633.102, F.S.; revising
1098 the authority of certain fire protection system
1099 contractors to design and alter certain systems;
1100 amending s. 633.136, F.S.; replacing fire protection
1101 agencies in the Fire and Emergency Incident
1102 Information Reporting Program with fire service
1103 providers and defining the term; revising the
1104 composition of the Fire and Emergency Incident
1105 Information System Technical Advisory Panel; amending
1106 s. 633.202, F.S.; extending a deadline for certain
1107 buildings to comply with a minimum radio signal
1108 strength requirement under the Florida Fire Prevention
1109 Code; requiring such buildings to meet certain
1110 conditions by a specified date; extending the repeal
1111 date of exemptions to the Florida Fire Prevention Code
1112 which authorize doorstep refuse and recycling



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1113 collection containers to be in exit access corridors
1114 in certain apartment occupancies under certain
1115 circumstances; creating s. 633.217, F.S.; prohibiting
1116 certain acts to influence a firesafety inspector into
1117 violating certain laws; prohibiting a firesafety
1118 inspector from knowingly and willfully accepting an
1119 attempt to influence him or her into violating certain
1120 laws; amending s. 633.304, F.S.; revising requirements
1121 for training courses for licensees installing or
1122 maintaining certain fire suppression equipment;
1123 amending s. 633.402, F.S.; revising the composition of
1124 the Firefighters Employment, Standards, and Training
1125 Council; amending s. 633.416, F.S.; providing that
1126 certain persons serving as volunteer firefighters may
1127 serve as a regular or permanent firefighter for a
1128 limited period, subject to certain restrictions;
1129 amending s. 843.08, F.S.; prohibiting false
1130 personation of personnel or representatives of the
1131 Division of Investigative and Forensic Services;
1132 providing criminal penalties; amending s. 943.045,
1133 F.S.; revising the definition of the term "criminal
1134 justice agency" to include the investigations
1135 component of the department which investigates certain
1136 crimes; amending chapter 2019-140, L.O.F.; extending
1137 the deadline for the Florida Blockchain Task Force to
1138 submit its report to the Governor and the Legislature;
1139 providing effective dates.



540208

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: OO | . | |
| 03/03/2020 | . | |
| | . | |
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The Committee on Appropriations (Perry) recommended the following:

Senate Amendment to Amendment (489504) (with title amendment)

Between lines 20 and 21
insert:

Section 2. Section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the



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11 Department of Financial Services and administered with a program
12 of risk management, which fund is to provide insurance, as
13 authorized by s. 284.33, for workers' compensation, general
14 liability, fleet automotive liability, federal civil rights
15 actions under 42 U.S.C. s. 1983 or similar federal statutes,
16 benefits payable under s. 112.1816(2), and court-awarded
17 attorney ~~attorney's~~ fees in other proceedings against the state
18 except for such awards in eminent domain or for inverse
19 condemnation or for awards by the Public Employees Relations
20 Commission. A party to a suit in any court, to be entitled to
21 have his or her attorney ~~attorney's~~ fees paid by the state or
22 any of its agencies, must serve a copy of the pleading claiming
23 the fees on the Department of Financial Services; and thereafter
24 the department shall be entitled to participate with the agency
25 in the defense of the suit and any appeal thereof with respect
26 to such fees.

27 Section 3. Section 284.31, Florida Statutes, is amended to
28 read:

29 284.31 Scope and types of coverages; separate accounts.—The
30 Insurance Risk Management Trust Fund shall, unless specifically
31 excluded by the Department of Financial Services, cover all
32 departments of the State of Florida and their employees, agents,
33 and volunteers and shall provide separate accounts for workers'
34 compensation, general liability, fleet automotive liability,
35 federal civil rights actions under 42 U.S.C. s. 1983 or similar
36 federal statutes, benefits payable under s. 112.1816(2), and
37 court-awarded attorney ~~attorney's~~ fees in other proceedings
38 against the state except for such awards in eminent domain or
39 for inverse condemnation or for awards by the Public Employees



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40 Relations Commission. Unless specifically excluded by the
41 Department of Financial Services, the Insurance Risk Management
42 Trust Fund shall provide fleet automotive liability coverage to
43 motor vehicles titled to the state, or to any department of the
44 state, when such motor vehicles are used by community
45 transportation coordinators performing, under contract to the
46 appropriate department of the state, services for the
47 transportation disadvantaged under part I of chapter 427. Such
48 fleet automotive liability coverage shall be primary and shall
49 be subject to the provisions of s. 768.28 and parts II and III
50 of chapter 284, and applicable rules adopted thereunder, and the
51 terms and conditions of the certificate of coverage issued by
52 the Department of Financial Services.

53 Section 4. Section 284.385, Florida Statutes, is amended to
54 read:

55 284.385 Reporting and handling of claims.—

56 (1) All departments covered by the State Risk Management
57 Trust Fund under this part shall immediately report all known or
58 potential claims to the Department of Financial Services for
59 handling, except employment complaints which have not been filed
60 with the Florida Human Relations Commission, Equal Employment
61 Opportunity Commission, or any similar agency. When deemed
62 necessary, the Department of Financial Services shall assign or
63 reassign the claim to counsel. The assigned counsel shall report
64 regularly to the Department of Financial Services or to the
65 covered department on the status of any such claims or
66 litigation as required by the Department of Financial Services.
67 No such claim shall be compromised or settled for monetary
68 compensation without the prior approval of the Department of



69 Financial Services and prior notification to the covered
70 department. All departments shall cooperate with the Department
71 of Financial Services in its handling of claims. The Department
72 of Financial Services and the Department of Management Services,
73 with the cooperation of the state attorneys and the clerks of
74 the courts, shall develop a system to coordinate the exchange of
75 information concerning claims for and against the state, its
76 agencies, and its subdivisions, to assist in collection of
77 amounts due to them. The covered department shall have the
78 responsibility for the settlement of any claim for injunctive or
79 affirmative relief under 42 U.S.C. s. 1983 or similar federal or
80 state statutes. The payment of a settlement or judgment for any
81 claim covered and reported under this part shall be made only
82 from the State Risk Management Trust Fund.

83 (2) Benefits provided under s. 112.1816(2) may not be paid
84 from the fund until each request for any out-of-pocket
85 deductible, copayment, or coinsurance costs and one-time cash
86 payout has been validated and approved by the Department of
87 Management Services.

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete line 1032

92 and insert:

93 Division of Public Assistance Fraud; amending s.
94 284.30, F.S.; requiring the State Risk Management
95 Trust Fund to provide insurance for certain
96 firefighter cancer-related benefits; amending s.
97 284.31, F.S.; requiring the Insurance Risk Management



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98 Trust Fund to provide a separate account for certain
99 firefighter cancer-related benefits; amending s.
100 284.385, F.S.; specifying a condition that must be met
101 before such benefits may be paid from the State Risk
102 Management Trust Fund; creating s.



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LEGISLATIVE ACTION

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|------------|---|-------|
| Senate | . | House |
| Comm: OO | . | |
| 03/03/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Flores) recommended the following:

1 **Senate Amendment to Amendment (489504) (with title**
2 **amendment)**

3
4 Delete lines 423 - 501.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 1079 - 1097

9 and insert:

10 amending s. 633.102, F.S.; revising



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: OO | . | |
| 03/03/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Book) recommended the following:

1 **Senate Amendment to Amendment (489504) (with title**
2 **amendment)**

3
4 Delete lines 653 - 654
5 and insert:

6 However, existing apartment buildings must have completed a
7 minimum radio strength assessment ~~are required to apply for the~~
8 ~~appropriate permit~~ for the required communications
9

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



11 And the title is amended as follows:
12 Delete line 1110
13 and insert:
14 conditions by a specified date; revising a condition
15 that existing apartment buildings must meet by a
16 specified date; extending the repeal



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 03/03/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Perry) recommended the following:

1 **Senate Substitute for Amendment (489504) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (f) of subsection (2) of section
7 20.121, Florida Statutes, is amended to read:

8 20.121 Department of Financial Services.—There is created a
9 Department of Financial Services.

10 (2) DIVISIONS.—The Department of Financial Services shall



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11 consist of the following divisions and office:

12 (f) The Division of Public Assistance Fraud, which shall
13 function as a criminal justice agency for purposes of ss.
14 943.045-943.08. The division shall conduct investigations
15 pursuant to s. 414.411 within or outside of this state as it
16 deems necessary. If, during an investigation, the division has
17 reason to believe that any criminal law of this state has or may
18 have been violated, it shall refer any records tending to show
19 such violation to state or federal law enforcement or
20 prosecutorial agencies and shall provide investigative
21 assistance to those agencies as required.

22 Section 2. Section 284.30, Florida Statutes, is amended to
23 read:

24 284.30 State Risk Management Trust Fund; coverages to be
25 provided.—A state self-insurance fund, designated as the "State
26 Risk Management Trust Fund," is created to be set up by the
27 Department of Financial Services and administered with a program
28 of risk management, which fund is to provide insurance, as
29 authorized by s. 284.33, for workers' compensation, general
30 liability, fleet automotive liability, federal civil rights
31 actions under 42 U.S.C. s. 1983 or similar federal statutes,
32 benefits payable under s. 112.1816(2), and court-awarded
33 attorney ~~attorney's~~ fees in other proceedings against the state
34 except for such awards in eminent domain or for inverse
35 condemnation or for awards by the Public Employees Relations
36 Commission. A party to a suit in any court, to be entitled to
37 have his or her attorney ~~attorney's~~ fees paid by the state or
38 any of its agencies, must serve a copy of the pleading claiming
39 the fees on the Department of Financial Services; and thereafter



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40 the department shall be entitled to participate with the agency
41 in the defense of the suit and any appeal thereof with respect
42 to such fees.

43 Section 3. Section 284.31, Florida Statutes, is amended to
44 read:

45 284.31 Scope and types of coverages; separate accounts.—The
46 Insurance Risk Management Trust Fund shall, unless specifically
47 excluded by the Department of Financial Services, cover all
48 departments of the State of Florida and their employees, agents,
49 and volunteers and shall provide separate accounts for workers'
50 compensation, general liability, fleet automotive liability,
51 federal civil rights actions under 42 U.S.C. s. 1983 or similar
52 federal statutes, benefits payable under s. 112.1816(2), and
53 court-awarded attorney ~~attorney's~~ fees in other proceedings
54 against the state except for such awards in eminent domain or
55 for inverse condemnation or for awards by the Public Employees
56 Relations Commission. Unless specifically excluded by the
57 Department of Financial Services, the Insurance Risk Management
58 Trust Fund shall provide fleet automotive liability coverage to
59 motor vehicles titled to the state, or to any department of the
60 state, when such motor vehicles are used by community
61 transportation coordinators performing, under contract to the
62 appropriate department of the state, services for the
63 transportation disadvantaged under part I of chapter 427. Such
64 fleet automotive liability coverage shall be primary and shall
65 be subject to the provisions of s. 768.28 and parts II and III
66 of chapter 284, and applicable rules adopted thereunder, and the
67 terms and conditions of the certificate of coverage issued by
68 the Department of Financial Services.



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69 Section 4. Section 284.385, Florida Statutes, is amended to
70 read:

71 284.385 Reporting and handling of claims.—

72 (1) All departments covered by the State Risk Management
73 Trust Fund under this part shall immediately report all known or
74 potential claims to the Department of Financial Services for
75 handling, except employment complaints which have not been filed
76 with the Florida Human Relations Commission, Equal Employment
77 Opportunity Commission, or any similar agency. When deemed
78 necessary, the Department of Financial Services shall assign or
79 reassign the claim to counsel. The assigned counsel shall report
80 regularly to the Department of Financial Services or to the
81 covered department on the status of any such claims or
82 litigation as required by the Department of Financial Services.
83 No such claim shall be compromised or settled for monetary
84 compensation without the prior approval of the Department of
85 Financial Services and prior notification to the covered
86 department. All departments shall cooperate with the Department
87 of Financial Services in its handling of claims. The Department
88 of Financial Services and the Department of Management Services,
89 with the cooperation of the state attorneys and the clerks of
90 the courts, shall develop a system to coordinate the exchange of
91 information concerning claims for and against the state, its
92 agencies, and its subdivisions, to assist in collection of
93 amounts due to them. The covered department shall have the
94 responsibility for the settlement of any claim for injunctive or
95 affirmative relief under 42 U.S.C. s. 1983 or similar federal or
96 state statutes. The payment of a settlement or judgment for any
97 claim covered and reported under this part shall be made only



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98 from the State Risk Management Trust Fund.

99 (2) Benefits provided under s. 112.1816(2) may not be paid
100 from the fund until each request for any out-of-pocket
101 deductible, copayment, or coinsurance costs and one-time cash
102 payout has been validated and approved by the Department of
103 Management Services.

104 Section 5. Section 284.45, Florida Statutes, is created to
105 read:

106 284.45 Sexual harassment victims.—

107 (1) An individual working for an entity covered by the
108 State Risk Management Trust Fund may not engage in retaliatory
109 conduct of any kind against a sexual harassment victim. As used
110 in this section, the term "sexual harassment victim" means an
111 individual employed, or being considered for employment, with an
112 entity participating in the State Risk Management Trust Fund,
113 who becomes a victim of workplace sexual harassment through the
114 course of employment, or while being considered for employment,
115 with the entity.

116 (2) The willful and knowing dissemination of personal
117 identifying information of a sexual harassment victim to any
118 party other than a governmental entity in furtherance of its
119 official duties or pursuant to a court order is a misdemeanor of
120 the first degree, punishable as provided in s. 775.082. For
121 purposes of this subsection, personal identifying information
122 includes the name of the sexual harassment victim and his or
123 her:

- 124 (a) Home address;
125 (b) Home phone number;
126 (c) Cellular phone number;



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- 127 (d) E-mail address;
128 (e) Social media account username or uniform resource
129 locator (URL); or
130 (f) Any other information that could reasonably be used to
131 identify an alleged sexual harassment victim.

132 Section 6. Subsections (1), (2), (3), (6), and (8) of
133 section 497.101, Florida Statutes, are amended to read:

134 497.101 Board of Funeral, Cemetery, and Consumer Services;
135 membership; appointment; terms.—

136 (1) The Board of Funeral, Cemetery, and Consumer Services
137 is created within the Department of Financial Services and shall
138 consist of 10 members, 9 of whom shall be appointed by the
139 Governor from nominations made by the Chief Financial Officer
140 and confirmed by the Senate. The Chief Financial Officer shall
141 nominate one to three persons for each of the nine vacancies on
142 the board, and the Governor shall fill each vacancy on the board
143 by appointing one of the ~~three~~ persons nominated by the Chief
144 Financial Officer to fill that vacancy. If the Governor objects
145 to each of the ~~three~~ nominations for a vacancy, she or he shall
146 inform the Chief Financial Officer in writing. Upon notification
147 of an objection by the Governor, the Chief Financial Officer
148 shall submit one to three additional nominations for that
149 vacancy until the vacancy is filled. One member must be the
150 State Health Officer or her or his designee.

151 (2) Two members of the board shall be funeral directors
152 licensed under part III of this chapter who are associated with
153 a funeral establishment. One member of the board shall be a
154 funeral director licensed under part III of this chapter who is
155 associated with a funeral establishment licensed under part III



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156 of this chapter that has a valid preneed license issued pursuant
157 to this chapter and who owns or operates a cinerator facility
158 approved under chapter 403 and licensed under part VI of this
159 chapter. Two members of the board shall be persons whose primary
160 occupation is associated with a cemetery company licensed
161 pursuant to this chapter. Two ~~Three~~ members of the board shall
162 be consumers who are residents of the state, have never been
163 licensed as funeral directors or embalmers, are not connected
164 with a cemetery or cemetery company licensed pursuant to this
165 chapter, and are not connected with the death care industry or
166 the practice of embalming, funeral directing, or direct
167 disposition. One of the two consumer members shall be at least
168 60 years of age, ~~and one shall be licensed as a certified public~~
169 ~~accountant under chapter 473.~~ One member of the board shall be a
170 consumer who is a resident of this state; is licensed as a
171 certified public accountant under chapter 473; has never been
172 licensed as a funeral director or embalmer; is not a principal
173 or employee of any licensee licensed under this chapter; and
174 does not otherwise have control, as defined in s. 497.005, over
175 any licensee licensed under this chapter. One member of the
176 board shall be a principal of a monument establishment licensed
177 under this chapter as a monument builder. One member shall be
178 the State Health Officer or her or his designee. There shall not
179 be two or more board members who are principals or employees of
180 the same company or partnership or group of companies or
181 partnerships under common control.

182 (3) Board members shall be appointed for terms of 4 years,
183 and the State Health Officer shall serve as long as that person
184 holds that office. The designee of the State Health Officer



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185 shall serve at the pleasure of the Governor. ~~When the terms of~~
186 ~~the initial board members expire, the Chief Financial Officer~~
187 ~~shall stagger the terms of the successor members as follows: one~~
188 ~~funeral director, one cemetery representative, the monument~~
189 ~~builder, and one consumer member shall be appointed for terms of~~
190 ~~2 years, and the remaining members shall be appointed for terms~~
191 ~~of 4 years. All subsequent terms shall be for 4 years.~~

192 (6) The headquarters and records of the board shall be in
193 the Division of Funeral, Cemetery, and Consumer Services of the
194 Department of Financial Services in the City of Tallahassee. The
195 board may be contacted through the Division of Funeral,
196 Cemetery, and Consumer Services of the Department of Financial
197 Services in the City of Tallahassee. The Chief Financial Officer
198 shall annually appoint from among the board members a chair and
199 vice chair of the board. The board shall meet at least every 6
200 months, and more often as necessary. Special meetings of the
201 board shall be convened upon the direction of the Chief
202 Financial Officer. A quorum is necessary for the conduct of
203 business by the board. Unless otherwise provided by law, a
204 majority of the board members eligible to vote shall constitute
205 a quorum for the purpose of conducting its business ~~six board~~
206 ~~members shall constitute a quorum for the conduct of the board's~~
207 ~~business.~~

208 ~~(8) The department shall adopt rules establishing forms by~~
209 ~~which persons may apply for membership on the board and~~
210 ~~procedures for applying for such membership. Such forms shall~~
211 ~~require disclosure of the existence and nature of all current~~
212 ~~and past employments by or contracts with, and direct or~~
213 ~~indirect affiliations or interests in, any entity or business~~



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214 ~~that at any time was licensed by the board or by the former~~
215 ~~Board of Funeral and Cemetery Services or the former Board of~~
216 ~~Funeral Directors and Embalmers or that is or was otherwise~~
217 ~~involved in the death care industry, as specified by department~~
218 ~~rule.~~

219 Section 7. Section 497.1411, Florida Statutes, is created
220 to read:

221 497.1411 Disqualification of applicants and licensees;
222 penalties against licensees; rulemaking.—

223 (1) For purposes of this section, the term:

224 (a) "Applicant" means an individual applying for licensure
225 or relicensure under this chapter, and an officer, a director, a
226 majority owner, a partner, a manager, or other person who
227 manages or controls an entity applying for licensure or
228 relicensure under this chapter.

229 (b) "Felony of the first degree" and "capital felony"
230 include all felonies designated as such in this state at the
231 time of the commission of the offense, as well as any offense in
232 another jurisdiction that is substantially similar to an offense
233 so designated in this state.

234 (c) "Financial services business" means any financial
235 activity regulated by the department, the Office of Insurance
236 Regulation, or the Office of Financial Regulation.

237 (2) An applicant who has been found guilty of or has
238 pleaded guilty or nolo contendere to any of the following
239 crimes, regardless of adjudication, is permanently barred from
240 licensure under this chapter:

241 (a) A felony of the first degree.

242 (b) A capital felony.



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243 (c) A felony money laundering offense.
244 (d) A felony embezzlement.
245 (3) An applicant who has been found guilty of or has
246 pleaded guilty or nolo contendere to a crime not included in
247 subsection (2), regardless of adjudication, is subject to:
248 (a) A 10-year disqualifying period for all felonies
249 involving moral turpitude that are not specifically included in
250 the permanent bar contained in subsection (2).
251 (b) A 5-year disqualifying period for all felonies to which
252 neither the permanent bar in subsection (2) nor the 10-year
253 disqualifying period in paragraph (a) applies.
254 (c) A 5-year disqualifying period for all misdemeanors
255 directly related to the financial services business.
256 (4) The board shall adopt rules to administer this section.
257 The rules must provide for additional disqualifying periods due
258 to the commitment of multiple crimes and may include other
259 factors reasonably related to the applicant's criminal history.
260 The rules shall provide for mitigating and aggravating factors.
261 However, mitigation may not result in a period of
262 disqualification of less than 5 years and may not mitigate the
263 disqualifying periods in paragraphs (3) (b) and (c).
264 (5) For purposes of this section, a disqualifying period
265 begins upon the applicant's final release from supervision or
266 upon completion of the applicant's criminal sentence. The
267 department may not issue a license to an applicant unless all
268 related fines, court costs and fees, and court-ordered
269 restitution have been paid.
270 (6) After the disqualifying period has expired, the burden
271 is on the applicant to demonstrate that he or she has been



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272 rehabilitated, does not pose a risk to the public, is fit and
273 trustworthy to engage in business regulated by this chapter, and
274 is otherwise qualified for licensure.

275 (7) Notwithstanding subsections (2) and (3), an applicant
276 who has been found guilty of, or has pleaded guilty or nolo
277 contendere to, a crime in subsection (2) or subsection (3) and
278 who has subsequently been granted a pardon or the restoration of
279 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
280 State Constitution, or a pardon or the restoration of civil
281 rights under the laws of another jurisdiction with respect to a
282 conviction in that jurisdiction, is not barred or disqualified
283 from licensure under this chapter. However, such a pardon or
284 restoration of civil rights does not require the department to
285 award such license.

286 (8) (a) The board may grant an exemption from
287 disqualification to any person disqualified from licensure under
288 subsection (3) if:

289 1. The applicant has paid in full any fee, fine, fund,
290 lien, civil judgment, restitution, or cost of prosecution
291 imposed by the court as part of the judgment and sentence for
292 any disqualifying offense; and

293 2. At least 5 years have elapsed since the applicant
294 completed or has been lawfully released from confinement,
295 supervision, or nonmonetary condition imposed by the court for a
296 disqualifying offense.

297 (b) For the board to grant an exemption under this
298 subsection, the applicant must clearly and convincingly
299 demonstrate that he or she would not pose a risk to persons or
300 property if licensed under this chapter, evidence of which must



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301 include, but need not be limited to, facts and circumstances
302 surrounding the disqualifying offense, the time that has elapsed
303 since the offense, the nature of the offense and harm caused to
304 the victim, the applicant's history before and after the
305 offense, and any other evidence or circumstances indicating that
306 the applicant will not present a danger if licensed or
307 certified.

308 (c) The board has discretion whether to grant or deny an
309 exemption under this subsection. The board's decision is subject
310 to chapter 120.

311 (9) The disqualification periods provided in this section
312 do not apply to the renewal of a license or to a new application
313 for licensure if the applicant has an active license as of July
314 1, 2020, and the applicable criminal history was considered by
315 the board on the prior approval of any active license held by
316 the applicant. This subsection does not affect any criminal
317 history disclosure requirement of this chapter.

318 Section 8. Subsection (9) and paragraph (c) of subsection
319 (10) of section 497.142, Florida Statutes, are amended to read:
320 497.142 Licensing; fingerprinting and criminal background
321 checks.—

322 (9) If any applicant under this chapter has been, ~~within~~
323 ~~the 10 years preceding the application under this chapter,~~
324 convicted or found guilty of, or entered a plea of nolo
325 contendere to, regardless of adjudication, any crime in any
326 jurisdiction, the application shall not be deemed complete until
327 such time as the applicant provides such certified true copies
328 of the court records evidencing the conviction, finding, or plea
329 as required by this section or, as the licensing authority may



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330 by rule require.

331 (10)(c) Crimes to be disclosed are:

332 1. Any felony ~~or misdemeanor~~, no matter when committed,
333 ~~that was directly or indirectly related to or involving any~~
334 ~~aspect of the practice or business of funeral directing,~~
335 ~~embalming, direct disposition, cremation, funeral or cemetery~~
336 ~~preneed sales, funeral establishment operations, cemetery~~
337 ~~operations, or cemetery monument or marker sales or~~
338 ~~installation.~~

339 2. Any misdemeanor, no matter when committed, which was
340 directly or indirectly related to the financial services
341 business as defined in s. 497.1411 ~~Any other felony not already~~
342 ~~disclosed under subparagraph 1. that was committed within the 20~~
343 ~~years immediately preceding the application under this chapter.~~

344 3. Any other misdemeanor not already disclosed under
345 subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5
346 years immediately preceding the application under this chapter.

347 Section 9. Present subsections (2) through (5) of section
348 497.157, Florida Statutes, are redesignated as subsections (4)
349 through (7), respectively, new subsections (2) and (3) and
350 subsection (8) are added to that section, and present subsection
351 (3) of that section is amended, to read:

352 497.157 Unlicensed practice; remedies concerning violations
353 by unlicensed persons.—

354 (2) A person may not be, act as, or advertise or hold
355 himself or herself out to be a funeral director, embalmer, or
356 direct disposer unless he or she is currently licensed by the
357 department.

358 (3) A person may not be, act as, or advertise or hold



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359 himself or herself out to be a preneed sales agent unless he or
360 she is currently licensed by the department and appointed by a
361 preneed main licensee for which they are executing preneed
362 contracts.

363 (5)~~(3)~~ Where the department determines that an emergency
364 exists regarding any violation of this chapter by any unlicensed
365 person or entity, the department may issue and serve an
366 immediate final order upon such unlicensed person or entity, in
367 accordance with s. 120.569(2)(n). Such an immediate final order
368 may impose such prohibitions and requirements as are reasonably
369 necessary to protect the public health, safety, and welfare, and
370 shall be effective when served.

371 (a) For the purpose of enforcing such an immediate final
372 order, the department may file an emergency or other proceeding
373 in the circuit courts of the state seeking enforcement of the
374 immediate final order by injunctive or other order of the court.
375 The court shall issue its injunction or other order enforcing
376 the immediate final order pending administrative resolution of
377 the matter under subsection (4) ~~(2)~~, unless the court determines
378 that such action would work a manifest injustice under the
379 circumstances. Venue for judicial actions under this paragraph
380 shall be, at the election of the department, in the courts of
381 Leon County, or in a county where the respondent resides or has
382 a place of business.

383 (b) After serving an immediate final order to cease and
384 desist upon any person or entity, the department shall within 10
385 days issue and serve upon the same person or entity an
386 administrative complaint as set forth in subsection (4) ~~(2)~~,
387 except that, absent order of a court to the contrary, the



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388 immediate final order shall be effective throughout the pendency
389 of proceedings under subsection (4) ~~(2)~~.

390 (8) Any person who is not licensed under this chapter and
391 who engages in activity requiring licensure under this chapter
392 commits a felony of the third degree, punishable as provided in
393 s. 775.082, s. 775.083, or s. 775.084.

394 Section 10. Subsection (6) of section 497.159, Florida
395 Statutes, is amended to read:

396 497.159 Crimes.—

397 ~~(6) Any person who is not licensed under this chapter who~~
398 ~~engages in activity requiring licensure under this chapter,~~
399 ~~commits a misdemeanor of the second degree, punishable as~~
400 ~~provided in s. 775.082 or s. 775.083.~~

401 Section 11. Subsection (13) of section 552.081, Florida
402 Statutes, is amended to read:

403 552.081 Definitions.—As used in this chapter:

404 (13) "Two-component explosives" means any two inert
405 components which, when mixed, become capable of detonation by
406 any detonator ~~a No. 6 blasting cap~~, and shall be classified as a
407 Class "A" explosive when so mixed.

408 Section 12. Present subsection (2) of section 553.7921,
409 Florida Statutes, is redesignated as subsection (3), a new
410 subsection (2) is added to that section, and subsection (1) of
411 that section is amended, to read:

412 553.7921 Fire alarm permit application to local enforcement
413 agency.—

414 (1) A contractor must file a Uniform Fire Alarm Permit
415 Application as provided in subsection (3) ~~(2)~~ with the local
416 enforcement agency and must receive the fire alarm permit



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417 before:

418 ~~(a) installing or replacing a fire alarm, if the local~~
419 ~~enforcement agency requires a plan review for the installation~~
420 ~~or replacement; or~~

421 ~~(b) Repairing an existing alarm system that was previously~~
422 ~~permitted by the local enforcement agency if the local~~
423 ~~enforcement agency requires a fire alarm permit for the repair.~~

424 (2) If the local enforcement agency requires a fire alarm
425 permit to repair an existing alarm system that was previously
426 permitted by the local enforcement agency, a contractor may
427 begin work after filing a Uniform Fire Alarm Permit Application
428 as provided in subsection (3). A fire alarm repaired pursuant to
429 this subsection may not be considered compliant until the
430 required permit is issued and the local enforcement agency
431 approves the repair.

432 Section 13. Effective January 1, 2021, subsection (3) of
433 section 626.2815, Florida Statutes, is amended to read:

434 626.2815 Continuing education requirements.—

435 (3) Each licensee except a title insurance agent must
436 complete a 4-hour ~~5-hour~~ update course every 2 years which is
437 specific to the license held by the licensee. The course must be
438 developed and offered by providers and approved by the
439 department. The content of the course must address all lines of
440 insurance for which examination and licensure are required and
441 include the following subject areas: insurance law updates,
442 ethics for insurance professionals, disciplinary trends and case
443 studies, industry trends, premium discounts, determining
444 suitability of products and services, and other similar
445 insurance-related topics the department determines are relevant



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446 to legally and ethically carrying out the responsibilities of
447 the license granted. A licensee who holds multiple insurance
448 licenses must complete an update course that is specific to at
449 least one of the licenses held. Except as otherwise specified,
450 any remaining required hours of continuing education are
451 elective and may consist of any continuing education course
452 approved by the department under this section.

453 (a) Except as provided in paragraphs (b), (c), (d), (e),
454 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
455 elective continuing education courses every 2 years.

456 (b) A licensee who has been licensed for 6 or more years
457 must also complete a minimum of 16 ~~15~~ hours of elective
458 continuing education every 2 years.

459 (c) A licensee who has been licensed for 25 years or more
460 and is a CLU or a CPCU or has a Bachelor of Science degree in
461 risk management or insurance with evidence of 18 or more
462 semester hours in insurance-related courses must also complete a
463 minimum of 6 ~~5~~ hours of elective continuing education courses
464 every 2 years.

465 (d) An individual who holds a license as a customer
466 representative and who is not a licensed life or health agent
467 must also complete a minimum of 6 ~~5~~ hours of continuing
468 education courses every 2 years.

469 (e) An individual subject to chapter 648 must complete the
470 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of
471 elective continuing education courses every 2 years.

472 (f) Elective continuing education courses for public
473 adjusters must be specifically designed for public adjusters and
474 approved by the department. Notwithstanding this subsection,



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475 public adjusters for workers' compensation insurance or health
476 insurance are not required to take continuing education courses
477 pursuant to this section.

478 (g) Excess hours accumulated during any 2-year compliance
479 period may be carried forward to the next compliance period.

480 (h) An individual teaching an approved course of
481 instruction or lecturing at any approved seminar and attending
482 the entire course or seminar qualifies for the same number of
483 classroom hours as would be granted to a person taking and
484 successfully completing such course or seminar. Credit is
485 limited to the number of hours actually taught unless a person
486 attends the entire course or seminar. An individual who is an
487 official of or employed by a governmental entity in this state
488 and serves as a professor, instructor, or in another position or
489 office, the duties and responsibilities of which are determined
490 by the department to require monitoring and review of insurance
491 laws or insurance regulations and practices, is exempt from this
492 section.

493 (i) For compliance periods beginning on or after October 1,
494 2014, any person who holds a license as a title insurance agent
495 must complete a minimum of 10 hours of continuing education
496 credit every 2 years in title insurance and escrow management
497 specific to this state and approved by the department, which
498 shall include at least 3 hours of continuing education on the
499 subject matter of ethics, rules, or compliance with state and
500 federal regulations relating specifically to title insurance and
501 closing services.

502 (j) For a licensee who is an active participant in an
503 association, 2 hours of elective continuing education credit per



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504 calendar year may be approved by the department, if properly
505 reported by the association.

506 Section 14. Section 627.70132, Florida Statutes, is amended
507 to read:

508 627.70132 Notice of windstorm or hurricane claim.—A claim,
509 supplemental claim, or reopened claim under an insurance policy
510 that provides property insurance, as defined in s. 624.604, for
511 loss or damage caused by the peril of windstorm or hurricane is
512 barred unless notice of the claim, ~~supplemental claim, or~~
513 ~~reopened claim~~ was given to the insurer in accordance with the
514 terms of the policy within 24 months ~~3 years~~ after the hurricane
515 first made landfall or the windstorm caused the covered damage.
516 For purposes of this section, the term "supplemental claim" or
517 "reopened claim" means any additional claim for recovery from
518 the insurer for losses from the same hurricane or windstorm
519 which the insurer has previously adjusted pursuant to the
520 initial claim. This section does not affect any applicable
521 limitation on civil actions provided in s. 95.11 for claims,
522 supplemental claims, or reopened claims timely filed under this
523 section.

524 Section 15. Subsection (3) of section 633.102, Florida
525 Statutes, is amended to read:

526 633.102 Definitions.—As used in this chapter, the term:

527 (3) (a) "Contractor I" means a contractor whose business
528 includes the execution of contracts requiring the ability to lay
529 out, fabricate, install, inspect, alter, repair, and service all
530 types of fire protection systems, excluding preengineered
531 systems.

532 (b) "Contractor II" means a contractor whose business is



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533 limited to the execution of contracts requiring the ability to
534 lay out, fabricate, install, inspect, alter, repair, and service
535 water sprinkler systems, water spray systems, foam-water
536 sprinkler systems, foam-water spray systems, standpipes,
537 combination standpipes and sprinkler risers, all piping that is
538 an integral part of the system beginning at the point of service
539 as defined in this section, sprinkler tank heaters, air lines,
540 thermal systems used in connection with sprinklers, and tanks
541 and pumps connected thereto, excluding preengineered systems.

542 (c) "Contractor III" means a contractor whose business is
543 limited to the execution of contracts requiring the ability to
544 fabricate, install, inspect, alter, repair, and service carbon
545 dioxide systems, foam extinguishing systems, dry chemical
546 systems, and Halon and other chemical systems, excluding
547 preengineered systems.

548 (d) "Contractor IV" means a contractor whose business is
549 limited to the execution of contracts requiring the ability to
550 lay out, fabricate, install, inspect, alter, repair, and service
551 automatic fire sprinkler systems for detached one-family
552 dwellings, detached two-family dwellings, and mobile homes,
553 excluding preengineered systems and excluding single-family
554 homes in cluster units, such as apartments, condominiums, and
555 assisted living facilities or any building that is connected to
556 other dwellings. A Contractor IV is limited to the scope of
557 practice specified in NFPA 13D.

558 (e) "Contractor V" means a contractor whose business is
559 limited to the execution of contracts requiring the ability to
560 fabricate, install, inspect, alter, repair, and service the
561 underground piping for a fire protection system using water as



562 the extinguishing agent beginning at the point of service as
563 defined in this act and ending no more than 1 foot above the
564 finished floor.

565
566 The definitions in this subsection may not be construed to
567 include engineers or architects and do not limit or prohibit a
568 licensed fire protection engineer or architect with fire
569 protection design experience from designing any type of fire
570 protection system. A distinction is made between system design
571 concepts prepared by the design professional and system layout
572 as defined in this section and typically prepared by the
573 contractor. However, a person certified as a Contractor I or
574 Contractor II, ~~or Contractor IV~~ under this chapter may design
575 new fire protection systems of 49 or fewer sprinklers; ~~and~~ may
576 design the alteration of an existing fire sprinkler system if
577 the alteration consists of the relocation, addition, or deletion
578 of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the
579 size of the existing fire sprinkler system; or may design the
580 alteration of an existing fire sprinkler system if the
581 alteration consists of the relocation or deletion of 249 or
582 fewer sprinklers, notwithstanding the size of the existing fire
583 sprinkler system, if there is no change of occupancy, as defined
584 in the Florida Building Code, of the affected areas and there is
585 no change in the water demand as defined in National Fire
586 Protection Association publication NFPA 13 "Standard for the
587 Installation of Sprinkler Systems," and if the occupancy hazard
588 classification as defined in NFPA 13 is reduced or remains the
589 same as a result of the alteration. A person certified as a
590 Contractor I, Contractor II, or Contractor IV may design or



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591 alter a fire protection system, the scope of which complies with
592 NFPA 13D, Standard for the Installation of Sprinkler Systems in
593 One- and Two-Family Dwellings and Manufactured Homes, as adopted
594 by the State Fire Marshal, notwithstanding the number of fire
595 sprinklers. Contractor-developed plans may not be required by
596 any local permitting authority to be sealed by a registered
597 professional engineer.

598 Section 16. Section 633.136, Florida Statutes, is amended
599 to read:

600 633.136 Fire and Emergency Incident Information Reporting
601 Program; duties; fire reports.—

602 (1) (a) The Fire and Emergency Incident Information
603 Reporting Program is created within the division. The program
604 shall:

605 1. Establish and maintain an electronic communication
606 system capable of transmitting fire and emergency incident
607 information to and between fire service providers ~~protection~~
608 ~~agencies~~.

609 2. Initiate a Fire and Emergency Incident Information
610 Reporting System that shall be responsible for:

611 a. Receiving fire and emergency incident information from
612 fire service providers ~~protection agencies~~.

613 b. Preparing and disseminating annual reports to the
614 Governor, the President of the Senate, the Speaker of the House
615 of Representatives, fire service providers ~~protection agencies~~,
616 and, upon request, the public. Each report shall include, but
617 not be limited to, the information listed in the National Fire
618 Incident Reporting System.

619 c. Upon request, providing other states and federal



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620 agencies with fire and emergency incident data of this state.

621 3. Adopt rules to effectively and efficiently implement,
622 administer, manage, maintain, and use the Fire and Emergency
623 Incident Information Reporting Program. The rules shall be
624 considered minimum requirements and shall not preclude a fire
625 service provider ~~protection agency~~ from implementing its own
626 requirements which may not conflict with the rules of the
627 division.

628 4. By rule, establish procedures and a format for each fire
629 service provider ~~protection agency~~ to voluntarily monitor its
630 records and submit reports to the program.

631 5. Maintain ~~Establish~~ an electronic information database
632 that is accessible and searchable by fire service providers
633 ~~protection agencies~~.

634 (b) The division shall consult with the Florida Forest
635 Service of the Department of Agriculture and Consumer Services
636 and the State Surgeon General of the Department of Health to
637 coordinate data, ensure accuracy of the data, and limit
638 duplication of efforts in data collection, analysis, and
639 reporting.

640 (2) The Fire and Emergency Incident Information System
641 Technical Advisory Panel is created within the division. The
642 panel shall advise, review, and recommend to the State Fire
643 Marshal with respect to the requirements of this section. The
644 membership of the panel shall consist of the ~~following~~ 15
645 members:-

646 ~~(a) The current 13 members~~ of the Firefighters Employment,
647 Standards, and Training Council as established in s. 633.402.

648 ~~(b) One member from the Florida Forest Service of the~~



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649 ~~Department of Agriculture and Consumer Services, appointed by~~
650 ~~the director of the Florida Forest Service.~~

651 ~~(c) One member from the Department of Health, appointed by~~
652 ~~the State Surgeon General.~~

653 (3) As used in ~~For the purpose of~~ this section, the term
654 "fire service provider" has the same meaning as in s. 633.102
655 ~~"fire protection agency" shall be defined by rule by the~~
656 ~~division.~~

657 Section 17. Subsections (18) and (20) of section 633.202,
658 Florida Statutes, are amended to read:

659 633.202 Florida Fire Prevention Code.-

660 (18) The authority having jurisdiction shall determine the
661 minimum radio signal strength for fire department communications
662 in all new high-rise and existing high-rise buildings. Existing
663 buildings are not required to comply with minimum radio strength
664 for fire department communications and two-way radio system
665 enhancement communications as required by the Florida Fire
666 Prevention Code until January 1, 2023 ~~2022~~. However, by January
667 1, 2022 ~~December 31, 2019~~, an existing building that is not in
668 compliance with the requirements for minimum radio strength for
669 fire department communications must have completed a minimum
670 radio strength assessment ~~apply for an appropriate permit~~ for
671 the required installation with the local government agency
672 having jurisdiction and must demonstrate that the building will
673 become compliant by January 1, 2023 ~~2022~~. Existing apartment
674 buildings are not required to comply until January 1, 2025.
675 However, existing apartment buildings are required to apply for
676 the appropriate permit for the required communications
677 installation by December 31, 2022.



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678 (20) (a) In apartment occupancies with enclosed corridors
679 served by interior or exterior exit stairs, doorstep refuse and
680 recycling collection containers, which stand upright on their
681 own and do not leak liquids when standing upright, must be
682 allowed in exit access corridors when all of the following
683 conditions exist:

684 1. The maximum doorstep refuse and recycling collection
685 container size does not exceed 13 gallons.

686 2. Waste, which is in a doorstep refuse and recycling
687 collection container, is not placed in the exit access corridors
688 for single periods exceeding 5 hours.

689 3. Doorstep refuse and recycling collection containers do
690 not occupy the exit access corridors for single periods
691 exceeding 12 hours.

692 4. Doorstep refuse and recycling collection containers do
693 not reduce the means of egress width below that required under
694 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
695 Prevention Code.

696 5. Management staff have written policies and procedures in
697 place and enforce them to ensure compliance with this paragraph,
698 and, upon request, provide a copy of such policies and
699 procedures to the authority having jurisdiction.

700 (b) In apartment occupancies with open-air corridors or
701 balconies served by exterior exit stairs, doorstep refuse and
702 recycling collection containers, which stand upright on their
703 own and do not leak liquids when standing upright, must be
704 allowed in exit access corridors when all of the following
705 conditions exist:

706 1. The maximum doorstep refuse and recycling collection



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707 container size does not exceed 27 gallons.

708 2. Waste, which is in a doorstep refuse and recycling
709 collection container, is not placed in the exit access corridors
710 for single periods exceeding 5 hours.

711 3. Doorstep refuse and recycling collection containers do
712 not reduce the means of egress width below that required under
713 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
714 Prevention Code.

715 4. Management staff have written policies and procedures in
716 place and enforce them to ensure compliance with this paragraph,
717 and, upon request, provide a copy of such policies and
718 procedures to the authority having jurisdiction.

719 (c) The authority having jurisdiction may approve
720 alternative containers and storage arrangements that are
721 demonstrated to provide an equivalent level of safety to that
722 provided under paragraphs (a) and (b).

723 (d) The authority having jurisdiction shall allow apartment
724 occupancies a phase-in period until December 31, 2020, to comply
725 with this subsection.

726 (e) This subsection is repealed on January 1, 2024 ~~July 1,~~
727 ~~2021~~.

728 Section 18. Section 633.217, Florida Statutes, is created
729 to read:

730 633.217 Influencing a firesafety inspector; prohibited
731 acts.—

732 (1) A person may not influence a firesafety inspector by:

733 (a) Threatening, coercing, tricking, or attempting to
734 threaten, coerce, or trick the firesafety inspector into
735 violating any provision of the Florida Fire Prevention Code, any



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736 rule adopted by the State Fire Marshal, or any provision of this
737 chapter.

738 (b) Offering any compensation to the firesafety inspector
739 to induce a violation of the Florida Fire Prevention Code, any
740 rule adopted by the State Fire Marshal, or any provision of this
741 chapter.

742 (2) A firesafety inspector may not knowingly and willfully
743 accept an attempt by a person to influence the firesafety
744 inspector into violating any provision of the Florida Fire
745 Prevention Code, any rule adopted by the State Fire Marshal, or
746 any provision of this chapter.

747 Section 19. Paragraphs (d), (g), and (h) of subsection (4)
748 of section 633.304, Florida Statutes, are amended to read:

749 633.304 Fire suppression equipment; license to install or
750 maintain.—

751 (4)

752 (d) A license of any class may not be issued or renewed by
753 the division and a license of any class does not remain
754 operative unless:

755 1. The applicant has submitted to the State Fire Marshal
756 evidence of registration as a Florida corporation or evidence of
757 compliance with s. 865.09.

758 2. The State Fire Marshal or his or her designee has by
759 inspection determined that the applicant possesses the equipment
760 required for the class of license sought. The State Fire Marshal
761 shall give an applicant a reasonable opportunity to correct any
762 deficiencies discovered by inspection. To obtain such
763 inspection, an applicant with facilities located outside this
764 state must:



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765 a. Provide a notarized statement from a professional
766 engineer licensed by the applicant's state of domicile
767 certifying that the applicant possesses the equipment required
768 for the class of license sought and that all such equipment is
769 operable; or

770 b. Allow the State Fire Marshal or her or his designee to
771 inspect the facility. All costs associated with the State Fire
772 Marshal's inspection must be paid by the applicant. The State
773 Fire Marshal, in accordance with s. 120.54, may adopt rules to
774 establish standards for the calculation and establishment of the
775 amount of costs associated with any inspection conducted by the
776 State Fire Marshal under this section. Such rules must include
777 procedures for invoicing and receiving funds in advance of the
778 inspection.

779 3. The applicant has submitted to the State Fire Marshal
780 proof of insurance providing coverage for comprehensive general
781 liability for bodily injury and property damage, products
782 liability, completed operations, and contractual liability. The
783 State Fire Marshal shall adopt rules providing for the amounts
784 of such coverage, but such amounts may not be less than \$300,000
785 for Class A or Class D licenses, \$200,000 for Class B licenses,
786 and \$100,000 for Class C licenses; and the total coverage for
787 any class of license held in conjunction with a Class D license
788 may not be less than \$300,000. The State Fire Marshal may, at
789 any time after the issuance of a license or its renewal, require
790 upon demand, and in no event more than 30 days after notice of
791 such demand, the licensee to provide proof of insurance, on the
792 insurer's form, containing confirmation of insurance coverage as
793 required by this chapter. Failure, for any length of time, to



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794 provide proof of insurance coverage as required must result in
795 the immediate suspension of the license until proof of proper
796 insurance is provided to the State Fire Marshal. An insurer that
797 provides such coverage shall notify the State Fire Marshal of
798 any change in coverage or of any termination, cancellation, or
799 nonrenewal of any coverage.

800 4. The applicant applies to the State Fire Marshal,
801 provides proof of experience, and successfully completes a
802 prescribed training course that includes both written and
803 practical training offered at by the State Fire College and or
804 an equivalent course approved by the State Fire Marshal as
805 applicable to the class of license being sought. This
806 subparagraph does not apply to any holder of or applicant for a
807 permit under paragraph (g) or to a business organization or a
808 governmental entity seeking initial licensure or renewal of an
809 existing license solely for the purpose of inspecting,
810 servicing, repairing, marking, recharging, and maintaining fire
811 extinguishers used and located on the premises of and owned by
812 such organization or entity.

813 5. The applicant has a current retestor identification
814 number that is appropriate for the license for which the
815 applicant is applying and that is listed with the United States
816 Department of Transportation.

817 6. The applicant has passed, with a grade of at least 70
818 percent, a written examination testing his or her knowledge of
819 the rules and statutes governing the activities authorized by
820 the license and demonstrating his or her knowledge and ability
821 to perform those tasks in a competent, lawful, and safe manner.
822 Such examination must be developed and administered by the State



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823 Fire Marshal, or his or her designee in accordance with policies
824 and procedures of the State Fire Marshal. An applicant shall pay
825 a nonrefundable examination fee of \$50 for each examination or
826 reexamination scheduled. A reexamination may not be scheduled
827 sooner than 30 days after any administration of an examination
828 to an applicant. An applicant may not be permitted to take an
829 examination for any level of license more than a total of four
830 times during 1 year, regardless of the number of applications
831 submitted. As a prerequisite to licensure of the applicant, he
832 or she:

833 a. Must be at least 18 years of age.

834 b. Must have 4 years of proven experience as a fire
835 equipment permittee at a level equal to or greater than the
836 level of license applied for or have a combination of education
837 and experience determined to be equivalent thereto by the State
838 Fire Marshal. Having held a permit at the appropriate level for
839 the required period constitutes the required experience.

840 c. Must not have been convicted of a felony or a crime
841 punishable by imprisonment of 1 year or more under the law of
842 the United States or of any state thereof or under the law of
843 any other country. "Convicted" means a finding of guilt or the
844 acceptance of a plea of guilty or nolo contendere in any federal
845 or state court or a court in any other country, without regard
846 to whether a judgment of conviction has been entered by the
847 court having jurisdiction of the case. If an applicant has been
848 convicted of any such felony, the applicant is excluded from
849 licensure for a period of 4 years after expiration of sentence
850 or final release by the Florida Commission on Offender Review
851 unless the applicant, before the expiration of the 4-year



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852 period, has received a full pardon or has had her or his civil
853 rights restored.

854

855 This subparagraph does not apply to any holder of or applicant
856 for a permit under paragraph (g) or to a business organization
857 or a governmental entity seeking initial licensure or renewal of
858 an existing license solely for the purpose of inspecting,
859 servicing, repairing, marking, recharging, hydrotesting, and
860 maintaining fire extinguishers used and located on the premises
861 of and owned by such organization or entity.

862 (g) A permit of any class may not be issued or renewed to a
863 person by the division, and a permit of any class does not
864 remain operative, unless the person has:

865 1. Submitted a nonrefundable examination fee in the amount
866 of \$50.

867 2. Successfully completed a training course that includes
868 both written and practical training offered at ~~by~~ the State Fire
869 College and ~~or an equivalent course~~ approved by the State Fire
870 Marshal as applicable to the class of license being sought.

871 3. Passed, with a grade of at least 70 percent, a written
872 examination testing his or her knowledge of the rules and
873 statutes governing the activities authorized by the permit and
874 demonstrating his or her knowledge and ability to perform those
875 tasks in a competent, lawful, and safe manner. Such examination
876 must be developed and administered by the State Fire Marshal in
877 accordance with the policies and procedures of the State Fire
878 Marshal. An examination fee must be paid for each examination
879 scheduled. A reexamination may not be scheduled sooner than 30
880 days after any administration of an examination to an applicant.



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881 An applicant may not be permitted to take an examination for any
882 level of permit more than four times during 1 year, regardless
883 of the number of applications submitted. As a prerequisite to
884 taking the permit examination, the applicant must be at least 16
885 years of age.

886 (h) An applicant for a license or permit under this section
887 who fails the examination may take it three more times during
888 the 1-year period after he or she originally filed an
889 application for the examination. If the applicant fails the
890 examination within 1 year after the application date and he or
891 she seeks to retake the examination, he or she must file a new
892 application, pay the application and examination fees, and
893 successfully complete a prescribed training course that includes
894 both written and practical training offered at ~~by~~ the State Fire
895 College and ~~or an equivalent~~ course approved by the State Fire
896 Marshal as applicable to the class of license being sought. The
897 applicant may not submit a new application within 6 months after
898 the date of his or her fourth reexamination. An applicant who
899 passes the examination but does not meet the remaining
900 qualifications prescribed by law and rule within 1 year after
901 the application date must file a new application, pay the
902 application and examination fee, successfully complete a
903 prescribed training course that includes both written and
904 practical training offered at ~~approved by~~ the State Fire College
905 and ~~or an equivalent~~ course approved by the State Fire Marshal
906 as applicable to the class of license being sought, and pass the
907 written examination.

908 Section 20. Subsection (1) of section 633.402, Florida
909 Statutes, is amended to read:



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910 633.402 Firefighters Employment, Standards, and Training
911 Council; organization; meetings; quorum; compensation; seal;
912 special powers; firefighter training.—

913 (1) There is created within the department a Firefighters
914 Employment, Standards, and Training Council of 15 ~~14~~ members.

915 (a) The members shall be appointed as follows:

916 1. Two fire chiefs appointed by the Florida Fire Chiefs
917 Association.

918 2. Two firefighters, who are not officers, appointed by the
919 Florida Professional Firefighters Association.

920 3. Two firefighter officers, who are not fire chiefs,
921 appointed by the State Fire Marshal.

922 4. One individual appointed by the Florida League of
923 Cities.

924 5. One individual appointed by the Florida Association of
925 Counties.

926 6. One individual appointed by the Florida Association of
927 Special Districts.

928 7. One individual appointed by the Florida Fire Marshals'
929 and Inspectors' Association.

930 8. One employee of the Florida Forest Service of the
931 Department of Agriculture and Consumer Services appointed by the
932 director of the Florida Forest Service.

933 9. One individual appointed by the State Fire Marshal.

934 10. One director or instructor of a state-certified
935 firefighting training facility appointed by the State Fire
936 Marshal.

937 11. One individual ~~The remaining member, who shall be~~
938 appointed by the State Fire Marshal, who may not be a member or



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939 representative of the firefighting profession or of any local
940 government.

941 12. One individual from the Department of Health, appointed
942 by the Surgeon General.

943 (b) To be eligible for appointment as a member under
944 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
945 subparagraph (a)8., or subparagraph (a)10., a person must have
946 had at least 4 years' experience in the firefighting profession.
947 Members shall serve only as long as they continue to meet the
948 criteria under which they were appointed, or unless a member has
949 failed to appear at three consecutive and properly noticed
950 meetings unless excused by the chair.

951 Section 21. Subsection (1) of section 633.416, Florida
952 Statutes, is amended to read:

953 633.416 Firefighter employment and volunteer firefighter
954 service; saving clause.—

955 (1) A fire service provider may not employ an individual
956 to:

957 (a) Extinguish fires for the protection of life or property
958 or to supervise individuals who perform such services unless the
959 individual holds a current and valid Firefighter Certificate of
960 Compliance. However, a person who is currently serving as a
961 volunteer firefighter and holds a volunteer firefighter
962 certificate of completion with a fire service provider, who is
963 then employed as a regular or permanent firefighter by such fire
964 service provider, may function, for a period of 1 year under the
965 direct supervision of an individual holding a valid firefighter
966 certificate of compliance, in the same capacity in which he or
967 she acted as a volunteer firefighter, provided that he or she



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968 has completed all training required by the volunteer
969 organization. Under no circumstance can this period extend
970 beyond 1 year either collectively or consecutively from the
971 start of employment to obtain a Firefighter Certificate of
972 Compliance; or

973 (b) Serve as the administrative and command head of a fire
974 service provider for a period in excess of 1 year unless the
975 individual holds a current and valid Firefighter Certificate of
976 Compliance or Special Certificate of Compliance.

977 Section 22. Section 843.08, Florida Statutes, is amended to
978 read:

979 843.08 False personation.—A person who falsely assumes or
980 pretends to be a firefighter, a sheriff, an officer of the
981 Florida Highway Patrol, an officer of the Fish and Wildlife
982 Conservation Commission, an officer of the Department of
983 Environmental Protection, ~~a fire or arson investigator of the~~
984 ~~Department of Financial Services,~~ an officer of the Department
985 of Financial Services, any personnel or representative of the
986 Division of Investigative and Forensic Services, an officer of
987 the Department of Corrections, a correctional probation officer,
988 a deputy sheriff, a state attorney or an assistant state
989 attorney, a statewide prosecutor or an assistant statewide
990 prosecutor, a state attorney investigator, a coroner, a police
991 officer, a lottery special agent or lottery investigator, a
992 beverage enforcement agent, a school guardian as described in s.
993 30.15(1)(k), a security officer licensed under chapter 493, any
994 member of the Florida Commission on Offender Review or any
995 administrative aide or supervisor employed by the commission,
996 any personnel or representative of the Department of Law



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997 Enforcement, or a federal law enforcement officer as defined in
998 s. 901.1505, and takes upon himself or herself to act as such,
999 or to require any other person to aid or assist him or her in a
1000 matter pertaining to the duty of any such officer, commits a
1001 felony of the third degree, punishable as provided in s.
1002 775.082, s. 775.083, or s. 775.084. However, a person who
1003 falsely personates any such officer during the course of the
1004 commission of a felony commits a felony of the second degree,
1005 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1006 If the commission of the felony results in the death or personal
1007 injury of another human being, the person commits a felony of
1008 the first degree, punishable as provided in s. 775.082, s.
1009 775.083, or s. 775.084.

1010 Section 23. Paragraph (f) is added to subsection (11) of
1011 section 943.045, Florida Statutes, to read:

1012 943.045 Definitions; ss. 943.045-943.08.—The following
1013 words and phrases as used in ss. 943.045-943.08 shall have the
1014 following meanings:

1015 (11) "Criminal justice agency" means:

1016 (f) The investigations component of the Department of
1017 Financial Services which investigates the crimes of fraud and
1018 official misconduct in all public assistance given to residents
1019 of the state or provided to others by the state.

1020 Section 24. Effective upon this act becoming a law,
1021 subsection (3) of section 40 of chapter 2019-140, Laws of
1022 Florida, is amended to read:

1023 Section 40. (3) The task force shall submit a report to the
1024 Governor, the President of the Senate, and the Speaker of the
1025 House of Representatives and present its findings to the



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1026 appropriate legislative committees in each house of the
1027 Legislature by January 31, 2021 ~~within 180 days after the~~
1028 ~~initial meeting of the task force~~. The report must include:

1029 (a) A general description of the costs and benefits of
1030 state and local government agencies using blockchain technology.

1031 (b) Recommendations concerning the feasibility of
1032 implementing blockchain technology in the state and the best
1033 approach to finance the cost of implementation.

1034 (c) Recommendations for specific implementations to be
1035 developed by relevant state agencies.

1036 (d) Any draft legislation the task force deems appropriate
1037 to implement such blockchain technologies.

1038 (e) Identification of one pilot project that may be
1039 implemented in the state.

1040 (f) Any other information deemed relevant by the task
1041 force.

1042 Section 25. Except as otherwise expressly provided in this
1043 act and except for this section, which shall take effect upon
1044 this act becoming a law, this act shall take effect July 1,
1045 2020.

1047 ===== T I T L E A M E N D M E N T =====

1048 And the title is amended as follows:

1049 Delete everything before the enacting clause
1050 and insert:

1051 A bill to be entitled
1052 An act relating to financial services; amending s.
1053 20.121, F.S.; specifying powers and duties of the
1054 Division of Public Assistance Fraud; amending s.



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1055 284.30, F.S.; requiring the State Risk Management
1056 Trust Fund to provide insurance for certain
1057 firefighter cancer-related benefits; amending s.
1058 284.31, F.S.; requiring the Insurance Risk Management
1059 Trust Fund to provide a separate account for certain
1060 firefighter cancer-related benefits; amending s.
1061 284.385, F.S.; specifying a condition that must be met
1062 before such benefits may be paid from the State Risk
1063 Management Trust Fund; creating s. 284.45, F.S.;
1064 prohibiting individuals working for entities covered
1065 by the State Risk Management Trust Fund from engaging
1066 in retaliatory conduct against sexual harassment
1067 victims; defining the term "sexual harassment victim";
1068 specifying a criminal penalty for the willful and
1069 knowing dissemination of a sexual harassment victim's
1070 personal identifying information, except under certain
1071 circumstances; specifying protected personal
1072 identifying information; amending s. 497.101, F.S.;
1073 revising provisions relating to membership of the
1074 Board of Funeral, Cemetery, and Consumer Services
1075 within the Department of Financial Services; deleting
1076 a requirement for the department to adopt certain
1077 rules; creating s. 497.1411, F.S.; defining terms;
1078 providing for permanent disqualification of applicants
1079 for licensure under ch. 497, F.S., for certain
1080 offenses; providing for disqualifying periods for
1081 applicants for certain offenses; requiring the board
1082 to adopt rules; providing for calculation of
1083 disqualifying periods; providing conditions for



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1084 licensure after completion of a disqualifying period;
1085 specifying the effect of a pardon or clemency;
1086 providing for exemptions from disqualification in
1087 certain circumstances; providing procedures for
1088 consideration of applications for such exemptions;
1089 providing construction; amending s. 497.142, F.S.;
1090 revising criminal history disclosure requirements for
1091 applicants seeking licensure under ch. 497, F.S.;
1092 amending s. 497.157, F.S.; prohibiting persons from
1093 acting as or advertising themselves as being funeral
1094 directors, embalmers, direct disposers, or preneed
1095 sales agents unless they are so licensed; prohibiting
1096 persons from engaging in certain activities requiring
1097 licensure without holding required licenses; revising
1098 the criminal penalty for unlicensed activity; amending
1099 s. 497.159, F.S.; conforming a provision to changes
1100 made by the act; amending s. 552.081, F.S.; revising
1101 the definition of the term "two-component explosives"
1102 for the purpose of regulation by the Division of State
1103 Fire Marshal; amending s. 553.7921, F.S.; authorizing
1104 a contractor repairing certain existing fire alarm
1105 systems to begin work after filing an application for
1106 a required permit but before receiving the permit;
1107 providing construction; amending s. 626.2815, F.S.;
1108 revising continuing education requirements for certain
1109 persons licensed to solicit, sell, or adjust
1110 insurance; amending s. 627.70132, F.S.; decreasing the
1111 timeframe in which a notice of windstorm or hurricane
1112 claim must be given to a property insurer; amending s.



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1113 633.102, F.S.; revising the authority of certain fire
1114 protection system contractors to design and alter
1115 certain systems; amending s. 633.136, F.S.; replacing
1116 fire protection agencies in the Fire and Emergency
1117 Incident Information Reporting Program with fire
1118 service providers and defining the term; revising the
1119 composition of the Fire and Emergency Incident
1120 Information System Technical Advisory Panel; amending
1121 s. 633.202, F.S.; extending a deadline for certain
1122 buildings to comply with a minimum radio signal
1123 strength requirement under the Florida Fire Prevention
1124 Code; requiring such buildings to meet certain
1125 conditions by a specified date; extending the repeal
1126 date of exemptions to the Florida Fire Prevention Code
1127 which authorize doorstep refuse and recycling
1128 collection containers to be in exit access corridors
1129 in certain apartment occupancies under certain
1130 circumstances; creating s. 633.217, F.S.; prohibiting
1131 certain acts to influence a firesafety inspector into
1132 violating certain laws; prohibiting a firesafety
1133 inspector from knowingly and willfully accepting an
1134 attempt to influence him or her into violating certain
1135 laws; amending s. 633.304, F.S.; revising requirements
1136 for training courses for licensees installing or
1137 maintaining certain fire suppression equipment;
1138 amending s. 633.402, F.S.; revising the composition of
1139 the Firefighters Employment, Standards, and Training
1140 Council; amending s. 633.416, F.S.; providing that
1141 certain persons serving as volunteer firefighters may



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1142 serve as a regular or permanent firefighter for a
1143 limited period, subject to certain restrictions;
1144 amending s. 843.08, F.S.; prohibiting false
1145 personation of personnel or representatives of the
1146 Division of Investigative and Forensic Services;
1147 providing criminal penalties; amending s. 943.045,
1148 F.S.; revising the definition of the term "criminal
1149 justice agency" to include the investigations
1150 component of the department which investigates certain
1151 crimes; amending chapter 2019-140, L.O.F.; extending
1152 the deadline for the Florida Blockchain Task Force to
1153 submit its report to the Governor and the Legislature;
1154 providing effective dates.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
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| | . | |
| | . | |

The Committee on Appropriations (Perry) recommended the following:

1 **Senate Substitute for Amendment (489504) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (f) of subsection (2) of section
7 20.121, Florida Statutes, is amended to read:

8 20.121 Department of Financial Services.—There is created a
9 Department of Financial Services.

10 (2) DIVISIONS.—The Department of Financial Services shall



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11 consist of the following divisions and office:

12 (f) The Division of Public Assistance Fraud, which shall
13 function as a criminal justice agency for purposes of ss.
14 943.045-943.08. The division shall conduct investigations
15 pursuant to s. 414.411 within or outside of this state as it
16 deems necessary. If, during an investigation, the division has
17 reason to believe that any criminal law of this state has or may
18 have been violated, it shall refer any records tending to show
19 such violation to state or federal law enforcement or
20 prosecutorial agencies and shall provide investigative
21 assistance to those agencies as required.

22 Section 2. Section 284.30, Florida Statutes, is amended to
23 read:

24 284.30 State Risk Management Trust Fund; coverages to be
25 provided.—A state self-insurance fund, designated as the "State
26 Risk Management Trust Fund," is created to be set up by the
27 Department of Financial Services and administered with a program
28 of risk management, which fund is to provide insurance, as
29 authorized by s. 284.33, for workers' compensation, general
30 liability, fleet automotive liability, federal civil rights
31 actions under 42 U.S.C. s. 1983 or similar federal statutes,
32 benefits payable under s. 112.1816(2), and court-awarded
33 attorney ~~attorney's~~ fees in other proceedings against the state
34 except for such awards in eminent domain or for inverse
35 condemnation or for awards by the Public Employees Relations
36 Commission. A party to a suit in any court, to be entitled to
37 have his or her attorney ~~attorney's~~ fees paid by the state or
38 any of its agencies, must serve a copy of the pleading claiming
39 the fees on the Department of Financial Services; and thereafter



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40 the department shall be entitled to participate with the agency
41 in the defense of the suit and any appeal thereof with respect
42 to such fees.

43 Section 3. Section 284.31, Florida Statutes, is amended to
44 read:

45 284.31 Scope and types of coverages; separate accounts.—The
46 Insurance Risk Management Trust Fund shall, unless specifically
47 excluded by the Department of Financial Services, cover all
48 departments of the State of Florida and their employees, agents,
49 and volunteers and shall provide separate accounts for workers'
50 compensation, general liability, fleet automotive liability,
51 federal civil rights actions under 42 U.S.C. s. 1983 or similar
52 federal statutes, benefits payable under s. 112.1816(2), and
53 court-awarded attorney ~~attorney's~~ fees in other proceedings
54 against the state except for such awards in eminent domain or
55 for inverse condemnation or for awards by the Public Employees
56 Relations Commission. Unless specifically excluded by the
57 Department of Financial Services, the Insurance Risk Management
58 Trust Fund shall provide fleet automotive liability coverage to
59 motor vehicles titled to the state, or to any department of the
60 state, when such motor vehicles are used by community
61 transportation coordinators performing, under contract to the
62 appropriate department of the state, services for the
63 transportation disadvantaged under part I of chapter 427. Such
64 fleet automotive liability coverage shall be primary and shall
65 be subject to the provisions of s. 768.28 and parts II and III
66 of chapter 284, and applicable rules adopted thereunder, and the
67 terms and conditions of the certificate of coverage issued by
68 the Department of Financial Services.



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69 Section 4. Section 284.385, Florida Statutes, is amended to
70 read:

71 284.385 Reporting and handling of claims.—

72 (1) All departments covered by the State Risk Management
73 Trust Fund under this part shall immediately report all known or
74 potential claims to the Department of Financial Services for
75 handling, except employment complaints which have not been filed
76 with the Florida Human Relations Commission, Equal Employment
77 Opportunity Commission, or any similar agency. When deemed
78 necessary, the Department of Financial Services shall assign or
79 reassign the claim to counsel. The assigned counsel shall report
80 regularly to the Department of Financial Services or to the
81 covered department on the status of any such claims or
82 litigation as required by the Department of Financial Services.
83 No such claim shall be compromised or settled for monetary
84 compensation without the prior approval of the Department of
85 Financial Services and prior notification to the covered
86 department. All departments shall cooperate with the Department
87 of Financial Services in its handling of claims. The Department
88 of Financial Services and the Department of Management Services,
89 with the cooperation of the state attorneys and the clerks of
90 the courts, shall develop a system to coordinate the exchange of
91 information concerning claims for and against the state, its
92 agencies, and its subdivisions, to assist in collection of
93 amounts due to them. The covered department shall have the
94 responsibility for the settlement of any claim for injunctive or
95 affirmative relief under 42 U.S.C. s. 1983 or similar federal or
96 state statutes. The payment of a settlement or judgment for any
97 claim covered and reported under this part shall be made only



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98 from the State Risk Management Trust Fund.

99 (2) Benefits provided under s. 112.1816(2) may not be paid
100 from the fund until each request for any out-of-pocket
101 deductible, copayment, or coinsurance costs and one-time cash
102 payout has been validated and approved by the Department of
103 Management Services.

104 Section 5. Section 284.45, Florida Statutes, is created to
105 read:

106 284.45 Sexual harassment victims.—

107 (1) An individual working for an entity covered by the
108 State Risk Management Trust Fund may not engage in retaliatory
109 conduct of any kind against a sexual harassment victim. As used
110 in this section, the term "sexual harassment victim" means an
111 individual employed, or being considered for employment, with an
112 entity participating in the State Risk Management Trust Fund,
113 who becomes a victim of workplace sexual harassment through the
114 course of employment, or while being considered for employment,
115 with the entity.

116 (2) The willful and knowing dissemination of personal
117 identifying information of a sexual harassment victim to any
118 party other than a governmental entity in furtherance of its
119 official duties or pursuant to a court order is a misdemeanor of
120 the first degree, punishable as provided in s. 775.082. For
121 purposes of this subsection, personal identifying information
122 includes the name of the sexual harassment victim and his or
123 her:

- 124 (a) Home address;
125 (b) Home phone number;
126 (c) Cellular phone number;



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- 127 (d) E-mail address;
128 (e) Social media account username or uniform resource
129 locator (URL); or
130 (f) Any other information that could reasonably be used to
131 identify an alleged sexual harassment victim.

132 Section 6. Subsections (1), (2), (3), (6), and (8) of
133 section 497.101, Florida Statutes, are amended to read:

134 497.101 Board of Funeral, Cemetery, and Consumer Services;
135 membership; appointment; terms.—

136 (1) The Board of Funeral, Cemetery, and Consumer Services
137 is created within the Department of Financial Services and shall
138 consist of 10 members, 9 of whom shall be appointed by the
139 Governor from nominations made by the Chief Financial Officer
140 and confirmed by the Senate. The Chief Financial Officer shall
141 nominate one to three persons for each of the nine vacancies on
142 the board, and the Governor shall fill each vacancy on the board
143 by appointing one of the ~~three~~ persons nominated by the Chief
144 Financial Officer to fill that vacancy. If the Governor objects
145 to each of the ~~three~~ nominations for a vacancy, she or he shall
146 inform the Chief Financial Officer in writing. Upon notification
147 of an objection by the Governor, the Chief Financial Officer
148 shall submit one to three additional nominations for that
149 vacancy until the vacancy is filled. One member must be the
150 State Health Officer or her or his designee.

151 (2) Two members of the board shall be funeral directors
152 licensed under part III of this chapter who are associated with
153 a funeral establishment. One member of the board shall be a
154 funeral director licensed under part III of this chapter who is
155 associated with a funeral establishment licensed under part III



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156 of this chapter that has a valid preneed license issued pursuant
157 to this chapter and who owns or operates a cinerator facility
158 approved under chapter 403 and licensed under part VI of this
159 chapter. Two members of the board shall be persons whose primary
160 occupation is associated with a cemetery company licensed
161 pursuant to this chapter. Two ~~Three~~ members of the board shall
162 be consumers who are residents of the state, have never been
163 licensed as funeral directors or embalmers, are not connected
164 with a cemetery or cemetery company licensed pursuant to this
165 chapter, and are not connected with the death care industry or
166 the practice of embalming, funeral directing, or direct
167 disposition. One of the two consumer members shall be at least
168 60 years of age, ~~and one shall be licensed as a certified public~~
169 ~~accountant under chapter 473.~~ One member of the board shall be a
170 consumer who is a resident of this state; is licensed as a
171 certified public accountant under chapter 473; has never been
172 licensed as a funeral director or embalmer; is not a principal
173 or employee of any licensee licensed under this chapter; and
174 does not otherwise have control, as defined in s. 497.005, over
175 any licensee licensed under this chapter. One member of the
176 board shall be a principal of a monument establishment licensed
177 under this chapter as a monument builder. One member shall be
178 the State Health Officer or her or his designee. There shall not
179 be two or more board members who are principals or employees of
180 the same company or partnership or group of companies or
181 partnerships under common control.

182 (3) Board members shall be appointed for terms of 4 years,
183 and the State Health Officer shall serve as long as that person
184 holds that office. The designee of the State Health Officer



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185 shall serve at the pleasure of the Governor. ~~When the terms of~~
186 ~~the initial board members expire, the Chief Financial Officer~~
187 ~~shall stagger the terms of the successor members as follows: one~~
188 ~~funeral director, one cemetery representative, the monument~~
189 ~~builder, and one consumer member shall be appointed for terms of~~
190 ~~2 years, and the remaining members shall be appointed for terms~~
191 ~~of 4 years. All subsequent terms shall be for 4 years.~~

192 (6) The headquarters and records of the board shall be in
193 the Division of Funeral, Cemetery, and Consumer Services of the
194 Department of Financial Services in the City of Tallahassee. The
195 board may be contacted through the Division of Funeral,
196 Cemetery, and Consumer Services of the Department of Financial
197 Services in the City of Tallahassee. The Chief Financial Officer
198 shall annually appoint from among the board members a chair and
199 vice chair of the board. The board shall meet at least every 6
200 months, and more often as necessary. Special meetings of the
201 board shall be convened upon the direction of the Chief
202 Financial Officer. A quorum is necessary for the conduct of
203 business by the board. Unless otherwise provided by law, a
204 majority of the board members eligible to vote shall constitute
205 a quorum for the purpose of conducting its business ~~six board~~
206 ~~members shall constitute a quorum for the conduct of the board's~~
207 ~~business.~~

208 ~~(8) The department shall adopt rules establishing forms by~~
209 ~~which persons may apply for membership on the board and~~
210 ~~procedures for applying for such membership. Such forms shall~~
211 ~~require disclosure of the existence and nature of all current~~
212 ~~and past employments by or contracts with, and direct or~~
213 ~~indirect affiliations or interests in, any entity or business~~



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214 ~~that at any time was licensed by the board or by the former~~
215 ~~Board of Funeral and Cemetery Services or the former Board of~~
216 ~~Funeral Directors and Embalmers or that is or was otherwise~~
217 ~~involved in the death care industry, as specified by department~~
218 ~~rule.~~

219 Section 7. Section 497.1411, Florida Statutes, is created
220 to read:

221 497.1411 Disqualification of applicants and licensees;
222 penalties against licensees; rulemaking.—

223 (1) For purposes of this section, the term:

224 (a) "Applicant" means an individual applying for licensure
225 or relicensure under this chapter, and an officer, a director, a
226 majority owner, a partner, a manager, or other person who
227 manages or controls an entity applying for licensure or
228 relicensure under this chapter.

229 (b) "Felony of the first degree" and "capital felony"
230 include all felonies designated as such in this state at the
231 time of the commission of the offense, as well as any offense in
232 another jurisdiction that is substantially similar to an offense
233 so designated in this state.

234 (c) "Financial services business" means any financial
235 activity regulated by the department, the Office of Insurance
236 Regulation, or the Office of Financial Regulation.

237 (2) An applicant who has been found guilty of or has
238 pleaded guilty or nolo contendere to any of the following
239 crimes, regardless of adjudication, is permanently barred from
240 licensure under this chapter:

241 (a) A felony of the first degree.

242 (b) A capital felony.



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243 (c) A felony money laundering offense.
244 (d) A felony embezzlement.
245 (3) An applicant who has been found guilty of or has
246 pleaded guilty or nolo contendere to a crime not included in
247 subsection (2), regardless of adjudication, is subject to:
248 (a) A 10-year disqualifying period for all felonies
249 involving moral turpitude that are not specifically included in
250 the permanent bar contained in subsection (2).
251 (b) A 5-year disqualifying period for all felonies to which
252 neither the permanent bar in subsection (2) nor the 10-year
253 disqualifying period in paragraph (a) applies.
254 (c) A 5-year disqualifying period for all misdemeanors
255 directly related to the financial services business.
256 (4) The board shall adopt rules to administer this section.
257 The rules must provide for additional disqualifying periods due
258 to the commitment of multiple crimes and may include other
259 factors reasonably related to the applicant's criminal history.
260 The rules shall provide for mitigating and aggravating factors.
261 However, mitigation may not result in a period of
262 disqualification of less than 5 years and may not mitigate the
263 disqualifying periods in paragraphs (3) (b) and (c).
264 (5) For purposes of this section, a disqualifying period
265 begins upon the applicant's final release from supervision or
266 upon completion of the applicant's criminal sentence. The
267 department may not issue a license to an applicant unless all
268 related fines, court costs and fees, and court-ordered
269 restitution have been paid.
270 (6) After the disqualifying period has expired, the burden
271 is on the applicant to demonstrate that he or she has been



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272 rehabilitated, does not pose a risk to the public, is fit and
273 trustworthy to engage in business regulated by this chapter, and
274 is otherwise qualified for licensure.

275 (7) Notwithstanding subsections (2) and (3), an applicant
276 who has been found guilty of, or has pleaded guilty or nolo
277 contendere to, a crime in subsection (2) or subsection (3) and
278 who has subsequently been granted a pardon or the restoration of
279 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
280 State Constitution, or a pardon or the restoration of civil
281 rights under the laws of another jurisdiction with respect to a
282 conviction in that jurisdiction, is not barred or disqualified
283 from licensure under this chapter. However, such a pardon or
284 restoration of civil rights does not require the department to
285 award such license.

286 (8) (a) The board may grant an exemption from
287 disqualification to any person disqualified from licensure under
288 subsection (3) if:

289 1. The applicant has paid in full any fee, fine, fund,
290 lien, civil judgment, restitution, or cost of prosecution
291 imposed by the court as part of the judgment and sentence for
292 any disqualifying offense; and

293 2. At least 5 years have elapsed since the applicant
294 completed or has been lawfully released from confinement,
295 supervision, or nonmonetary condition imposed by the court for a
296 disqualifying offense.

297 (b) For the board to grant an exemption under this
298 subsection, the applicant must clearly and convincingly
299 demonstrate that he or she would not pose a risk to persons or
300 property if licensed under this chapter, evidence of which must



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301 include, but need not be limited to, facts and circumstances
302 surrounding the disqualifying offense, the time that has elapsed
303 since the offense, the nature of the offense and harm caused to
304 the victim, the applicant's history before and after the
305 offense, and any other evidence or circumstances indicating that
306 the applicant will not present a danger if licensed or
307 certified.

308 (c) The board has discretion whether to grant or deny an
309 exemption under this subsection. The board's decision is subject
310 to chapter 120.

311 (9) The disqualification periods provided in this section
312 do not apply to the renewal of a license or to a new application
313 for licensure if the applicant has an active license as of July
314 1, 2020, and the applicable criminal history was considered by
315 the board on the prior approval of any active license held by
316 the applicant. This subsection does not affect any criminal
317 history disclosure requirement of this chapter.

318 Section 8. Subsection (9) and paragraph (c) of subsection
319 (10) of section 497.142, Florida Statutes, are amended to read:
320 497.142 Licensing; fingerprinting and criminal background
321 checks.—

322 (9) If any applicant under this chapter has been, ~~within~~
323 ~~the 10 years preceding the application under this chapter,~~
324 convicted or found guilty of, or entered a plea of nolo
325 contendere to, regardless of adjudication, any crime in any
326 jurisdiction, the application shall not be deemed complete until
327 such time as the applicant provides such certified true copies
328 of the court records evidencing the conviction, finding, or plea
329 as required by this section or, as the licensing authority may



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330 by rule require.

331 (10)(c) Crimes to be disclosed are:

332 1. Any felony ~~or misdemeanor~~, no matter when committed,
333 ~~that was directly or indirectly related to or involving any~~
334 ~~aspect of the practice or business of funeral directing,~~
335 ~~embalming, direct disposition, cremation, funeral or cemetery~~
336 ~~preneed sales, funeral establishment operations, cemetery~~
337 ~~operations, or cemetery monument or marker sales or~~
338 ~~installation.~~

339 2. Any misdemeanor, no matter when committed, which was
340 directly or indirectly related to the financial services
341 business as defined in s. 497.1411 ~~Any other felony not already~~
342 ~~disclosed under subparagraph 1. that was committed within the 20~~
343 ~~years immediately preceding the application under this chapter.~~

344 3. Any other misdemeanor not already disclosed under
345 subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5
346 years immediately preceding the application under this chapter.

347 Section 9. Present subsections (2) through (5) of section
348 497.157, Florida Statutes, are redesignated as subsections (4)
349 through (7), respectively, new subsections (2) and (3) and
350 subsection (8) are added to that section, and present subsection
351 (3) of that section is amended, to read:

352 497.157 Unlicensed practice; remedies concerning violations
353 by unlicensed persons.-

354 (2) A person may not be, act as, or advertise or hold
355 himself or herself out to be a funeral director, embalmer, or
356 direct disposer unless he or she is currently licensed by the
357 department.

358 (3) A person may not be, act as, or advertise or hold



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359 himself or herself out to be a preneed sales agent unless he or
360 she is currently licensed by the department and appointed by a
361 preneed main licensee for which they are executing preneed
362 contracts.

363 (5)~~(3)~~ Where the department determines that an emergency
364 exists regarding any violation of this chapter by any unlicensed
365 person or entity, the department may issue and serve an
366 immediate final order upon such unlicensed person or entity, in
367 accordance with s. 120.569(2) (n). Such an immediate final order
368 may impose such prohibitions and requirements as are reasonably
369 necessary to protect the public health, safety, and welfare, and
370 shall be effective when served.

371 (a) For the purpose of enforcing such an immediate final
372 order, the department may file an emergency or other proceeding
373 in the circuit courts of the state seeking enforcement of the
374 immediate final order by injunctive or other order of the court.
375 The court shall issue its injunction or other order enforcing
376 the immediate final order pending administrative resolution of
377 the matter under subsection (4) ~~(2)~~, unless the court determines
378 that such action would work a manifest injustice under the
379 circumstances. Venue for judicial actions under this paragraph
380 shall be, at the election of the department, in the courts of
381 Leon County, or in a county where the respondent resides or has
382 a place of business.

383 (b) After serving an immediate final order to cease and
384 desist upon any person or entity, the department shall within 10
385 days issue and serve upon the same person or entity an
386 administrative complaint as set forth in subsection (4) ~~(2)~~,
387 except that, absent order of a court to the contrary, the



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388 immediate final order shall be effective throughout the pendency
389 of proceedings under subsection (4) ~~(2)~~.

390 (8) Any person who is not licensed under this chapter and
391 who engages in activity requiring licensure under this chapter
392 commits a felony of the third degree, punishable as provided in
393 s. 775.082, s. 775.083, or s. 775.084.

394 Section 10. Subsection (6) of section 497.159, Florida
395 Statutes, is amended to read:

396 497.159 Crimes.—

397 ~~(6) Any person who is not licensed under this chapter who~~
398 ~~engages in activity requiring licensure under this chapter,~~
399 ~~commits a misdemeanor of the second degree, punishable as~~
400 ~~provided in s. 775.082 or s. 775.083.~~

401 Section 11. Subsection (13) of section 552.081, Florida
402 Statutes, is amended to read:

403 552.081 Definitions.—As used in this chapter:

404 (13) "Two-component explosives" means any two inert
405 components which, when mixed, become capable of detonation by
406 any detonator ~~a No. 6 blasting cap~~, and shall be classified as a
407 Class "A" explosive when so mixed.

408 Section 12. Present subsection (2) of section 553.7921,
409 Florida Statutes, is redesignated as subsection (3), a new
410 subsection (2) is added to that section, and subsection (1) of
411 that section is amended, to read:

412 553.7921 Fire alarm permit application to local enforcement
413 agency.—

414 (1) A contractor must file a Uniform Fire Alarm Permit
415 Application as provided in subsection (3) ~~(2)~~ with the local
416 enforcement agency and must receive the fire alarm permit



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417 before:

418 ~~(a) installing or replacing a fire alarm, if the local~~
419 ~~enforcement agency requires a plan review for the installation~~
420 ~~or replacement; or~~

421 ~~(b) Repairing an existing alarm system that was previously~~
422 ~~permitted by the local enforcement agency if the local~~
423 ~~enforcement agency requires a fire alarm permit for the repair.~~

424 (2) If the local enforcement agency requires a fire alarm
425 permit to repair an existing alarm system that was previously
426 permitted by the local enforcement agency, a contractor may
427 begin work after filing a Uniform Fire Alarm Permit Application
428 as provided in subsection (3). A fire alarm repaired pursuant to
429 this subsection may not be considered compliant until the
430 required permit is issued and the local enforcement agency
431 approves the repair.

432 Section 13. Effective January 1, 2021, subsection (3) of
433 section 626.2815, Florida Statutes, is amended to read:

434 626.2815 Continuing education requirements.—

435 (3) Each licensee except a title insurance agent must
436 complete a 4-hour ~~5-hour~~ update course every 2 years which is
437 specific to the license held by the licensee. The course must be
438 developed and offered by providers and approved by the
439 department. The content of the course must address all lines of
440 insurance for which examination and licensure are required and
441 include the following subject areas: insurance law updates,
442 ethics for insurance professionals, disciplinary trends and case
443 studies, industry trends, premium discounts, determining
444 suitability of products and services, and other similar
445 insurance-related topics the department determines are relevant



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446 to legally and ethically carrying out the responsibilities of
447 the license granted. A licensee who holds multiple insurance
448 licenses must complete an update course that is specific to at
449 least one of the licenses held. Except as otherwise specified,
450 any remaining required hours of continuing education are
451 elective and may consist of any continuing education course
452 approved by the department under this section.

453 (a) Except as provided in paragraphs (b), (c), (d), (e),
454 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
455 elective continuing education courses every 2 years.

456 (b) A licensee who has been licensed for 6 or more years
457 must also complete a minimum of 16 ~~15~~ hours of elective
458 continuing education every 2 years.

459 (c) A licensee who has been licensed for 25 years or more
460 and is a CLU or a CPCU or has a Bachelor of Science degree in
461 risk management or insurance with evidence of 18 or more
462 semester hours in insurance-related courses must also complete a
463 minimum of 6 ~~5~~ hours of elective continuing education courses
464 every 2 years.

465 (d) An individual who holds a license as a customer
466 representative and who is not a licensed life or health agent
467 must also complete a minimum of 6 ~~5~~ hours of continuing
468 education courses every 2 years.

469 (e) An individual subject to chapter 648 must complete the
470 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of
471 elective continuing education courses every 2 years.

472 (f) Elective continuing education courses for public
473 adjusters must be specifically designed for public adjusters and
474 approved by the department. Notwithstanding this subsection,



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475 public adjusters for workers' compensation insurance or health
476 insurance are not required to take continuing education courses
477 pursuant to this section.

478 (g) Excess hours accumulated during any 2-year compliance
479 period may be carried forward to the next compliance period.

480 (h) An individual teaching an approved course of
481 instruction or lecturing at any approved seminar and attending
482 the entire course or seminar qualifies for the same number of
483 classroom hours as would be granted to a person taking and
484 successfully completing such course or seminar. Credit is
485 limited to the number of hours actually taught unless a person
486 attends the entire course or seminar. An individual who is an
487 official of or employed by a governmental entity in this state
488 and serves as a professor, instructor, or in another position or
489 office, the duties and responsibilities of which are determined
490 by the department to require monitoring and review of insurance
491 laws or insurance regulations and practices, is exempt from this
492 section.

493 (i) For compliance periods beginning on or after October 1,
494 2014, any person who holds a license as a title insurance agent
495 must complete a minimum of 10 hours of continuing education
496 credit every 2 years in title insurance and escrow management
497 specific to this state and approved by the department, which
498 shall include at least 3 hours of continuing education on the
499 subject matter of ethics, rules, or compliance with state and
500 federal regulations relating specifically to title insurance and
501 closing services.

502 (j) For a licensee who is an active participant in an
503 association, 2 hours of elective continuing education credit per



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504 calendar year may be approved by the department, if properly
505 reported by the association.

506 Section 14. Section 627.70132, Florida Statutes, is amended
507 to read:

508 627.70132 Notice of windstorm or hurricane claim.—An
509 initial claim under an insurance policy that provides property
510 insurance, as defined in s. 624.604, for loss or damage caused
511 by the peril of windstorm or hurricane is barred unless notice
512 of the initial claim was given to the insurer in accordance with
513 the terms of the policy within 24 months after the hurricane
514 first made landfall or the windstorm caused the covered damage.

515 A ~~claim~~, supplemental claim~~7~~ or reopened claim under an
516 insurance policy that provides property insurance, as defined in
517 s. 624.604, for loss or damage caused by the peril of windstorm
518 or hurricane is barred unless notice of the ~~claim~~, supplemental
519 claim~~7~~ or reopened claim was given to the insurer in accordance
520 with the terms of the policy within 3 years after the hurricane
521 first made landfall or the windstorm caused the covered damage.
522 For purposes of this section, the term "supplemental claim" or
523 "reopened claim" means any additional claim for recovery from
524 the insurer for losses from the same hurricane or windstorm
525 which the insurer has previously adjusted pursuant to the
526 initial claim. This section does not affect any applicable
527 limitation on civil actions provided in s. 95.11 for claims,
528 supplemental claims, or reopened claims timely filed under this
529 section.

530 Section 15. Subsection (3) of section 633.102, Florida
531 Statutes, is amended to read:

532 633.102 Definitions.—As used in this chapter, the term:



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533 (3) (a) "Contractor I" means a contractor whose business
534 includes the execution of contracts requiring the ability to lay
535 out, fabricate, install, inspect, alter, repair, and service all
536 types of fire protection systems, excluding preengineered
537 systems.

538 (b) "Contractor II" means a contractor whose business is
539 limited to the execution of contracts requiring the ability to
540 lay out, fabricate, install, inspect, alter, repair, and service
541 water sprinkler systems, water spray systems, foam-water
542 sprinkler systems, foam-water spray systems, standpipes,
543 combination standpipes and sprinkler risers, all piping that is
544 an integral part of the system beginning at the point of service
545 as defined in this section, sprinkler tank heaters, air lines,
546 thermal systems used in connection with sprinklers, and tanks
547 and pumps connected thereto, excluding preengineered systems.

548 (c) "Contractor III" means a contractor whose business is
549 limited to the execution of contracts requiring the ability to
550 fabricate, install, inspect, alter, repair, and service carbon
551 dioxide systems, foam extinguishing systems, dry chemical
552 systems, and Halon and other chemical systems, excluding
553 preengineered systems.

554 (d) "Contractor IV" means a contractor whose business is
555 limited to the execution of contracts requiring the ability to
556 lay out, fabricate, install, inspect, alter, repair, and service
557 automatic fire sprinkler systems for detached one-family
558 dwellings, detached two-family dwellings, and mobile homes,
559 excluding preengineered systems and excluding single-family
560 homes in cluster units, such as apartments, condominiums, and
561 assisted living facilities or any building that is connected to



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562 other dwellings. A Contractor IV is limited to the scope of
563 practice specified in NFPA 13D.

564 (e) "Contractor V" means a contractor whose business is
565 limited to the execution of contracts requiring the ability to
566 fabricate, install, inspect, alter, repair, and service the
567 underground piping for a fire protection system using water as
568 the extinguishing agent beginning at the point of service as
569 defined in this act and ending no more than 1 foot above the
570 finished floor.

571
572 The definitions in this subsection may not be construed to
573 include engineers or architects and do not limit or prohibit a
574 licensed fire protection engineer or architect with fire
575 protection design experience from designing any type of fire
576 protection system. A distinction is made between system design
577 concepts prepared by the design professional and system layout
578 as defined in this section and typically prepared by the
579 contractor. However, a person certified as a Contractor I or
580 Contractor II, ~~or Contractor IV~~ under this chapter may design
581 new fire protection systems of 49 or fewer sprinklers; ~~and~~ may
582 design the alteration of an existing fire sprinkler system if
583 the alteration consists of the relocation, addition, or deletion
584 of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the
585 size of the existing fire sprinkler system; or may design the
586 alteration of an existing fire sprinkler system if the
587 alteration consists of the relocation or deletion of 249 or
588 fewer sprinklers, notwithstanding the size of the existing fire
589 sprinkler system, if there is no change of occupancy, as defined
590 in the Florida Building Code, of the affected areas and there is



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591 no change in the water demand as defined in National Fire
592 Protection Association publication NFPA 13 "Standard for the
593 Installation of Sprinkler Systems," and if the occupancy hazard
594 classification as defined in NFPA 13 is reduced or remains the
595 same as a result of the alteration. A person certified as a
596 Contractor I, Contractor II, or Contractor IV may design or
597 alter a fire protection system, the scope of which complies with
598 NFPA 13D, Standard for the Installation of Sprinkler Systems in
599 One- and Two-Family Dwellings and Manufactured Homes, as adopted
600 by the State Fire Marshal, notwithstanding the number of fire
601 sprinklers. Contractor-developed plans may not be required by
602 any local permitting authority to be sealed by a registered
603 professional engineer.

604 Section 16. Section 633.136, Florida Statutes, is amended
605 to read:

606 633.136 Fire and Emergency Incident Information Reporting
607 Program; duties; fire reports.—

608 (1) (a) The Fire and Emergency Incident Information
609 Reporting Program is created within the division. The program
610 shall:

611 1. Establish and maintain an electronic communication
612 system capable of transmitting fire and emergency incident
613 information to and between fire service providers ~~protection~~
614 ~~agencies~~.

615 2. Initiate a Fire and Emergency Incident Information
616 Reporting System that shall be responsible for:

617 a. Receiving fire and emergency incident information from
618 fire service providers ~~protection agencies~~.

619 b. Preparing and disseminating annual reports to the



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620 Governor, the President of the Senate, the Speaker of the House
621 of Representatives, fire service providers ~~protection agencies~~,
622 and, upon request, the public. Each report shall include, but
623 not be limited to, the information listed in the National Fire
624 Incident Reporting System.

625 c. Upon request, providing other states and federal
626 agencies with fire and emergency incident data of this state.

627 3. Adopt rules to effectively and efficiently implement,
628 administer, manage, maintain, and use the Fire and Emergency
629 Incident Information Reporting Program. The rules shall be
630 considered minimum requirements and shall not preclude a fire
631 service provider ~~protection agency~~ from implementing its own
632 requirements which may not conflict with the rules of the
633 division.

634 4. By rule, establish procedures and a format for each fire
635 service provider ~~protection agency~~ to voluntarily monitor its
636 records and submit reports to the program.

637 5. Maintain ~~Establish~~ an electronic information database
638 that is accessible and searchable by fire service providers
639 ~~protection agencies~~.

640 (b) The division shall consult with the Florida Forest
641 Service of the Department of Agriculture and Consumer Services
642 and the State Surgeon General of the Department of Health to
643 coordinate data, ensure accuracy of the data, and limit
644 duplication of efforts in data collection, analysis, and
645 reporting.

646 (2) The Fire and Emergency Incident Information System
647 Technical Advisory Panel is created within the division. The
648 panel shall advise, review, and recommend to the State Fire



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649 Marshal with respect to the requirements of this section. The
650 membership of the panel shall consist of the ~~following~~ 15
651 members:-

652 ~~(a) The current 13 members of the Firefighters Employment,~~
653 ~~Standards, and Training Council as established in s. 633.402.~~

654 ~~(b) One member from the Florida Forest Service of the~~
655 ~~Department of Agriculture and Consumer Services, appointed by~~
656 ~~the director of the Florida Forest Service.~~

657 ~~(c) One member from the Department of Health, appointed by~~
658 ~~the State Surgeon General.~~

659 (3) As used in ~~For the purpose of~~ this section, the term
660 "fire service provider" has the same meaning as in s. 633.102
661 ~~"fire protection agency" shall be defined by rule by the~~
662 ~~division.~~

663 Section 17. Subsections (18) and (20) of section 633.202,
664 Florida Statutes, are amended to read:

665 633.202 Florida Fire Prevention Code.-

666 (18) The authority having jurisdiction shall determine the
667 minimum radio signal strength for fire department communications
668 in all new high-rise and existing high-rise buildings. Existing
669 buildings are not required to comply with minimum radio strength
670 for fire department communications and two-way radio system
671 enhancement communications as required by the Florida Fire
672 Prevention Code until January 1, 2023 ~~2022~~. However, by January
673 1, 2022 ~~December 31, 2019~~, an existing building that is not in
674 compliance with the requirements for minimum radio strength for
675 fire department communications must have completed a minimum
676 radio strength assessment ~~apply for an appropriate permit~~ for
677 the required installation with the local government agency



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678 having jurisdiction and must demonstrate that the building will
679 become compliant by January 1, 2023 ~~2022~~. Existing apartment
680 buildings are not required to comply until January 1, 2025.
681 However, existing apartment buildings are required to apply for
682 the appropriate permit for the required communications
683 installation by December 31, 2022.

684 (20) (a) In apartment occupancies with enclosed corridors
685 served by interior or exterior exit stairs, doorstep refuse and
686 recycling collection containers, which stand upright on their
687 own and do not leak liquids when standing upright, must be
688 allowed in exit access corridors when all of the following
689 conditions exist:

690 1. The maximum doorstep refuse and recycling collection
691 container size does not exceed 13 gallons.

692 2. Waste, which is in a doorstep refuse and recycling
693 collection container, is not placed in the exit access corridors
694 for single periods exceeding 5 hours.

695 3. Doorstep refuse and recycling collection containers do
696 not occupy the exit access corridors for single periods
697 exceeding 12 hours.

698 4. Doorstep refuse and recycling collection containers do
699 not reduce the means of egress width below that required under
700 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
701 Prevention Code.

702 5. Management staff have written policies and procedures in
703 place and enforce them to ensure compliance with this paragraph,
704 and, upon request, provide a copy of such policies and
705 procedures to the authority having jurisdiction.

706 (b) In apartment occupancies with open-air corridors or



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707 balconies served by exterior exit stairs, doorstep refuse and
708 recycling collection containers, which stand upright on their
709 own and do not leak liquids when standing upright, must be
710 allowed in exit access corridors when all of the following
711 conditions exist:

712 1. The maximum doorstep refuse and recycling collection
713 container size does not exceed 27 gallons.

714 2. Waste, which is in a doorstep refuse and recycling
715 collection container, is not placed in the exit access corridors
716 for single periods exceeding 5 hours.

717 3. Doorstep refuse and recycling collection containers do
718 not reduce the means of egress width below that required under
719 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
720 Prevention Code.

721 4. Management staff have written policies and procedures in
722 place and enforce them to ensure compliance with this paragraph,
723 and, upon request, provide a copy of such policies and
724 procedures to the authority having jurisdiction.

725 (c) The authority having jurisdiction may approve
726 alternative containers and storage arrangements that are
727 demonstrated to provide an equivalent level of safety to that
728 provided under paragraphs (a) and (b).

729 (d) The authority having jurisdiction shall allow apartment
730 occupancies a phase-in period until December 31, 2020, to comply
731 with this subsection.

732 (e) This subsection is repealed on January 1, 2024 ~~July 1,~~
733 ~~2021~~.

734 Section 18. Section 633.217, Florida Statutes, is created
735 to read:



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736 633.217 Influencing a firesafety inspector; prohibited
737 acts.—

738 (1) A person may not influence a firesafety inspector by:

739 (a) Threatening, coercing, tricking, or attempting to
740 threaten, coerce, or trick the firesafety inspector into
741 violating any provision of the Florida Fire Prevention Code, any
742 rule adopted by the State Fire Marshal, or any provision of this
743 chapter.

744 (b) Offering any compensation to the firesafety inspector
745 to induce a violation of the Florida Fire Prevention Code, any
746 rule adopted by the State Fire Marshal, or any provision of this
747 chapter.

748 (2) A firesafety inspector may not knowingly and willfully
749 accept an attempt by a person to influence the firesafety
750 inspector into violating any provision of the Florida Fire
751 Prevention Code, any rule adopted by the State Fire Marshal, or
752 any provision of this chapter.

753 Section 19. Paragraphs (d), (g), and (h) of subsection (4)
754 of section 633.304, Florida Statutes, are amended to read:

755 633.304 Fire suppression equipment; license to install or
756 maintain.—

757 (4)

758 (d) A license of any class may not be issued or renewed by
759 the division and a license of any class does not remain
760 operative unless:

761 1. The applicant has submitted to the State Fire Marshal
762 evidence of registration as a Florida corporation or evidence of
763 compliance with s. 865.09.

764 2. The State Fire Marshal or his or her designee has by



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765 inspection determined that the applicant possesses the equipment
766 required for the class of license sought. The State Fire Marshal
767 shall give an applicant a reasonable opportunity to correct any
768 deficiencies discovered by inspection. To obtain such
769 inspection, an applicant with facilities located outside this
770 state must:

771 a. Provide a notarized statement from a professional
772 engineer licensed by the applicant's state of domicile
773 certifying that the applicant possesses the equipment required
774 for the class of license sought and that all such equipment is
775 operable; or

776 b. Allow the State Fire Marshal or her or his designee to
777 inspect the facility. All costs associated with the State Fire
778 Marshal's inspection must be paid by the applicant. The State
779 Fire Marshal, in accordance with s. 120.54, may adopt rules to
780 establish standards for the calculation and establishment of the
781 amount of costs associated with any inspection conducted by the
782 State Fire Marshal under this section. Such rules must include
783 procedures for invoicing and receiving funds in advance of the
784 inspection.

785 3. The applicant has submitted to the State Fire Marshal
786 proof of insurance providing coverage for comprehensive general
787 liability for bodily injury and property damage, products
788 liability, completed operations, and contractual liability. The
789 State Fire Marshal shall adopt rules providing for the amounts
790 of such coverage, but such amounts may not be less than \$300,000
791 for Class A or Class D licenses, \$200,000 for Class B licenses,
792 and \$100,000 for Class C licenses; and the total coverage for
793 any class of license held in conjunction with a Class D license



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794 may not be less than \$300,000. The State Fire Marshal may, at
795 any time after the issuance of a license or its renewal, require
796 upon demand, and in no event more than 30 days after notice of
797 such demand, the licensee to provide proof of insurance, on the
798 insurer's form, containing confirmation of insurance coverage as
799 required by this chapter. Failure, for any length of time, to
800 provide proof of insurance coverage as required must result in
801 the immediate suspension of the license until proof of proper
802 insurance is provided to the State Fire Marshal. An insurer that
803 provides such coverage shall notify the State Fire Marshal of
804 any change in coverage or of any termination, cancellation, or
805 nonrenewal of any coverage.

806 4. The applicant applies to the State Fire Marshal,
807 provides proof of experience, and successfully completes a
808 prescribed training course that includes both written and
809 practical training offered at by the State Fire College and or
810 an equivalent course approved by the State Fire Marshal as
811 applicable to the class of license being sought. This
812 subparagraph does not apply to any holder of or applicant for a
813 permit under paragraph (g) or to a business organization or a
814 governmental entity seeking initial licensure or renewal of an
815 existing license solely for the purpose of inspecting,
816 servicing, repairing, marking, recharging, and maintaining fire
817 extinguishers used and located on the premises of and owned by
818 such organization or entity.

819 5. The applicant has a current retestor identification
820 number that is appropriate for the license for which the
821 applicant is applying and that is listed with the United States
822 Department of Transportation.



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823 6. The applicant has passed, with a grade of at least 70
824 percent, a written examination testing his or her knowledge of
825 the rules and statutes governing the activities authorized by
826 the license and demonstrating his or her knowledge and ability
827 to perform those tasks in a competent, lawful, and safe manner.
828 Such examination must be developed and administered by the State
829 Fire Marshal, or his or her designee in accordance with policies
830 and procedures of the State Fire Marshal. An applicant shall pay
831 a nonrefundable examination fee of \$50 for each examination or
832 reexamination scheduled. A reexamination may not be scheduled
833 sooner than 30 days after any administration of an examination
834 to an applicant. An applicant may not be permitted to take an
835 examination for any level of license more than a total of four
836 times during 1 year, regardless of the number of applications
837 submitted. As a prerequisite to licensure of the applicant, he
838 or she:

- 839 a. Must be at least 18 years of age.
- 840 b. Must have 4 years of proven experience as a fire
841 equipment permittee at a level equal to or greater than the
842 level of license applied for or have a combination of education
843 and experience determined to be equivalent thereto by the State
844 Fire Marshal. Having held a permit at the appropriate level for
845 the required period constitutes the required experience.
- 846 c. Must not have been convicted of a felony or a crime
847 punishable by imprisonment of 1 year or more under the law of
848 the United States or of any state thereof or under the law of
849 any other country. "Convicted" means a finding of guilt or the
850 acceptance of a plea of guilty or nolo contendere in any federal
851 or state court or a court in any other country, without regard



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852 to whether a judgment of conviction has been entered by the
853 court having jurisdiction of the case. If an applicant has been
854 convicted of any such felony, the applicant is excluded from
855 licensure for a period of 4 years after expiration of sentence
856 or final release by the Florida Commission on Offender Review
857 unless the applicant, before the expiration of the 4-year
858 period, has received a full pardon or has had her or his civil
859 rights restored.

860
861 This subparagraph does not apply to any holder of or applicant
862 for a permit under paragraph (g) or to a business organization
863 or a governmental entity seeking initial licensure or renewal of
864 an existing license solely for the purpose of inspecting,
865 servicing, repairing, marking, recharging, hydrotesting, and
866 maintaining fire extinguishers used and located on the premises
867 of and owned by such organization or entity.

868 (g) A permit of any class may not be issued or renewed to a
869 person by the division, and a permit of any class does not
870 remain operative, unless the person has:

871 1. Submitted a nonrefundable examination fee in the amount
872 of \$50.

873 2. Successfully completed a training course that includes
874 both written and practical training offered at ~~by~~ the State Fire
875 College and ~~or an equivalent~~ course approved by the State Fire
876 Marshal as applicable to the class of license being sought.

877 3. Passed, with a grade of at least 70 percent, a written
878 examination testing his or her knowledge of the rules and
879 statutes governing the activities authorized by the permit and
880 demonstrating his or her knowledge and ability to perform those



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881 tasks in a competent, lawful, and safe manner. Such examination
882 must be developed and administered by the State Fire Marshal in
883 accordance with the policies and procedures of the State Fire
884 Marshal. An examination fee must be paid for each examination
885 scheduled. A reexamination may not be scheduled sooner than 30
886 days after any administration of an examination to an applicant.
887 An applicant may not be permitted to take an examination for any
888 level of permit more than four times during 1 year, regardless
889 of the number of applications submitted. As a prerequisite to
890 taking the permit examination, the applicant must be at least 16
891 years of age.

892 (h) An applicant for a license or permit under this section
893 who fails the examination may take it three more times during
894 the 1-year period after he or she originally filed an
895 application for the examination. If the applicant fails the
896 examination within 1 year after the application date and he or
897 she seeks to retake the examination, he or she must file a new
898 application, pay the application and examination fees, and
899 successfully complete a prescribed training course that includes
900 both written and practical training offered at ~~by~~ the State Fire
901 College and ~~or an equivalent~~ course approved by the State Fire
902 Marshal as applicable to the class of license being sought. The
903 applicant may not submit a new application within 6 months after
904 the date of his or her fourth reexamination. An applicant who
905 passes the examination but does not meet the remaining
906 qualifications prescribed by law and rule within 1 year after
907 the application date must file a new application, pay the
908 application and examination fee, successfully complete a
909 prescribed training course that includes both written and



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910 practical training offered at ~~approved by~~ the State Fire College
911 and ~~or an equivalent~~ course approved by the State Fire Marshal
912 as applicable to the class of license being sought, and pass the
913 written examination.

914 Section 20. Subsection (1) of section 633.402, Florida
915 Statutes, is amended to read:

916 633.402 Firefighters Employment, Standards, and Training
917 Council; organization; meetings; quorum; compensation; seal;
918 special powers; firefighter training.—

919 (1) There is created within the department a Firefighters
920 Employment, Standards, and Training Council of 15 ~~14~~ members.

921 (a) The members shall be appointed as follows:

922 1. Two fire chiefs appointed by the Florida Fire Chiefs
923 Association.

924 2. Two firefighters, who are not officers, appointed by the
925 Florida Professional Firefighters Association.

926 3. Two firefighter officers, who are not fire chiefs,
927 appointed by the State Fire Marshal.

928 4. One individual appointed by the Florida League of
929 Cities.

930 5. One individual appointed by the Florida Association of
931 Counties.

932 6. One individual appointed by the Florida Association of
933 Special Districts.

934 7. One individual appointed by the Florida Fire Marshals'
935 and Inspectors' Association.

936 8. One employee of the Florida Forest Service of the
937 Department of Agriculture and Consumer Services appointed by the
938 director of the Florida Forest Service.



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939 9. One individual appointed by the State Fire Marshal.

940 10. One director or instructor of a state-certified
941 firefighting training facility appointed by the State Fire
942 Marshal.

943 11. One individual ~~The remaining member, who shall be~~
944 appointed by the State Fire Marshal, who may not be a member or
945 representative of the firefighting profession or of any local
946 government.

947 12. One individual from the Department of Health, appointed
948 by the Surgeon General.

949 (b) To be eligible for appointment as a member under
950 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
951 subparagraph (a)8., or subparagraph (a)10., a person must have
952 had at least 4 years' experience in the firefighting profession.
953 Members shall serve only as long as they continue to meet the
954 criteria under which they were appointed, or unless a member has
955 failed to appear at three consecutive and properly noticed
956 meetings unless excused by the chair.

957 Section 21. Subsection (1) of section 633.416, Florida
958 Statutes, is amended to read:

959 633.416 Firefighter employment and volunteer firefighter
960 service; saving clause.—

961 (1) A fire service provider may not employ an individual
962 to:

963 (a) Extinguish fires for the protection of life or property
964 or to supervise individuals who perform such services unless the
965 individual holds a current and valid Firefighter Certificate of
966 Compliance. However, a person who is currently serving as a
967 volunteer firefighter and holds a volunteer firefighter



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968 certificate of completion with a fire service provider, who is
969 then employed as a regular or permanent firefighter by such fire
970 service provider, may function, for a period of 1 year under the
971 direct supervision of an individual holding a valid firefighter
972 certificate of compliance, in the same capacity in which he or
973 she acted as a volunteer firefighter, provided that he or she
974 has completed all training required by the volunteer
975 organization. Under no circumstance can this period extend
976 beyond 1 year either collectively or consecutively from the
977 start of employment to obtain a Firefighter Certificate of
978 Compliance; or

979 (b) Serve as the administrative and command head of a fire
980 service provider for a period in excess of 1 year unless the
981 individual holds a current and valid Firefighter Certificate of
982 Compliance or Special Certificate of Compliance.

983 Section 22. Section 843.08, Florida Statutes, is amended to
984 read:

985 843.08 False personation.—A person who falsely assumes or
986 pretends to be a firefighter, a sheriff, an officer of the
987 Florida Highway Patrol, an officer of the Fish and Wildlife
988 Conservation Commission, an officer of the Department of
989 Environmental Protection, ~~a fire or arson investigator of the~~
990 ~~Department of Financial Services,~~ an officer of the Department
991 of Financial Services, any personnel or representative of the
992 Division of Investigative and Forensic Services, an officer of
993 the Department of Corrections, a correctional probation officer,
994 a deputy sheriff, a state attorney or an assistant state
995 attorney, a statewide prosecutor or an assistant statewide
996 prosecutor, a state attorney investigator, a coroner, a police



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997 officer, a lottery special agent or lottery investigator, a
998 beverage enforcement agent, a school guardian as described in s.
999 30.15(1)(k), a security officer licensed under chapter 493, any
1000 member of the Florida Commission on Offender Review or any
1001 administrative aide or supervisor employed by the commission,
1002 any personnel or representative of the Department of Law
1003 Enforcement, or a federal law enforcement officer as defined in
1004 s. 901.1505, and takes upon himself or herself to act as such,
1005 or to require any other person to aid or assist him or her in a
1006 matter pertaining to the duty of any such officer, commits a
1007 felony of the third degree, punishable as provided in s.
1008 775.082, s. 775.083, or s. 775.084. However, a person who
1009 falsely personates any such officer during the course of the
1010 commission of a felony commits a felony of the second degree,
1011 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1012 If the commission of the felony results in the death or personal
1013 injury of another human being, the person commits a felony of
1014 the first degree, punishable as provided in s. 775.082, s.
1015 775.083, or s. 775.084.

1016 Section 23. Paragraph (f) is added to subsection (11) of
1017 section 943.045, Florida Statutes, to read:

1018 943.045 Definitions; ss. 943.045-943.08.—The following
1019 words and phrases as used in ss. 943.045-943.08 shall have the
1020 following meanings:

1021 (11) "Criminal justice agency" means:

1022 (f) The investigations component of the Department of
1023 Financial Services which investigates the crimes of fraud and
1024 official misconduct in all public assistance given to residents
1025 of the state or provided to others by the state.



1026 Section 24. Effective upon this act becoming a law,
1027 subsection (3) of section 40 of chapter 2019-140, Laws of
1028 Florida, is amended to read:

1029 Section 40. (3) The task force shall submit a report to the
1030 Governor, the President of the Senate, and the Speaker of the
1031 House of Representatives and present its findings to the
1032 appropriate legislative committees in each house of the
1033 Legislature by January 31, 2021 ~~within 180 days after the~~
1034 ~~initial meeting of the task force~~. The report must include:

1035 (a) A general description of the costs and benefits of
1036 state and local government agencies using blockchain technology.

1037 (b) Recommendations concerning the feasibility of
1038 implementing blockchain technology in the state and the best
1039 approach to finance the cost of implementation.

1040 (c) Recommendations for specific implementations to be
1041 developed by relevant state agencies.

1042 (d) Any draft legislation the task force deems appropriate
1043 to implement such blockchain technologies.

1044 (e) Identification of one pilot project that may be
1045 implemented in the state.

1046 (f) Any other information deemed relevant by the task
1047 force.

1048 Section 25. Except as otherwise expressly provided in this
1049 act and except for this section, which shall take effect upon
1050 this act becoming a law, this act shall take effect July 1,
1051 2020.

1052
1053 ===== T I T L E A M E N D M E N T =====

1054 And the title is amended as follows:



810530

1055 Delete everything before the enacting clause
1056 and insert:

1057 A bill to be entitled
1058 An act relating to financial services; amending s.
1059 20.121, F.S.; specifying powers and duties of the
1060 Division of Public Assistance Fraud; amending s.
1061 284.30, F.S.; requiring the State Risk Management
1062 Trust Fund to provide insurance for certain
1063 firefighter cancer-related benefits; amending s.
1064 284.31, F.S.; requiring the Insurance Risk Management
1065 Trust Fund to provide a separate account for certain
1066 firefighter cancer-related benefits; amending s.
1067 284.385, F.S.; specifying a condition that must be met
1068 before such benefits may be paid from the State Risk
1069 Management Trust Fund; creating s. 284.45, F.S.;

1070 prohibiting individuals working for entities covered
1071 by the State Risk Management Trust Fund from engaging
1072 in retaliatory conduct against sexual harassment
1073 victims; defining the term "sexual harassment victim";
1074 specifying a criminal penalty for the willful and
1075 knowing dissemination of a sexual harassment victim's
1076 personal identifying information, except under certain
1077 circumstances; specifying protected personal
1078 identifying information; amending s. 497.101, F.S.;

1079 revising provisions relating to membership of the
1080 Board of Funeral, Cemetery, and Consumer Services
1081 within the Department of Financial Services; deleting
1082 a requirement for the department to adopt certain
1083 rules; creating s. 497.1411, F.S.; defining terms;



810530

1084 providing for permanent disqualification of applicants
1085 for licensure under ch. 497, F.S., for certain
1086 offenses; providing for disqualifying periods for
1087 applicants for certain offenses; requiring the board
1088 to adopt rules; providing for calculation of
1089 disqualifying periods; providing conditions for
1090 licensure after completion of a disqualifying period;
1091 specifying the effect of a pardon or clemency;
1092 providing for exemptions from disqualification in
1093 certain circumstances; providing procedures for
1094 consideration of applications for such exemptions;
1095 providing construction; amending s. 497.142, F.S.;
1096 revising criminal history disclosure requirements for
1097 applicants seeking licensure under ch. 497, F.S.;
1098 amending s. 497.157, F.S.; prohibiting persons from
1099 acting as or advertising themselves as being funeral
1100 directors, embalmers, direct disposers, or preneed
1101 sales agents unless they are so licensed; prohibiting
1102 persons from engaging in certain activities requiring
1103 licensure without holding required licenses; revising
1104 the criminal penalty for unlicensed activity; amending
1105 s. 497.159, F.S.; conforming a provision to changes
1106 made by the act; amending s. 552.081, F.S.; revising
1107 the definition of the term "two-component explosives"
1108 for the purpose of regulation by the Division of State
1109 Fire Marshal; amending s. 553.7921, F.S.; authorizing
1110 a contractor repairing certain existing fire alarm
1111 systems to begin work after filing an application for
1112 a required permit but before receiving the permit;



810530

1113 providing construction; amending s. 626.2815, F.S.;

1114 revising continuing education requirements for certain

1115 persons licensed to solicit, sell, or adjust

1116 insurance; amending s. 627.70132, F.S.; decreasing the

1117 timeframe in which a notice of an initial claim for

1118 loss or damage caused by the peril of windstorm or

1119 hurricane must be given to a property insurer;

1120 amending s. 633.102, F.S.; revising the authority of

1121 certain fire protection system contractors to design

1122 and alter certain systems; amending s. 633.136, F.S.;

1123 replacing fire protection agencies in the Fire and

1124 Emergency Incident Information Reporting Program with

1125 fire service providers and defining the term; revising

1126 the composition of the Fire and Emergency Incident

1127 Information System Technical Advisory Panel; amending

1128 s. 633.202, F.S.; extending a deadline for certain

1129 buildings to comply with a minimum radio signal

1130 strength requirement under the Florida Fire Prevention

1131 Code; requiring such buildings to meet certain

1132 conditions by a specified date; extending the repeal

1133 date of exemptions to the Florida Fire Prevention Code

1134 which authorize doorstep refuse and recycling

1135 collection containers to be in exit access corridors

1136 in certain apartment occupancies under certain

1137 circumstances; creating s. 633.217, F.S.; prohibiting

1138 certain acts to influence a firesafety inspector into

1139 violating certain laws; prohibiting a firesafety

1140 inspector from knowingly and willfully accepting an

1141 attempt to influence him or her into violating certain



810530

1142 laws; amending s. 633.304, F.S.; revising requirements
1143 for training courses for licensees installing or
1144 maintaining certain fire suppression equipment;
1145 amending s. 633.402, F.S.; revising the composition of
1146 the Firefighters Employment, Standards, and Training
1147 Council; amending s. 633.416, F.S.; providing that
1148 certain persons serving as volunteer firefighters may
1149 serve as a regular or permanent firefighter for a
1150 limited period, subject to certain restrictions;
1151 amending s. 843.08, F.S.; prohibiting false
1152 personation of personnel or representatives of the
1153 Division of Investigative and Forensic Services;
1154 providing criminal penalties; amending s. 943.045,
1155 F.S.; revising the definition of the term "criminal
1156 justice agency" to include the investigations
1157 component of the department which investigates certain
1158 crimes; amending chapter 2019-140, L.O.F.; extending
1159 the deadline for the Florida Blockchain Task Force to
1160 submit its report to the Governor and the Legislature;
1161 providing effective dates.



964622

LEGISLATIVE ACTION

| Senate | . | House |
|-------------|---|-------|
| Comm: UNFAV | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Flores) recommended the following:

1 **Senate Amendment to Substitute Amendment (810530) (with**
2 **title amendment)**

3
4 Delete lines 506 - 529.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 1116 - 1119

9 and insert:

10 insurance;



863800

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Book) recommended the following:

Senate Amendment to Substitute Amendment (810530) (with title amendment)

Delete lines 681 - 682
and insert:

However, existing apartment buildings must have completed a minimum radio strength assessment ~~are required to apply for the appropriate permit~~ for the required communications

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



863800

11 And the title is amended as follows:

12 Delete line 1132

13 and insert:

14 conditions by a specified date; revising a condition
15 that existing apartment buildings must meet by a
16 specified date; extending the repeal



233344

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 02/26/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 429 - 1231

and insert:

Section 1. Subsection (13) of section 552.081, Florida Statutes, is amended to read:

552.081 Definitions.—As used in this chapter:

(13) "Two-component explosives" means any two inert components which, when mixed, become capable of detonation by any detonator ~~a No. 6 blasting cap~~, and shall be classified as a



233344

11 Class "A" explosive when so mixed.

12 Section 2. Present subsection (2) of section 553.7921,
13 Florida Statutes, is redesignated as subsection (3), a new
14 subsection (2) is added to that section, and subsection (1) of
15 that section is amended, to read:

16 553.7921 Fire alarm permit application to local enforcement
17 agency.-

18 (1) A contractor must file a Uniform Fire Alarm Permit
19 Application as provided in subsection (3) ~~(2)~~ with the local
20 enforcement agency and must receive the fire alarm permit
21 before:

22 ~~(a) installing or replacing a fire alarm, if the local~~
23 ~~enforcement agency requires a plan review for the installation~~
24 ~~or replacement; or~~

25 ~~(b) Repairing an existing alarm system that was previously~~
26 ~~permitted by the local enforcement agency if the local~~
27 ~~enforcement agency requires a fire alarm permit for the repair.~~

28 (2) If the local enforcement agency requires a fire alarm
29 permit to repair an existing alarm system that was previously
30 permitted by the local enforcement agency, a contractor may
31 begin work after filing a Uniform Fire Alarm Permit Application
32 as provided in subsection (3). A fire alarm repaired pursuant to
33 this subsection may not be considered compliant until the
34 required permit is issued and the local enforcement agency
35 approves the repair.

36 Section 3. Effective January 1, 2021, subsection (3) of
37 section 626.2815, Florida Statutes, is amended to read:

38 626.2815 Continuing education requirements.-

39 (3) Each licensee except a title insurance agent must



233344

40 complete a 4-hour ~~5-hour~~ update course every 2 years which is
41 specific to the license held by the licensee. The course must be
42 developed and offered by providers and approved by the
43 department. The content of the course must address all lines of
44 insurance for which examination and licensure are required and
45 include the following subject areas: insurance law updates,
46 ethics for insurance professionals, disciplinary trends and case
47 studies, industry trends, premium discounts, determining
48 suitability of products and services, and other similar
49 insurance-related topics the department determines are relevant
50 to legally and ethically carrying out the responsibilities of
51 the license granted. A licensee who holds multiple insurance
52 licenses must complete an update course that is specific to at
53 least one of the licenses held. Except as otherwise specified,
54 any remaining required hours of continuing education are
55 elective and may consist of any continuing education course
56 approved by the department under this section.

57 (a) Except as provided in paragraphs (b), (c), (d), (e),
58 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
59 elective continuing education courses every 2 years.

60 (b) A licensee who has been licensed for 6 or more years
61 must also complete a minimum of 16 ~~15~~ hours of elective
62 continuing education every 2 years.

63 (c) A licensee who has been licensed for 25 years or more
64 and is a CLU or a CPCU or has a Bachelor of Science degree in
65 risk management or insurance with evidence of 18 or more
66 semester hours in insurance-related courses must also complete a
67 minimum of 6 ~~5~~ hours of elective continuing education courses
68 every 2 years.



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69 (d) An individual who holds a license as a customer
70 representative and who is not a licensed life or health agent
71 must also complete a minimum of 6 ~~5~~ hours of continuing
72 education courses every 2 years.

73 (e) An individual subject to chapter 648 must complete the
74 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of
75 elective continuing education courses every 2 years.

76 (f) Elective continuing education courses for public
77 adjusters must be specifically designed for public adjusters and
78 approved by the department. Notwithstanding this subsection,
79 public adjusters for workers' compensation insurance or health
80 insurance are not required to take continuing education courses
81 pursuant to this section.

82 (g) Excess hours accumulated during any 2-year compliance
83 period may be carried forward to the next compliance period.

84 (h) An individual teaching an approved course of
85 instruction or lecturing at any approved seminar and attending
86 the entire course or seminar qualifies for the same number of
87 classroom hours as would be granted to a person taking and
88 successfully completing such course or seminar. Credit is
89 limited to the number of hours actually taught unless a person
90 attends the entire course or seminar. An individual who is an
91 official of or employed by a governmental entity in this state
92 and serves as a professor, instructor, or in another position or
93 office, the duties and responsibilities of which are determined
94 by the department to require monitoring and review of insurance
95 laws or insurance regulations and practices, is exempt from this
96 section.

97 (i) For compliance periods beginning on or after October 1,



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98 2014, any person who holds a license as a title insurance agent
99 must complete a minimum of 10 hours of continuing education
100 credit every 2 years in title insurance and escrow management
101 specific to this state and approved by the department, which
102 shall include at least 3 hours of continuing education on the
103 subject matter of ethics, rules, or compliance with state and
104 federal regulations relating specifically to title insurance and
105 closing services.

106 (j) For a licensee who is an active participant in an
107 association, 2 hours of elective continuing education credit per
108 calendar year may be approved by the department, if properly
109 reported by the association.

110 Section 4. Subsection (3) of section 633.102, Florida
111 Statutes, is amended to read:

112 633.102 Definitions.—As used in this chapter, the term:

113 (3) (a) "Contractor I" means a contractor whose business
114 includes the execution of contracts requiring the ability to lay
115 out, fabricate, install, inspect, alter, repair, and service all
116 types of fire protection systems, excluding preengineered
117 systems.

118 (b) "Contractor II" means a contractor whose business is
119 limited to the execution of contracts requiring the ability to
120 lay out, fabricate, install, inspect, alter, repair, and service
121 water sprinkler systems, water spray systems, foam-water
122 sprinkler systems, foam-water spray systems, standpipes,
123 combination standpipes and sprinkler risers, all piping that is
124 an integral part of the system beginning at the point of service
125 as defined in this section, sprinkler tank heaters, air lines,
126 thermal systems used in connection with sprinklers, and tanks



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127 and pumps connected thereto, excluding preengineered systems.

128 (c) "Contractor III" means a contractor whose business is
129 limited to the execution of contracts requiring the ability to
130 fabricate, install, inspect, alter, repair, and service carbon
131 dioxide systems, foam extinguishing systems, dry chemical
132 systems, and Halon and other chemical systems, excluding
133 preengineered systems.

134 (d) "Contractor IV" means a contractor whose business is
135 limited to the execution of contracts requiring the ability to
136 lay out, fabricate, install, inspect, alter, repair, and service
137 automatic fire sprinkler systems for detached one-family
138 dwellings, detached two-family dwellings, and mobile homes,
139 excluding preengineered systems and excluding single-family
140 homes in cluster units, such as apartments, condominiums, and
141 assisted living facilities or any building that is connected to
142 other dwellings. A Contractor IV is limited to the scope of
143 practice specified in NFPA 13D.

144 (e) "Contractor V" means a contractor whose business is
145 limited to the execution of contracts requiring the ability to
146 fabricate, install, inspect, alter, repair, and service the
147 underground piping for a fire protection system using water as
148 the extinguishing agent beginning at the point of service as
149 defined in this act and ending no more than 1 foot above the
150 finished floor.

151
152 The definitions in this subsection may not be construed to
153 include engineers or architects and do not limit or prohibit a
154 licensed fire protection engineer or architect with fire
155 protection design experience from designing any type of fire



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156 protection system. A distinction is made between system design
157 concepts prepared by the design professional and system layout
158 as defined in this section and typically prepared by the
159 contractor. However, a person certified as a Contractor I or
160 Contractor II, ~~or Contractor IV~~ under this chapter may design
161 new fire protection systems of 49 or fewer sprinklers; ~~and~~ may
162 design the alteration of an existing fire sprinkler system if
163 the alteration consists of the relocation, addition, or deletion
164 of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the
165 size of the existing fire sprinkler system; or may design the
166 alteration of an existing fire sprinkler system if the
167 alteration consists of the relocation or deletion of 249 or
168 fewer sprinklers, notwithstanding the size of the existing fire
169 sprinkler system, if there is no change of occupancy, as defined
170 in the Florida Building Code, of the affected areas and there is
171 no change in the water demand as defined in National Fire
172 Protection Association publication NFPA 13 "Standard for the
173 Installation of Sprinkler Systems," and if the occupancy hazard
174 classification as defined in NFPA 13 is reduced or remains the
175 same as a result of the alteration. A person certified as a
176 Contractor I, Contractor II, or Contractor IV may design or
177 alter a fire protection system, the scope of which complies with
178 NFPA 13D, Standard for the Installation of Sprinkler Systems in
179 One- and Two-Family Dwellings and Manufactured Homes, as adopted
180 by the State Fire Marshal, notwithstanding the number of fire
181 sprinklers. Contractor-developed plans may not be required by
182 any local permitting authority to be sealed by a registered
183 professional engineer.

184 Section 5. Section 633.136, Florida Statutes, is amended to



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185 read:
186 633.136 Fire and Emergency Incident Information Reporting
187 Program; duties; fire reports.—

188 (1) (a) The Fire and Emergency Incident Information
189 Reporting Program is created within the division. The program
190 shall:

191 1. Establish and maintain an electronic communication
192 system capable of transmitting fire and emergency incident
193 information to and between fire service providers ~~protection~~
194 ~~agencies~~.

195 2. Initiate a Fire and Emergency Incident Information
196 Reporting System that shall be responsible for:

197 a. Receiving fire and emergency incident information from
198 fire service providers ~~protection agencies~~.

199 b. Preparing and disseminating annual reports to the
200 Governor, the President of the Senate, the Speaker of the House
201 of Representatives, fire service providers ~~protection agencies~~,
202 and, upon request, the public. Each report shall include, but
203 not be limited to, the information listed in the National Fire
204 Incident Reporting System.

205 c. Upon request, providing other states and federal
206 agencies with fire and emergency incident data of this state.

207 3. Adopt rules to effectively and efficiently implement,
208 administer, manage, maintain, and use the Fire and Emergency
209 Incident Information Reporting Program. The rules shall be
210 considered minimum requirements and shall not preclude a fire
211 service provider ~~protection agency~~ from implementing its own
212 requirements which may not conflict with the rules of the
213 division.



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214 4. By rule, establish procedures and a format for each fire
215 service provider ~~protection agency~~ to voluntarily monitor its
216 records and submit reports to the program.

217 5. Maintain ~~Establish~~ an electronic information database
218 that is accessible and searchable by fire service providers
219 ~~protection agencies~~.

220 (b) The division shall consult with the Florida Forest
221 Service of the Department of Agriculture and Consumer Services
222 and the State Surgeon General of the Department of Health to
223 coordinate data, ensure accuracy of the data, and limit
224 duplication of efforts in data collection, analysis, and
225 reporting.

226 (2) The Fire and Emergency Incident Information System
227 Technical Advisory Panel is created within the division. The
228 panel shall advise, review, and recommend to the State Fire
229 Marshal with respect to the requirements of this section. The
230 membership of the panel shall consist of the ~~following~~ 15
231 members:

232 ~~(a) The current 13 members~~ of the Firefighters Employment,
233 Standards, and Training Council as established in s. 633.402.

234 ~~(b) One member from the Florida Forest Service of the~~
235 ~~Department of Agriculture and Consumer Services, appointed by~~
236 ~~the director of the Florida Forest Service.~~

237 ~~(c) One member from the Department of Health, appointed by~~
238 ~~the State Surgeon General.~~

239 (3) As used in ~~For the purpose of~~ this section, the term
240 "fire service provider" has the same meaning as in s. 633.102
241 "~~fire protection agency~~" shall be defined by rule by the
242 division.



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243 Section 6. Subsections (18) and (20) of section 633.202,
244 Florida Statutes, are amended to read:

245 633.202 Florida Fire Prevention Code.—

246 (18) The authority having jurisdiction shall determine the
247 minimum radio signal strength for fire department communications
248 in all new high-rise and existing high-rise buildings. Existing
249 buildings are not required to comply with minimum radio strength
250 for fire department communications and two-way radio system
251 enhancement communications as required by the Florida Fire
252 Prevention Code until January 1, 2023 ~~2022~~. However, by January
253 1, 2022 ~~December 31, 2019~~, an existing building that is not in
254 compliance with the requirements for minimum radio strength for
255 fire department communications must have completed a minimum
256 radio strength assessment ~~apply for an appropriate permit~~ for
257 the required installation with the local government agency
258 having jurisdiction and must demonstrate that the building will
259 become compliant by January 1, 2023 ~~2022~~. Existing apartment
260 buildings are not required to comply until January 1, 2025.
261 However, existing apartment buildings are required to apply for
262 the appropriate permit for the required communications
263 installation by December 31, 2022.

264 (20) (a) In apartment occupancies with enclosed corridors
265 served by interior or exterior exit stairs, doorstep refuse and
266 recycling collection containers, which stand upright on their
267 own and do not leak liquids when standing upright, must be
268 allowed in exit access corridors when all of the following
269 conditions exist:

270 1. The maximum doorstep refuse and recycling collection
271 container size does not exceed 13 gallons.



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272 2. Waste, which is in a doorstep refuse and recycling
273 collection container, is not placed in the exit access corridors
274 for single periods exceeding 5 hours.

275 3. Doorstep refuse and recycling collection containers do
276 not occupy the exit access corridors for single periods
277 exceeding 12 hours.

278 4. Doorstep refuse and recycling collection containers do
279 not reduce the means of egress width below that required under
280 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
281 Prevention Code.

282 5. Management staff have written policies and procedures in
283 place and enforce them to ensure compliance with this paragraph,
284 and, upon request, provide a copy of such policies and
285 procedures to the authority having jurisdiction.

286 (b) In apartment occupancies with open-air corridors or
287 balconies served by exterior exit stairs, doorstep refuse and
288 recycling collection containers, which stand upright on their
289 own and do not leak liquids when standing upright, must be
290 allowed in exit access corridors when all of the following
291 conditions exist:

292 1. The maximum doorstep refuse and recycling collection
293 container size does not exceed 27 gallons.

294 2. Waste, which is in a doorstep refuse and recycling
295 collection container, is not placed in the exit access corridors
296 for single periods exceeding 5 hours.

297 3. Doorstep refuse and recycling collection containers do
298 not reduce the means of egress width below that required under
299 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
300 Prevention Code.



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301 4. Management staff have written policies and procedures in
302 place and enforce them to ensure compliance with this paragraph,
303 and, upon request, provide a copy of such policies and
304 procedures to the authority having jurisdiction.

305 (c) The authority having jurisdiction may approve
306 alternative containers and storage arrangements that are
307 demonstrated to provide an equivalent level of safety to that
308 provided under paragraphs (a) and (b).

309 (d) The authority having jurisdiction shall allow apartment
310 occupancies a phase-in period until December 31, 2020, to comply
311 with this subsection.

312 (e) This subsection is repealed on January 1, 2024 ~~July 1,~~
313 ~~2021~~.

314 Section 7. Section 633.217, Florida Statutes, is created to
315 read:

316 633.217 Influencing a firesafety inspector; prohibited
317 acts.—

318 (1) A person may not influence a firesafety inspector by:

319 (a) Threatening, coercing, tricking, or attempting to
320 threaten, coerce, or trick the firesafety inspector into
321 violating any provision of the Florida Fire Prevention Code, any
322 rule adopted by the State Fire Marshal, or any provision of this
323 chapter.

324 (b) Offering any compensation to the firesafety inspector
325 to induce a violation of the Florida Fire Prevention Code, any
326 rule adopted by the State Fire Marshal, or any provision of this
327 chapter.

328 (2) A firesafety inspector may not knowingly and willfully
329 accept an attempt by a person to influence the firesafety



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330 inspector into violating any provision of the Florida Fire
331 Prevention Code, any rule adopted by the State Fire Marshal, or
332 any provision of this chapter.

333 Section 8. Paragraphs (d), (g), and (h) of subsection (4)
334 of section 633.304, Florida Statutes, are amended to read:

335 633.304 Fire suppression equipment; license to install or
336 maintain.—

337 (4)

338 (d) A license of any class may not be issued or renewed by
339 the division and a license of any class does not remain
340 operative unless:

341 1. The applicant has submitted to the State Fire Marshal
342 evidence of registration as a Florida corporation or evidence of
343 compliance with s. 865.09.

344 2. The State Fire Marshal or his or her designee has by
345 inspection determined that the applicant possesses the equipment
346 required for the class of license sought. The State Fire Marshal
347 shall give an applicant a reasonable opportunity to correct any
348 deficiencies discovered by inspection. To obtain such
349 inspection, an applicant with facilities located outside this
350 state must:

351 a. Provide a notarized statement from a professional
352 engineer licensed by the applicant's state of domicile
353 certifying that the applicant possesses the equipment required
354 for the class of license sought and that all such equipment is
355 operable; or

356 b. Allow the State Fire Marshal or her or his designee to
357 inspect the facility. All costs associated with the State Fire
358 Marshal's inspection must be paid by the applicant. The State



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359 Fire Marshal, in accordance with s. 120.54, may adopt rules to
360 establish standards for the calculation and establishment of the
361 amount of costs associated with any inspection conducted by the
362 State Fire Marshal under this section. Such rules must include
363 procedures for invoicing and receiving funds in advance of the
364 inspection.

365 3. The applicant has submitted to the State Fire Marshal
366 proof of insurance providing coverage for comprehensive general
367 liability for bodily injury and property damage, products
368 liability, completed operations, and contractual liability. The
369 State Fire Marshal shall adopt rules providing for the amounts
370 of such coverage, but such amounts may not be less than \$300,000
371 for Class A or Class D licenses, \$200,000 for Class B licenses,
372 and \$100,000 for Class C licenses; and the total coverage for
373 any class of license held in conjunction with a Class D license
374 may not be less than \$300,000. The State Fire Marshal may, at
375 any time after the issuance of a license or its renewal, require
376 upon demand, and in no event more than 30 days after notice of
377 such demand, the licensee to provide proof of insurance, on the
378 insurer's form, containing confirmation of insurance coverage as
379 required by this chapter. Failure, for any length of time, to
380 provide proof of insurance coverage as required must result in
381 the immediate suspension of the license until proof of proper
382 insurance is provided to the State Fire Marshal. An insurer that
383 provides such coverage shall notify the State Fire Marshal of
384 any change in coverage or of any termination, cancellation, or
385 nonrenewal of any coverage.

386 4. The applicant applies to the State Fire Marshal,
387 provides proof of experience, and successfully completes a



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388 prescribed training course that includes both written and
389 practical training offered at by the State Fire College and or
390 an equivalent course approved by the State Fire Marshal as
391 applicable to the class of license being sought. This
392 subparagraph does not apply to any holder of or applicant for a
393 permit under paragraph (g) or to a business organization or a
394 governmental entity seeking initial licensure or renewal of an
395 existing license solely for the purpose of inspecting,
396 servicing, repairing, marking, recharging, and maintaining fire
397 extinguishers used and located on the premises of and owned by
398 such organization or entity.

399 5. The applicant has a current retestor identification
400 number that is appropriate for the license for which the
401 applicant is applying and that is listed with the United States
402 Department of Transportation.

403 6. The applicant has passed, with a grade of at least 70
404 percent, a written examination testing his or her knowledge of
405 the rules and statutes governing the activities authorized by
406 the license and demonstrating his or her knowledge and ability
407 to perform those tasks in a competent, lawful, and safe manner.
408 Such examination must be developed and administered by the State
409 Fire Marshal, or his or her designee in accordance with policies
410 and procedures of the State Fire Marshal. An applicant shall pay
411 a nonrefundable examination fee of \$50 for each examination or
412 reexamination scheduled. A reexamination may not be scheduled
413 sooner than 30 days after any administration of an examination
414 to an applicant. An applicant may not be permitted to take an
415 examination for any level of license more than a total of four
416 times during 1 year, regardless of the number of applications



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417 submitted. As a prerequisite to licensure of the applicant, he
418 or she:

419 a. Must be at least 18 years of age.

420 b. Must have 4 years of proven experience as a fire
421 equipment permittee at a level equal to or greater than the
422 level of license applied for or have a combination of education
423 and experience determined to be equivalent thereto by the State
424 Fire Marshal. Having held a permit at the appropriate level for
425 the required period constitutes the required experience.

426 c. Must not have been convicted of a felony or a crime
427 punishable by imprisonment of 1 year or more under the law of
428 the United States or of any state thereof or under the law of
429 any other country. "Convicted" means a finding of guilt or the
430 acceptance of a plea of guilty or nolo contendere in any federal
431 or state court or a court in any other country, without regard
432 to whether a judgment of conviction has been entered by the
433 court having jurisdiction of the case. If an applicant has been
434 convicted of any such felony, the applicant is excluded from
435 licensure for a period of 4 years after expiration of sentence
436 or final release by the Florida Commission on Offender Review
437 unless the applicant, before the expiration of the 4-year
438 period, has received a full pardon or has had her or his civil
439 rights restored.

440

441 This subparagraph does not apply to any holder of or applicant
442 for a permit under paragraph (g) or to a business organization
443 or a governmental entity seeking initial licensure or renewal of
444 an existing license solely for the purpose of inspecting,
445 servicing, repairing, marking, recharging, hydrotesting, and



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446 maintaining fire extinguishers used and located on the premises
447 of and owned by such organization or entity.

448 (g) A permit of any class may not be issued or renewed to a
449 person by the division, and a permit of any class does not
450 remain operative, unless the person has:

451 1. Submitted a nonrefundable examination fee in the amount
452 of \$50.

453 2. Successfully completed a training course that includes
454 both written and practical training offered at ~~by~~ the State Fire
455 College and ~~or an equivalent~~ course approved by the State Fire
456 Marshal as applicable to the class of license being sought.

457 3. Passed, with a grade of at least 70 percent, a written
458 examination testing his or her knowledge of the rules and
459 statutes governing the activities authorized by the permit and
460 demonstrating his or her knowledge and ability to perform those
461 tasks in a competent, lawful, and safe manner. Such examination
462 must be developed and administered by the State Fire Marshal in
463 accordance with the policies and procedures of the State Fire
464 Marshal. An examination fee must be paid for each examination
465 scheduled. A reexamination may not be scheduled sooner than 30
466 days after any administration of an examination to an applicant.
467 An applicant may not be permitted to take an examination for any
468 level of permit more than four times during 1 year, regardless
469 of the number of applications submitted. As a prerequisite to
470 taking the permit examination, the applicant must be at least 16
471 years of age.

472 (h) An applicant for a license or permit under this section
473 who fails the examination may take it three more times during
474 the 1-year period after he or she originally filed an



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475 application for the examination. If the applicant fails the
476 examination within 1 year after the application date and he or
477 she seeks to retake the examination, he or she must file a new
478 application, pay the application and examination fees, and
479 successfully complete a prescribed training course that includes
480 both written and practical training offered at ~~by~~ the State Fire
481 College and ~~or an equivalent~~ course approved by the State Fire
482 Marshal as applicable to the class of license being sought. The
483 applicant may not submit a new application within 6 months after
484 the date of his or her fourth reexamination. An applicant who
485 passes the examination but does not meet the remaining
486 qualifications prescribed by law and rule within 1 year after
487 the application date must file a new application, pay the
488 application and examination fee, successfully complete a
489 prescribed training course that includes both written and
490 practical training offered at ~~approved by~~ the State Fire College
491 and ~~or an equivalent~~ course approved by the State Fire Marshal
492 as applicable to the class of license being sought, and pass the
493 written examination.

494 Section 9. Subsection (1) of section 633.402, Florida
495 Statutes, is amended to read:

496 633.402 Firefighters Employment, Standards, and Training
497 Council; organization; meetings; quorum; compensation; seal;
498 special powers; firefighter training.-

499 (1) There is created within the department a Firefighters
500 Employment, Standards, and Training Council of 15 ~~14~~ members.

501 (a) The members shall be appointed as follows:

502 1. Two fire chiefs appointed by the Florida Fire Chiefs
503 Association.



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504 2. Two firefighters, who are not officers, appointed by the
505 Florida Professional Firefighters Association.

506 3. Two firefighter officers, who are not fire chiefs,
507 appointed by the State Fire Marshal.

508 4. One individual appointed by the Florida League of
509 Cities.

510 5. One individual appointed by the Florida Association of
511 Counties.

512 6. One individual appointed by the Florida Association of
513 Special Districts.

514 7. One individual appointed by the Florida Fire Marshals'
515 and Inspectors' Association.

516 8. One employee of the Florida Forest Service of the
517 Department of Agriculture and Consumer Services appointed by the
518 director of the Florida Forest Service.

519 9. One individual appointed by the State Fire Marshal.

520 10. One director or instructor of a state-certified
521 firefighting training facility appointed by the State Fire
522 Marshal.

523 11. One individual ~~The remaining member, who shall be~~
524 appointed by the State Fire Marshal, who may not be a member or
525 representative of the firefighting profession or of any local
526 government.

527 12. One individual from the Department of Health, appointed
528 by the Surgeon General.

529 (b) To be eligible for appointment as a member under
530 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
531 subparagraph (a)8., or subparagraph (a)10., a person must have
532 had at least 4 years' experience in the firefighting profession.



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533 Members shall serve only as long as they continue to meet the
534 criteria under which they were appointed, or unless a member has
535 failed to appear at three consecutive and properly noticed
536 meetings unless excused by the chair.

537 Section 10. Subsection (1) of section 633.416, Florida
538 Statutes, is amended to read:

539 633.416 Firefighter employment and volunteer firefighter
540 service; saving clause.—

541 (1) A fire service provider may not employ an individual
542 to:

543 (a) Extinguish fires for the protection of life or property
544 or to supervise individuals who perform such services unless the
545 individual holds a current and valid Firefighter Certificate of
546 Compliance. However, a person who is currently serving as a
547 volunteer firefighter and holds a volunteer firefighter
548 certificate of completion with a fire service provider, who is
549 then employed as a regular or permanent firefighter by such fire
550 service provider, may function, for a period of 1 year under the
551 direct supervision of an individual holding a valid firefighter
552 certificate of compliance, in the same capacity in which he or
553 she acted as a volunteer firefighter, provided that he or she
554 has completed all training required by the volunteer
555 organization. Under no circumstance can this period extend
556 beyond 1 year either collectively or consecutively from the
557 start of employment to obtain a Firefighter Certificate of
558 Compliance; or

559 (b) Serve as the administrative and command head of a fire
560 service provider for a period in excess of 1 year unless the
561 individual holds a current and valid Firefighter Certificate of



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562 Compliance or Special Certificate of Compliance.

563 Section 11. Section 843.08, Florida Statutes, is amended to
564 read:

565 843.08 False personation.—A person who falsely assumes or
566 pretends to be a firefighter, a sheriff, an officer of the
567 Florida Highway Patrol, an officer of the Fish and Wildlife
568 Conservation Commission, an officer of the Department of
569 Environmental Protection, ~~a fire or arson investigator of the~~
570 ~~Department of Financial Services~~, an officer of the Department
571 of Financial Services, any personnel or representative of the
572 Division of Investigative and Forensic Services, an officer of
573 the Department of Corrections, a correctional probation officer,
574 a deputy sheriff, a state attorney or an assistant state
575 attorney, a statewide prosecutor or an assistant statewide
576 prosecutor, a state attorney investigator, a coroner, a police
577 officer, a lottery special agent or lottery investigator, a
578 beverage enforcement agent, a school guardian as described in s.
579 30.15(1)(k), a security officer licensed under chapter 493, any
580 member of the Florida Commission on Offender Review or any
581 administrative aide or supervisor employed by the commission,
582 any personnel or representative of the Department of Law
583 Enforcement, or a federal law enforcement officer as defined in
584 s. 901.1505, and takes upon himself or herself to act as such,
585 or to require any other person to aid or assist him or her in a
586 matter pertaining to the duty of any such officer, commits a
587 felony of the third degree, punishable as provided in s.
588 775.082, s. 775.083, or s. 775.084. However, a person who
589 falsely personates any such officer during the course of the
590 commission of a felony commits a felony of the second degree,



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591 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
592 If the commission of the felony results in the death or personal
593 injury of another human being, the person commits a felony of
594 the first degree, punishable as provided in s. 775.082, s.
595 775.083, or s. 775.084.

596 Section 12. Paragraph (f) is added to subsection (11) of
597 section 943.045, Florida Statutes, to read:

598 943.045 Definitions; ss. 943.045-943.08.—The following
599 words and phrases as used in ss. 943.045-943.08 shall have the
600 following meanings:

601 (11) "Criminal justice agency" means:

602 (f) The investigations component of the Department of
603 Financial Services which investigates the crimes of fraud and
604 official misconduct in all public assistance given to residents
605 of the state or provided to others by the state.

606 Section 13. Effective upon this act becoming a law,
607 subsection (3) of section 40 of chapter 2019-140, Laws of
608 Florida, is amended to read:

609 Section 14. (3) The task force shall submit a report to the
610 Governor,

611
612 ===== T I T L E A M E N D M E N T =====

613 And the title is amended as follows:

614 Delete lines 42 - 110

615 and insert:

616 amending s. 552.081, F.S.; revising the definition of
617 the term "two-component explosives" for the purpose of
618 regulation by the Division of State Fire Marshal;
619 amending s. 553.7921, F.S.; authorizing a contractor



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620 repairing certain existing fire alarm systems to begin
621 work after filing an application for a required permit
622 but before receiving the permit; providing
623 construction; amending s. 626.2815, F.S.; revising
624 continuing education requirements for certain persons
625 licensed to solicit, sell, or adjust insurance;
626 amending s. 633.102, F.S.; revising the authority of
627 certain fire protection system contractors to design
628 and alter certain systems; amending s. 633.136, F.S.;
629 replacing fire protection agencies in the Fire and
630 Emergency Incident Information Reporting Program with
631 fire service providers and defining the term; revising
632 the composition of the Fire and Emergency Incident
633 Information System Technical Advisory Panel; amending
634 s. 633.202, F.S.; extending a deadline for certain
635 buildings to comply with a minimum radio signal
636 strength requirement under the Florida Fire Prevention
637 Code; requiring such buildings to meet certain
638 conditions by a specified date; extending the repeal
639 date of exemptions to the Florida Fire Prevention Code
640 which authorize doorstep refuse and recycling
641 collection containers to be in exit access corridors
642 in certain apartment occupancies under certain
643 circumstances; creating s. 633.217, F.S.; prohibiting
644 certain acts to influence a firesafety inspector into
645 violating certain laws; prohibiting a firesafety
646 inspector from knowingly and willfully accepting an
647 attempt to influence him or her into violating certain
648 laws; amending s. 633.304, F.S.; revising requirements



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649 for training courses for licensees installing or
650 maintaining certain fire suppression equipment;
651 amending s. 633.402, F.S.; revising the composition of
652 the Firefighters Employment, Standards, and Training
653 Council; amending s. 633.416, F.S.; providing that
654 certain persons serving as volunteer firefighters may
655 serve as a regular or permanent firefighter for a
656 limited period, subject to certain restrictions;
657 amending s. 843.08, F.S.; prohibiting false
658 personation of personnel or representatives of the
659 Division of Investigative and Forensic Services;
660 providing criminal penalties; amending s. 943.045,
661 F.S.; revising the definition of the term "criminal
662 justice agency" to include the investigations
663 component of the department which investigates certain
664 crimes; amending chapter 2019-140, L.O.F.; extending
665 the deadline for the Florida Blockchain Task Force to



483952

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 02/26/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 781 - 782

and insert:

However, existing apartment buildings must have completed a minimum radio strength assessment ~~are required to apply for the appropriate permit~~ for the required communications

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

And the title is amended as follows:



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11 Delete line 79
12 and insert:
13 conditions by a specified date; revising a condition
14 that existing apartment buildings must meet by a
15 specified date; extending the repeal



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to the Department of Financial
Services; amending s. 20.121, F.S.; specifying powers
and duties of the Division of Public Assistance Fraud;
creating s. 284.45, F.S.; prohibiting individuals
working for entities covered by the State Risk
Management Trust Fund from engaging in retaliatory
conduct against sexual harassment victims; defining
the term "sexual harassment victim"; specifying a
criminal penalty for the willful and knowing
dissemination of a sexual harassment victim's personal
identifying information, except under certain
circumstances; specifying protected personal
identifying information; amending s. 497.101, F.S.;
revising provisions relating to membership of the
Board of Funeral, Cemetery, and Consumer Services
within the department; deleting a requirement for the
department to adopt certain rules; creating s.
497.1411, F.S.; defining terms; providing for
permanent disqualification of applicants for licensure
under ch. 497, F.S., for certain offenses; providing
for disqualifying periods for applicants for certain
offenses; requiring the board to adopt rules;
providing for calculation of disqualifying periods;
providing conditions for licensure after completion of
a disqualifying period; specifying the effect of a



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pardon or clemency; providing for exemptions from
disqualification in certain circumstances; providing
procedures for consideration of applications for such
exemptions; providing construction; amending s.
497.142, F.S.; revising criminal history disclosure
requirements for applicants seeking licensure under
ch. 497, F.S.; amending s. 497.157, F.S.; prohibiting
persons from acting as or advertising themselves as
being funeral directors, embalmers, direct disposers,
or preneed sales agents unless they are so licensed;
prohibiting persons from engaging in certain
activities requiring licensure without holding
required licenses; revising the criminal penalty for
unlicensed activity; amending s. 497.159, F.S.;
conforming a provision to changes made by the act;
amending s. 497.459, F.S.; revising conditions under
which a preneed licensee must provide certain persons
a written notice of intent to distribute funds;
requiring preneed licensees to conduct a certain
analysis at specified intervals; requiring the preneed
licensee, rather than the trustee, to conduct a
certain diligent search and inquiry and mail the
notice under certain circumstances; revising the
timeframe for a failure to respond to the notice
before funds are distributed; revising requirements
for the distribution of funds; providing and revising
construction relating to certain liability and rights;
specifying requirements and procedures for fulfillment
or cancellation of the preneed contract; providing



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56 applicability; amending s. 552.081, F.S.; revising the
57 definition of the term "two-component explosives" for
58 the purpose of regulation by the Division of State
59 Fire Marshal; amending s. 553.7921, F.S.; authorizing
60 a contractor repairing certain existing fire alarm
61 systems to begin work after filing an application for
62 a required permit but before receiving the permit;
63 providing construction; amending s. 626.2815, F.S.;
64 revising continuing education requirements for certain
65 persons licensed to solicit, sell, or adjust
66 insurance; amending s. 633.102, F.S.; revising the
67 authority of certain fire protection system
68 contractors to design and alter certain systems;
69 amending s. 633.136, F.S.; replacing fire protection
70 agencies in the Fire and Emergency Incident
71 Information Reporting Program with fire service
72 providers and defining the term; revising the
73 composition of the Fire and Emergency Incident
74 Information System Technical Advisory Panel; amending
75 s. 633.202, F.S.; extending a deadline for certain
76 buildings to comply with a minimum radio signal
77 strength requirement under the Florida Fire Prevention
78 Code; requiring such buildings to meet certain
79 conditions by a specified date; extending the repeal
80 date of exemptions to the Florida Fire Prevention Code
81 which authorize doorstep refuse and recycling
82 collection containers to be in exit access corridors
83 in certain apartment occupancies under certain
84 circumstances; creating s. 633.217, F.S.; prohibiting



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85 certain acts to influence a firesafety inspector into
86 violating certain laws; prohibiting a firesafety
87 inspector from knowingly and willfully accepting an
88 attempt to influence him or her into violating certain
89 laws; amending s. 633.304, F.S.; revising requirements
90 for training courses for licensees installing or
91 maintaining certain fire suppression equipment;
92 amending s. 633.402, F.S.; revising the composition of
93 the Firefighters Employment, Standards, and Training
94 Council; amending s. 633.416, F.S.; providing that
95 certain persons serving as volunteer firefighters may
96 serve as a regular or permanent firefighter for a
97 limited period, subject to certain restrictions;
98 amending s. 843.08, F.S.; prohibiting false
99 personation of personnel or representatives of the
100 Division of Investigative and Forensic Services;
101 providing criminal penalties; amending s. 943.045,
102 F.S.; revising the definition of the term "criminal
103 justice agency" to include the investigations
104 component of the department which investigates certain
105 crimes; amending chapter 2019-140, L.O.F.; renaming
106 the Florida Blockchain Task Force as the Florida
107 Financial Technology and Blockchain Task Force; adding
108 duties to the task force relating to financial
109 technology; revising the master plan of the task
110 force; extending the deadline for the task force to
111 submit its report to the Governor and the Legislature;
112 providing effective dates.
113



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

115

116 Section 1. Paragraph (f) of subsection (2) of section
117 20.121, Florida Statutes, is amended to read:

118 20.121 Department of Financial Services.—There is created a
119 Department of Financial Services.

120 (2) DIVISIONS.—The Department of Financial Services shall
121 consist of the following divisions and office:

122 (f) The Division of Public Assistance Fraud, which shall
123 function as a criminal justice agency for purposes of ss.
124 943.045-943.08. The division shall conduct investigations
125 pursuant to s. 414.411 within or outside of this state as it
126 deems necessary. If, during an investigation, the division has
127 reason to believe that any criminal law of this state has or may
128 have been violated, it shall refer any records tending to show
129 such violation to state or federal law enforcement or
130 prosecutorial agencies and shall provide investigative
131 assistance to those agencies as required.

132 Section 2. Section 284.45, Florida Statutes, is created to
133 read:

134 284.45 Sexual harassment victims.—

135 (1) An individual working for an entity covered by the
136 State Risk Management Trust Fund may not engage in retaliatory
137 conduct of any kind against a sexual harassment victim. As used
138 in this section, the term "sexual harassment victim" means an
139 individual employed, or being considered for employment, with an
140 entity participating in the State Risk Management Trust Fund,
141 who becomes a victim of workplace sexual harassment through the
142 course of employment, or while being considered for employment,



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143 with the entity.

144

145 (2) The willful and knowing dissemination of personal
146 identifying information of a sexual harassment victim to any
147 party other than a governmental entity in furtherance of its
148 official duties or pursuant to a court order is a misdemeanor of
149 the first degree, punishable as provided in s. 775.082. For
150 purposes of this subsection, personal identifying information
151 includes the name of the sexual harassment victim and his or
152 her:

152 (a) Home address;

153 (b) Home phone number;

154 (c) Cellular phone number;

155 (d) E-mail address;

156 (e) Social media account username or uniform resource
157 locator (URL); or

158 (f) Any other information that could reasonably be used to
159 identify an alleged sexual harassment victim.

160 Section 3. Subsections (1), (2), (3), (6), and (8) of
161 section 497.101, Florida Statutes, are amended to read:

162 497.101 Board of Funeral, Cemetery, and Consumer Services;
163 membership; appointment; terms.—

164 (1) The Board of Funeral, Cemetery, and Consumer Services
165 is created within the Department of Financial Services and shall
166 consist of 10 members, 9 of whom shall be appointed by the
167 Governor from nominations made by the Chief Financial Officer
168 and confirmed by the Senate. The Chief Financial Officer shall
169 nominate one to three persons for each of the nine vacancies on
170 the board, and the Governor shall fill each vacancy on the board
171 by appointing one of the ~~three~~ persons nominated by the Chief



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172 Financial Officer to fill that vacancy. If the Governor objects
173 to each of the ~~three~~ nominations for a vacancy, she or he shall
174 inform the Chief Financial Officer in writing. Upon notification
175 of an objection by the Governor, the Chief Financial Officer
176 shall submit one to three additional nominations for that
177 vacancy until the vacancy is filled. One member must be the
178 State Health Officer or her or his designee.

179 (2) Two members of the board shall be funeral directors
180 licensed under part III of this chapter who are associated with
181 a funeral establishment. One member of the board shall be a
182 funeral director licensed under part III of this chapter who is
183 associated with a funeral establishment licensed under part III
184 of this chapter that has a valid preneed license issued pursuant
185 to this chapter and who owns or operates a cinerator facility
186 approved under chapter 403 and licensed under part VI of this
187 chapter. Two members of the board shall be persons whose primary
188 occupation is associated with a cemetery company licensed
189 pursuant to this chapter. ~~Two~~ Three members of the board shall
190 be consumers who are residents of the state, have never been
191 licensed as funeral directors or embalmers, are not connected
192 with a cemetery or cemetery company licensed pursuant to this
193 chapter, and are not connected with the death care industry or
194 the practice of embalming, funeral directing, or direct
195 disposition. One of the two consumer members shall be at least
196 60 years of age, ~~and one shall be licensed as a certified public~~
197 ~~accountant under chapter 473. One member of the board shall be a~~
198 ~~consumer who is a resident of this state; is licensed as a~~
199 ~~certified public accountant under chapter 473; has never been~~
200 ~~licensed as a funeral director or embalmer; is not a principal~~



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201 ~~or employee of any licensee licensed under this chapter; and~~
202 ~~does not otherwise have control, as defined in s. 497.005, over~~
203 ~~any licensee licensed under this chapter.~~ One member of the
204 board shall be a principal of a monument establishment licensed
205 under this chapter as a monument builder. One member shall be
206 the State Health Officer or her or his designee. There shall not
207 be two or more board members who are principals or employees of
208 the same company or partnership or group of companies or
209 partnerships under common control.

210 (3) Board members shall be appointed for terms of 4 years,
211 and the State Health Officer shall serve as long as that person
212 holds that office. The designee of the State Health Officer
213 shall serve at the pleasure of the Governor. ~~When the terms of~~
214 ~~the initial board members expire, the Chief Financial Officer~~
215 ~~shall stagger the terms of the successor members as follows: one~~
216 ~~funeral director, one cemetery representative, the monument~~
217 ~~builder, and one consumer member shall be appointed for terms of~~
218 ~~2 years, and the remaining members shall be appointed for terms~~
219 ~~of 4 years. All subsequent terms shall be for 4 years.~~

220 (6) The headquarters and records of the board shall be in
221 the Division of Funeral, Cemetery, and Consumer Services of the
222 Department of Financial Services in the City of Tallahassee. The
223 board may be contacted through the Division of Funeral,
224 Cemetery, and Consumer Services of the Department of Financial
225 Services in the City of Tallahassee. The Chief Financial Officer
226 shall annually appoint from among the board members a chair and
227 vice chair of the board. The board shall meet at least every 6
228 months, and more often as necessary. Special meetings of the
229 board shall be convened upon the direction of the Chief



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230 Financial Officer. A quorum is necessary for the conduct of
231 business by the board. Unless otherwise provided by law, a
232 majority of the board members eligible to vote shall constitute
233 a quorum for the purpose of conducting its business ~~six board~~
234 ~~members shall constitute a quorum for the conduct of the board's~~
235 ~~business.~~

236 ~~(8) The department shall adopt rules establishing forms by~~
237 ~~which persons may apply for membership on the board and~~
238 ~~procedures for applying for such membership. Such forms shall~~
239 ~~require disclosure of the existence and nature of all current~~
240 ~~and past employments by or contracts with, and direct or~~
241 ~~indirect affiliations or interests in, any entity or business~~
242 ~~that at any time was licensed by the board or by the former~~
243 ~~Board of Funeral and Cemetery Services or the former Board of~~
244 ~~Funeral Directors and Embalmers or that is or was otherwise~~
245 ~~involved in the death care industry, as specified by department~~
246 ~~rule.~~

247 Section 4. Section 497.1411, Florida Statutes, is created
248 to read:

249 497.1411 Disqualification of applicants and licensees;
250 penalties against licensees; rulemaking.-

251 (1) For purposes of this section, the term:

252 (a) "Applicant" means an individual applying for licensure
253 or relicensure under this chapter, and an officer, a director, a
254 majority owner, a partner, a manager, or other person who
255 manages or controls an entity applying for licensure or
256 relicensure under this chapter.

257 (b) "Felony of the first degree" and "capital felony"
258 include all felonies designated as such in this state at the



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259 time of the commission of the offense, as well as any offense in
260 another jurisdiction that is substantially similar to an offense
261 so designated in this state.

262 (c) "Financial services business" means any financial
263 activity regulated by the department, the Office of Insurance
264 Regulation, or the Office of Financial Regulation.

265 (2) An applicant who has been found guilty of or has
266 pleaded guilty or nolo contendere to any of the following
267 crimes, regardless of adjudication, is permanently barred from
268 licensure under this chapter:

269 (a) A felony of the first degree.

270 (b) A capital felony.

271 (c) A felony money laundering offense.

272 (d) A felony embezzlement.

273 (3) An applicant who has been found guilty of or has
274 pleaded guilty or nolo contendere to a crime not included in
275 subsection (2), regardless of adjudication, is subject to:

276 (a) A 10-year disqualifying period for all felonies
277 involving moral turpitude that are not specifically included in
278 the permanent bar contained in subsection (2).

279 (b) A 5-year disqualifying period for all felonies to which
280 neither the permanent bar in subsection (2) nor the 10-year
281 disqualifying period in paragraph (a) applies.

282 (c) A 5-year disqualifying period for all misdemeanors
283 directly related to the financial services business.

284 (4) The board shall adopt rules to administer this section.
285 The rules must provide for additional disqualifying periods due
286 to the commitment of multiple crimes and may include other
287 factors reasonably related to the applicant's criminal history.



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288 The rules shall provide for mitigating and aggravating factors.
289 However, mitigation may not result in a period of
290 disqualification of less than 5 years and may not mitigate the
291 disqualifying periods in paragraphs (3) (b) and (c).

292 (5) For purposes of this section, a disqualifying period
293 begins upon the applicant's final release from supervision or
294 upon completion of the applicant's criminal sentence. The
295 department may not issue a license to an applicant unless all
296 related fines, court costs and fees, and court-ordered
297 restitution have been paid.

298 (6) After the disqualifying period has expired, the burden
299 is on the applicant to demonstrate that he or she has been
300 rehabilitated, does not pose a risk to the public, is fit and
301 trustworthy to engage in business regulated by this chapter, and
302 is otherwise qualified for licensure.

303 (7) Notwithstanding subsections (2) and (3), an applicant
304 who has been found guilty of, or has pleaded guilty or nolo
305 contendere to, a crime in subsection (2) or subsection (3) and
306 who has subsequently been granted a pardon or the restoration of
307 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
308 State Constitution, or a pardon or the restoration of civil
309 rights under the laws of another jurisdiction with respect to a
310 conviction in that jurisdiction, is not barred or disqualified
311 from licensure under this chapter. However, such a pardon or
312 restoration of civil rights does not require the department to
313 award such license.

314 (8) (a) The board may grant an exemption from
315 disqualification to any person disqualified from licensure under
316 subsection (3) if:



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317 1. The applicant has paid in full any fee, fine, fund,
318 lien, civil judgment, restitution, or cost of prosecution
319 imposed by the court as part of the judgment and sentence for
320 any disqualifying offense; and

321 2. At least 5 years have elapsed since the applicant
322 completed or has been lawfully released from confinement,
323 supervision, or nonmonetary condition imposed by the court for a
324 disqualifying offense.

325 (b) For the board to grant an exemption under this
326 subsection, the applicant must clearly and convincingly
327 demonstrate that he or she would not pose a risk to persons or
328 property if licensed under this chapter, evidence of which must
329 include, but need not be limited to, facts and circumstances
330 surrounding the disqualifying offense, the time that has elapsed
331 since the offense, the nature of the offense and harm caused to
332 the victim, the applicant's history before and after the
333 offense, and any other evidence or circumstances indicating that
334 the applicant will not present a danger if licensed or
335 certified.

336 (c) The board has discretion whether to grant or deny an
337 exemption under this subsection. The board's decision is subject
338 to chapter 120.

339 (9) The disqualification periods provided in this section
340 do not apply to the renewal of a license or to a new application
341 for licensure if the applicant has an active license as of July
342 1, 2020, and the applicable criminal history was considered by
343 the board on the prior approval of any active license held by
344 the applicant. This subsection does not affect any criminal
345 history disclosure requirement of this chapter.



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346 Section 5. Subsection (9) and paragraph (c) of subsection
347 (10) of section 497.142, Florida Statutes, are amended to read:

348 497.142 Licensing; fingerprinting and criminal background
349 checks.-

350 (9) If any applicant under this chapter has been, ~~within~~
351 ~~the 10 years preceding the application under this chapter,~~
352 convicted or found guilty of, or entered a plea of nolo
353 contendere to, regardless of adjudication, any crime in any
354 jurisdiction, the application shall not be deemed complete until
355 such time as the applicant provides such certified true copies
356 of the court records evidencing the conviction, finding, or plea
357 as required by this section ~~or,~~ as the licensing authority may
358 by rule require.

359 (10) (c) Crimes to be disclosed are:

360 1. Any felony ~~or misdemeanor,~~ no matter when committed,
361 ~~that was directly or indirectly related to or involving any~~
362 ~~aspect of the practice or business of funeral directing,~~
363 ~~embalming, direct disposition, cremation, funeral or cemetery~~
364 ~~preneed sales, funeral establishment operations, cemetery~~
365 ~~operations, or cemetery monument or marker sales or~~
366 ~~installation.~~

367 2. Any misdemeanor, no matter when committed, which was
368 directly or indirectly related to the financial services
369 business as defined in s. 497.1411 ~~Any other felony not already~~
370 ~~disclosed under subparagraph 1. that was committed within the 20~~
371 ~~years immediately preceding the application under this chapter.~~

372 3. Any other misdemeanor not already disclosed under
373 subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5
374 years immediately preceding the application under this chapter.



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375 Section 6. Present subsections (2) through (5) of section
376 497.157, Florida Statutes, are redesignated as subsections (4)
377 through (7), respectively, new subsections (2) and (3) and
378 subsection (8) are added to that section, and present subsection
379 (3) of that section is amended, to read:

380 497.157 Unlicensed practice; remedies concerning violations
381 by unlicensed persons.-

382 (2) A person may not be, act as, or advertise or hold
383 himself or herself out to be a funeral director, embalmer, or
384 direct disposer unless he or she is currently licensed by the
385 department.

386 (3) A person may not be, act as, or advertise or hold
387 himself or herself out to be a preneed sales agent unless he or
388 she is currently licensed by the department and appointed by a
389 preneed main licensee for which they are executing preneed
390 contracts.

391 (5) (3) Where the department determines that an emergency
392 exists regarding any violation of this chapter by any unlicensed
393 person or entity, the department may issue and serve an
394 immediate final order upon such unlicensed person or entity, in
395 accordance with s. 120.569(2) (n). Such an immediate final order
396 may impose such prohibitions and requirements as are reasonably
397 necessary to protect the public health, safety, and welfare, and
398 shall be effective when served.

399 (a) For the purpose of enforcing such an immediate final
400 order, the department may file an emergency or other proceeding
401 in the circuit courts of the state seeking enforcement of the
402 immediate final order by injunctive or other order of the court.
403 The court shall issue its injunction or other order enforcing



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404 the immediate final order pending administrative resolution of
405 the matter under subsection (4) ~~(2)~~, unless the court determines
406 that such action would work a manifest injustice under the
407 circumstances. Venue for judicial actions under this paragraph
408 shall be, at the election of the department, in the courts of
409 Leon County, or in a county where the respondent resides or has
410 a place of business.

411 (b) After serving an immediate final order to cease and
412 desist upon any person or entity, the department shall within 10
413 days issue and serve upon the same person or entity an
414 administrative complaint as set forth in subsection (4) ~~(2)~~,
415 except that, absent order of a court to the contrary, the
416 immediate final order shall be effective throughout the pendency
417 of proceedings under subsection (4) ~~(2)~~.

418 (8) Any person who is not licensed under this chapter and
419 who engages in activity requiring licensure under this chapter
420 commits a felony of the third degree, punishable as provided in
421 s. 775.082, s. 775.083, or s. 775.084.

422 Section 7. Subsection (6) of section 497.159, Florida
423 Statutes, is amended to read:

424 497.159 Crimes.—

425 ~~(6) Any person who is not licensed under this chapter who~~
426 ~~engages in activity requiring licensure under this chapter,~~
427 ~~commits a misdemeanor of the second degree, punishable as~~
428 ~~provided in s. 775.082 or s. 775.083.~~

429 Section 8. Subsection (7) of section 497.459, Florida
430 Statutes, is amended to read:

431 497.459 Cancellation of, or default on, preneed contracts;
432 required notice.—



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433 (7) NOTICE TO PURCHASER OR LEGALLY AUTHORIZED PERSON.—

434 (a) To ensure the performance of unfulfilled preneed
435 contracts, upon the occurrence of the earlier earliest of either
436 ~~any~~ of the following events, a preneed licensee shall provide to
437 the purchaser or to the beneficiary's legally authorized person
438 written notice of the preneed licensee's intent to distribute
439 funds as described herein in accordance with the terms of the
440 preneed contract, if any such terms exist ~~obligation of the~~
441 ~~preneed licensee remains to be fulfilled under the contract:~~

442 1. Fifty years after the date of execution of the preneed
443 contract by the purchaser.

444 2. The beneficiary of the preneed contract attains the age
445 of 105 years of age or older.

446 ~~3. The social security number of the beneficiary of the~~
447 ~~preneed contract, as shown on the contract, is contained within~~
448 ~~the United States Social Security Administration Death Master~~
449 ~~File.~~

450
451 By July 1, 2021, and at least every 3 years thereafter, a
452 preneed licensee shall conduct an analysis of each of its
453 preneed contracts to determine if subparagraph 1. or
454 subparagraph 2. applies.

455 (b)1. The notice in paragraph (a) must be provided by
456 certified mail, registered mail, or permitted delivery service,
457 return receipt requested, to the last known mailing address of
458 the purchaser or the beneficiary's legally authorized person,
459 whichever is applicable, as provided to the preneed licensee. If
460 the notice is returned as undeliverable within 30 calendar days
461 after the preneed licensee sent the notice, the preneed licensee



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462 ~~trustee~~ shall perform a diligent search and inquiry to obtain a
463 different address for the purchaser or the beneficiary's legally
464 authorized person, whichever is applicable. For purposes of this
465 subparagraph, any address known and used by the purchaser or the
466 beneficiary's legally authorized person, whichever is
467 applicable, for sending regular mailings or other communications
468 from the purchaser or the beneficiary's legally authorized
469 person, whichever is applicable, to the preneed licensee or any
470 address produced through a current address service or searchable
471 database shall be included with other addresses produced from
472 the diligent search and inquiry, if any. If the preneed
473 licensee's trustee's diligent search and inquiry produces an
474 address different from the notice address, the preneed licensee
475 ~~trustee~~ shall mail a copy of the notice by certified mail,
476 registered mail, or permitted delivery service, return receipt
477 requested, to any and all addresses produced as a result of the
478 diligent search and inquiry.

479 2. If the purchaser or the beneficiary's legally authorized
480 person, whichever is applicable, fails to respond to such notice
481 within 3 years ~~120 days~~ after delivery of the last mailed notice
482 under subparagraph 1., the funds held in trust must be
483 distributed within 60 days after the end of the 3-year period
484 and in accordance with any applicable provision of chapter 717,
485 as follows:

486 a. The principal deposited into trust must be remitted to
487 the Unclaimed Property Trust Fund.

488 b. Any additional funds in trust must be remitted to the
489 preneed licensee.

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491 Upon the occurrence of the distribution from trust, the preneed
492 licensee is absolved of all liability associated with the
493 preneed contract for which funds were distributed, including any
494 obligation to refund any monies paid by a purchaser of a preneed
495 contract. The names of the purchaser and the beneficiary of any
496 preneed contract for which funds were distributed must be
497 provided to the Division of Unclaimed Property at the time such
498 funds are remitted to the Unclaimed Property Trust Fund.

499 (c) A purchaser or a beneficiary that receive the notice
500 required under this subsection retains all rights to fulfillment
501 or cancellation of the preneed contract during the time between
502 the issuance of the notice and the distribution described in
503 subparagraph (b)2. Legally authorized persons, in the priority
504 set forth in this chapter, of the purchaser or beneficiary may
505 obtain fulfillment or cancellation of the preneed contract. Such
506 fulfillment may include identifying a new beneficiary on the
507 preneed contract. A preneed licensee shall provide fulfillment
508 or cancellation of the preneed contract upon the attestation of
509 any one legally authorized person that he or she is not aware of
510 an objection to the requested action by any person in his or her
511 priority class or a higher priority class. If the legally
512 authorized person chooses to identify a new beneficiary on the
513 preneed contract, the preneed contract is deemed effective as of
514 the date of the identification of the new beneficiary ~~in~~
515 accordance with the terms of the preneed contract, the trust
516 agreement, and any applicable provisions of chapter 717.

517 ~~(e) This subsection does not affect a purchaser's rights to~~
518 ~~cancel the preneed contract and receive a refund or a preneed~~
519 ~~licensee's obligations to refund established by this chapter.~~



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520 (d) This section does not apply to any interment
521 merchandise or services associated with such interment rights.

522 (e) The licensing authority shall have authority to adopt
523 rules for the review and approval of notice forms used by
524 preneed licensees to provide notice under this subsection.

525 Section 9. Subsection (13) of section 552.081, Florida
526 Statutes, is amended to read:

527 552.081 Definitions.—As used in this chapter:

528 (13) "Two-component explosives" means any two inert
529 components which, when mixed, become capable of detonation by
530 any detonator a No. 6 blasting cap, and shall be classified as a
531 Class "A" explosive when so mixed.

532 Section 10. Present subsection (2) of section 553.7921,
533 Florida Statutes, is redesignated as subsection (3), a new
534 subsection (2) is added to that section, and subsection (1) of
535 that section is amended, to read:

536 553.7921 Fire alarm permit application to local enforcement
537 agency.—

538 (1) A contractor must file a Uniform Fire Alarm Permit
539 Application as provided in subsection (3) ~~(2)~~ with the local
540 enforcement agency and must receive the fire alarm permit
541 before:

542 ~~(a)~~ installing or replacing a fire alarm, if the local
543 enforcement agency requires a plan review for the installation
544 or replacement; ~~or~~

545 ~~(b) Repairing an existing alarm system that was previously~~
546 ~~permitted by the local enforcement agency if the local~~
547 ~~enforcement agency requires a fire alarm permit for the repair.~~

548 (2) If the local enforcement agency requires a fire alarm



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549 permit to repair an existing alarm system that was previously
550 permitted by the local enforcement agency, a contractor may
551 begin work after filing a Uniform Fire Alarm Permit Application
552 as provided in subsection (3). A fire alarm repaired pursuant to
553 this subsection may not be considered compliant until the
554 required permit is issued and the local enforcement agency
555 approves the repair.

556 Section 11. Effective January 1, 2021, subsection (3) of
557 section 626.2815, Florida Statutes, is amended to read:

558 626.2815 Continuing education requirements.—

559 (3) Each licensee except a title insurance agent must
560 complete a 4-hour ~~5-hour~~ update course every 2 years which is
561 specific to the license held by the licensee. The course must be
562 developed and offered by providers and approved by the
563 department. The content of the course must address all lines of
564 insurance for which examination and licensure are required and
565 include the following subject areas: insurance law updates,
566 ethics for insurance professionals, disciplinary trends and case
567 studies, industry trends, premium discounts, determining
568 suitability of products and services, and other similar
569 insurance-related topics the department determines are relevant
570 to legally and ethically carrying out the responsibilities of
571 the license granted. A licensee who holds multiple insurance
572 licenses must complete an update course that is specific to at
573 least one of the licenses held. Except as otherwise specified,
574 any remaining required hours of continuing education are
575 elective and may consist of any continuing education course
576 approved by the department under this section.

577 (a) Except as provided in paragraphs (b), (c), (d), (e),



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578 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
579 elective continuing education courses every 2 years.

580 (b) A licensee who has been licensed for 6 or more years
581 must also complete a minimum of 16 ~~15~~ hours of elective
582 continuing education every 2 years.

583 (c) A licensee who has been licensed for 25 years or more
584 and is a CLU or a CPCU or has a Bachelor of Science degree in
585 risk management or insurance with evidence of 18 or more
586 semester hours in insurance-related courses must also complete a
587 minimum of 6 ~~5~~ hours of elective continuing education courses
588 every 2 years.

589 (d) An individual who holds a license as a customer
590 representative and who is not a licensed life or health agent
591 must also complete a minimum of 6 ~~5~~ hours of continuing
592 education courses every 2 years.

593 (e) An individual subject to chapter 648 must complete the
594 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of
595 elective continuing education courses every 2 years.

596 (f) Elective continuing education courses for public
597 adjusters must be specifically designed for public adjusters and
598 approved by the department. Notwithstanding this subsection,
599 public adjusters for workers' compensation insurance or health
600 insurance are not required to take continuing education courses
601 pursuant to this section.

602 (g) Excess hours accumulated during any 2-year compliance
603 period may be carried forward to the next compliance period.

604 (h) An individual teaching an approved course of
605 instruction or lecturing at any approved seminar and attending
606 the entire course or seminar qualifies for the same number of



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607 classroom hours as would be granted to a person taking and
608 successfully completing such course or seminar. Credit is
609 limited to the number of hours actually taught unless a person
610 attends the entire course or seminar. An individual who is an
611 official of or employed by a governmental entity in this state
612 and serves as a professor, instructor, or in another position or
613 office, the duties and responsibilities of which are determined
614 by the department to require monitoring and review of insurance
615 laws or insurance regulations and practices, is exempt from this
616 section.

617 (i) For compliance periods beginning on or after October 1,
618 2014, any person who holds a license as a title insurance agent
619 must complete a minimum of 10 hours of continuing education
620 credit every 2 years in title insurance and escrow management
621 specific to this state and approved by the department, which
622 shall include at least 3 hours of continuing education on the
623 subject matter of ethics, rules, or compliance with state and
624 federal regulations relating specifically to title insurance and
625 closing services.

626 (j) For a licensee who is an active participant in an
627 association, 2 hours of elective continuing education credit per
628 calendar year may be approved by the department, if properly
629 reported by the association.

630 Section 12. Subsection (3) of section 633.102, Florida
631 Statutes, is amended to read:

632 633.102 Definitions.—As used in this chapter, the term:

633 (3) (a) "Contractor I" means a contractor whose business
634 includes the execution of contracts requiring the ability to lay
635 out, fabricate, install, inspect, alter, repair, and service all



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636 types of fire protection systems, excluding preengineered
637 systems.

638 (b) "Contractor II" means a contractor whose business is
639 limited to the execution of contracts requiring the ability to
640 lay out, fabricate, install, inspect, alter, repair, and service
641 water sprinkler systems, water spray systems, foam-water
642 sprinkler systems, foam-water spray systems, standpipes,
643 combination standpipes and sprinkler risers, all piping that is
644 an integral part of the system beginning at the point of service
645 as defined in this section, sprinkler tank heaters, air lines,
646 thermal systems used in connection with sprinklers, and tanks
647 and pumps connected thereto, excluding preengineered systems.

648 (c) "Contractor III" means a contractor whose business is
649 limited to the execution of contracts requiring the ability to
650 fabricate, install, inspect, alter, repair, and service carbon
651 dioxide systems, foam extinguishing systems, dry chemical
652 systems, and Halon and other chemical systems, excluding
653 preengineered systems.

654 (d) "Contractor IV" means a contractor whose business is
655 limited to the execution of contracts requiring the ability to
656 lay out, fabricate, install, inspect, alter, repair, and service
657 automatic fire sprinkler systems for detached one-family
658 dwellings, detached two-family dwellings, and mobile homes,
659 excluding preengineered systems and excluding single-family
660 homes in cluster units, such as apartments, condominiums, and
661 assisted living facilities or any building that is connected to
662 other dwellings. A Contractor IV is limited to the scope of
663 practice specified in NFPA 13D.

664 (e) "Contractor V" means a contractor whose business is



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665 limited to the execution of contracts requiring the ability to
666 fabricate, install, inspect, alter, repair, and service the
667 underground piping for a fire protection system using water as
668 the extinguishing agent beginning at the point of service as
669 defined in this act and ending no more than 1 foot above the
670 finished floor.

671
672 The definitions in this subsection may not be construed to
673 include engineers or architects and do not limit or prohibit a
674 licensed fire protection engineer or architect with fire
675 protection design experience from designing any type of fire
676 protection system. A distinction is made between system design
677 concepts prepared by the design professional and system layout
678 as defined in this section and typically prepared by the
679 contractor. However, a person certified as a Contractor I ~~or~~
680 Contractor II, ~~or Contractor IV~~ under this chapter may design
681 new fire protection systems of 49 or fewer sprinklers; ~~and~~ may
682 design the alteration of an existing fire sprinkler system if
683 the alteration consists of the relocation, addition, or deletion
684 of ~~not more than 49~~ or fewer sprinklers, notwithstanding the
685 size of the existing fire sprinkler system; or may design the
686 alteration of an existing fire sprinkler system if the
687 alteration consists of the relocation or deletion of 249 or
688 fewer sprinklers, notwithstanding the size of the existing fire
689 sprinkler system, if there is no change of occupancy, as defined
690 in the Florida Building Code, of the affected areas and there is
691 no change in the water demand as defined in National Fire
692 Protection Association publication NFPA 13 "Standard for the
693 Installation of Sprinkler Systems," and if the occupancy hazard



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694 classification as defined in NFPA 13 is reduced or remains the
695 same as a result of the alteration. A person certified as a
696 Contractor I, Contractor II, or Contractor IV may design or
697 alter a fire protection system, the scope of which complies with
698 NFPA 13D, Standard for the Installation of Sprinkler Systems in
699 One- and Two-Family Dwellings and Manufactured Homes, as adopted
700 by the State Fire Marshal, notwithstanding the number of fire
701 sprinklers. Contractor-developed plans may not be required by
702 any local permitting authority to be sealed by a registered
703 professional engineer.

704 Section 13. Section 633.136, Florida Statutes, is amended
705 to read:

706 633.136 Fire and Emergency Incident Information Reporting
707 Program; duties; fire reports.—

708 (1) (a) The Fire and Emergency Incident Information
709 Reporting Program is created within the division. The program
710 shall:

711 1. Establish and maintain an electronic communication
712 system capable of transmitting fire and emergency incident
713 information to and between fire service providers ~~protection~~
714 ~~agencies~~.

715 2. Initiate a Fire and Emergency Incident Information
716 Reporting System that shall be responsible for:

717 a. Receiving fire and emergency incident information from
718 fire service providers ~~protection agencies~~.

719 b. Preparing and disseminating annual reports to the
720 Governor, the President of the Senate, the Speaker of the House
721 of Representatives, fire service providers ~~protection agencies~~,
722 and, upon request, the public. Each report shall include, but



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723 not be limited to, the information listed in the National Fire
724 Incident Reporting System.

725 c. Upon request, providing other states and federal
726 agencies with fire and emergency incident data of this state.

727 3. Adopt rules to effectively and efficiently implement,
728 administer, manage, maintain, and use the Fire and Emergency
729 Incident Information Reporting Program. The rules shall be
730 considered minimum requirements and shall not preclude a fire
731 service provider ~~protection agency~~ from implementing its own
732 requirements which may not conflict with the rules of the
733 division.

734 4. By rule, establish procedures and a format for each fire
735 service provider ~~protection agency~~ to voluntarily monitor its
736 records and submit reports to the program.

737 5. Maintain ~~Establish~~ an electronic information database
738 that is accessible and searchable by fire service providers
739 ~~protection agencies~~.

740 (b) The division shall consult with the Florida Forest
741 Service of the Department of Agriculture and Consumer Services
742 and the State Surgeon General of the Department of Health to
743 coordinate data, ensure accuracy of the data, and limit
744 duplication of efforts in data collection, analysis, and
745 reporting.

746 (2) The Fire and Emergency Incident Information System
747 Technical Advisory Panel is created within the division. The
748 panel shall advise, review, and recommend to the State Fire
749 Marshal with respect to the requirements of this section. The
750 membership of the panel shall consist of the ~~following~~ 15
751 members:



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752 ~~(a) The current 13 members~~ of the Firefighters Employment,
753 Standards, and Training Council as established in s. 633.402.

754 ~~(b) One member from the Florida Forest Service of the~~
755 ~~Department of Agriculture and Consumer Services, appointed by~~
756 ~~the director of the Florida Forest Service.~~

757 ~~(c) One member from the Department of Health, appointed by~~
758 ~~the State Surgeon General.~~

759 (3) ~~As used in For the purpose of~~ this section, the term
760 "fire service provider" has the same meaning as in s. 633.102
761 "fire protection agency" shall be defined by rule by the
762 division.

763 Section 14. Subsections (18) and (20) of section 633.202,
764 Florida Statutes, are amended to read:

765 633.202 Florida Fire Prevention Code.—

766 (18) The authority having jurisdiction shall determine the
767 minimum radio signal strength for fire department communications
768 in all new high-rise and existing high-rise buildings. Existing
769 buildings are not required to comply with minimum radio strength
770 for fire department communications and two-way radio system
771 enhancement communications as required by the Florida Fire
772 Prevention Code until January 1, ~~2023~~ 2022. However, by January
773 1, 2022 ~~December 31, 2019~~, an existing building that is not in
774 compliance with the requirements for minimum radio strength for
775 fire department communications must have completed a minimum
776 radio strength assessment ~~apply for an appropriate permit~~ for
777 the required installation with the local government agency
778 having jurisdiction and must demonstrate that the building will
779 become compliant by January 1, ~~2023~~ 2022. Existing apartment
780 buildings are not required to comply until January 1, 2025.



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781 However, existing apartment buildings are required to apply for
782 the appropriate permit for the required communications
783 installation by December 31, 2022.

784 (20) (a) In apartment occupancies with enclosed corridors
785 served by interior or exterior exit stairs, doorstep refuse and
786 recycling collection containers, which stand upright on their
787 own and do not leak liquids when standing upright, must be
788 allowed in exit access corridors when all of the following
789 conditions exist:

790 1. The maximum doorstep refuse and recycling collection
791 container size does not exceed 13 gallons.

792 2. Waste, which is in a doorstep refuse and recycling
793 collection container, is not placed in the exit access corridors
794 for single periods exceeding 5 hours.

795 3. Doorstep refuse and recycling collection containers do
796 not occupy the exit access corridors for single periods
797 exceeding 12 hours.

798 4. Doorstep refuse and recycling collection containers do
799 not reduce the means of egress width below that required under
800 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
801 Prevention Code.

802 5. Management staff have written policies and procedures in
803 place and enforce them to ensure compliance with this paragraph,
804 and, upon request, provide a copy of such policies and
805 procedures to the authority having jurisdiction.

806 (b) In apartment occupancies with open-air corridors or
807 balconies served by exterior exit stairs, doorstep refuse and
808 recycling collection containers, which stand upright on their
809 own and do not leak liquids when standing upright, must be



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810 allowed in exit access corridors when all of the following
811 conditions exist:

812 1. The maximum doorstep refuse and recycling collection
813 container size does not exceed 27 gallons.

814 2. Waste, which is in a doorstep refuse and recycling
815 collection container, is not placed in the exit access corridors
816 for single periods exceeding 5 hours.

817 3. Doorstep refuse and recycling collection containers do
818 not reduce the means of egress width below that required under
819 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
820 Prevention Code.

821 4. Management staff have written policies and procedures in
822 place and enforce them to ensure compliance with this paragraph,
823 and, upon request, provide a copy of such policies and
824 procedures to the authority having jurisdiction.

825 (c) The authority having jurisdiction may approve
826 alternative containers and storage arrangements that are
827 demonstrated to provide an equivalent level of safety to that
828 provided under paragraphs (a) and (b).

829 (d) The authority having jurisdiction shall allow apartment
830 occupancies a phase-in period until December 31, 2020, to comply
831 with this subsection.

832 (e) This subsection is repealed on January 1, 2024 ~~July 1,~~
833 ~~2021.~~

834 Section 15. Section 633.217, Florida Statutes, is created
835 to read:

836 633.217 Influencing a firesafety inspector; prohibited
837 acts.—

838 (1) A person may not influence a firesafety inspector by:



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839 (a) Threatening, coercing, tricking, or attempting to
840 threaten, coerce, or trick the firesafety inspector into
841 violating any provision of the Florida Fire Prevention Code, any
842 rule adopted by the State Fire Marshal, or any provision of this
843 chapter.

844 (b) Offering any compensation to the firesafety inspector
845 to induce a violation of the Florida Fire Prevention Code, any
846 rule adopted by the State Fire Marshal, or any provision of this
847 chapter.

848 (2) A firesafety inspector may not knowingly and willfully
849 accept an attempt by a person to influence the firesafety
850 inspector into violating any provision of the Florida Fire
851 Prevention Code, any rule adopted by the State Fire Marshal, or
852 any provision of this chapter.

853 Section 16. Paragraphs (d), (g), and (h) of subsection (4)
854 of section 633.304, Florida Statutes, are amended to read:

855 633.304 Fire suppression equipment; license to install or
856 maintain.—

857 (4)

858 (d) A license of any class may not be issued or renewed by
859 the division and a license of any class does not remain
860 operative unless:

861 1. The applicant has submitted to the State Fire Marshal
862 evidence of registration as a Florida corporation or evidence of
863 compliance with s. 865.09.

864 2. The State Fire Marshal or his or her designee has by
865 inspection determined that the applicant possesses the equipment
866 required for the class of license sought. The State Fire Marshal
867 shall give an applicant a reasonable opportunity to correct any



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868 deficiencies discovered by inspection. To obtain such
869 inspection, an applicant with facilities located outside this
870 state must:

871 a. Provide a notarized statement from a professional
872 engineer licensed by the applicant's state of domicile
873 certifying that the applicant possesses the equipment required
874 for the class of license sought and that all such equipment is
875 operable; or

876 b. Allow the State Fire Marshal or her or his designee to
877 inspect the facility. All costs associated with the State Fire
878 Marshal's inspection must be paid by the applicant. The State
879 Fire Marshal, in accordance with s. 120.54, may adopt rules to
880 establish standards for the calculation and establishment of the
881 amount of costs associated with any inspection conducted by the
882 State Fire Marshal under this section. Such rules must include
883 procedures for invoicing and receiving funds in advance of the
884 inspection.

885 3. The applicant has submitted to the State Fire Marshal
886 proof of insurance providing coverage for comprehensive general
887 liability for bodily injury and property damage, products
888 liability, completed operations, and contractual liability. The
889 State Fire Marshal shall adopt rules providing for the amounts
890 of such coverage, but such amounts may not be less than \$300,000
891 for Class A or Class D licenses, \$200,000 for Class B licenses,
892 and \$100,000 for Class C licenses; and the total coverage for
893 any class of license held in conjunction with a Class D license
894 may not be less than \$300,000. The State Fire Marshal may, at
895 any time after the issuance of a license or its renewal, require
896 upon demand, and in no event more than 30 days after notice of



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897 such demand, the licensee to provide proof of insurance, on the
898 insurer's form, containing confirmation of insurance coverage as
899 required by this chapter. Failure, for any length of time, to
900 provide proof of insurance coverage as required must result in
901 the immediate suspension of the license until proof of proper
902 insurance is provided to the State Fire Marshal. An insurer that
903 provides such coverage shall notify the State Fire Marshal of
904 any change in coverage or of any termination, cancellation, or
905 nonrenewal of any coverage.

906 4. The applicant applies to the State Fire Marshal,
907 provides proof of experience, and successfully completes a
908 prescribed training course that includes both written and
909 practical training offered at ~~by~~ the State Fire College and ~~or~~
910 an equivalent course approved by the State Fire Marshal as
911 applicable to the class of license being sought. This
912 subparagraph does not apply to any holder of or applicant for a
913 permit under paragraph (g) or to a business organization or a
914 governmental entity seeking initial licensure or renewal of an
915 existing license solely for the purpose of inspecting,
916 servicing, repairing, marking, recharging, and maintaining fire
917 extinguishers used and located on the premises of and owned by
918 such organization or entity.

919 5. The applicant has a current retestor identification
920 number that is appropriate for the license for which the
921 applicant is applying and that is listed with the United States
922 Department of Transportation.

923 6. The applicant has passed, with a grade of at least 70
924 percent, a written examination testing his or her knowledge of
925 the rules and statutes governing the activities authorized by



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926 the license and demonstrating his or her knowledge and ability
927 to perform those tasks in a competent, lawful, and safe manner.
928 Such examination must be developed and administered by the State
929 Fire Marshal, or his or her designee in accordance with policies
930 and procedures of the State Fire Marshal. An applicant shall pay
931 a nonrefundable examination fee of \$50 for each examination or
932 reexamination scheduled. A reexamination may not be scheduled
933 sooner than 30 days after any administration of an examination
934 to an applicant. An applicant may not be permitted to take an
935 examination for any level of license more than a total of four
936 times during 1 year, regardless of the number of applications
937 submitted. As a prerequisite to licensure of the applicant, he
938 or she:

- 939 a. Must be at least 18 years of age.
940 b. Must have 4 years of proven experience as a fire
941 equipment permittee at a level equal to or greater than the
942 level of license applied for or have a combination of education
943 and experience determined to be equivalent thereto by the State
944 Fire Marshal. Having held a permit at the appropriate level for
945 the required period constitutes the required experience.
946 c. Must not have been convicted of a felony or a crime
947 punishable by imprisonment of 1 year or more under the law of
948 the United States or of any state thereof or under the law of
949 any other country. "Convicted" means a finding of guilt or the
950 acceptance of a plea of guilty or nolo contendere in any federal
951 or state court or a court in any other country, without regard
952 to whether a judgment of conviction has been entered by the
953 court having jurisdiction of the case. If an applicant has been
954 convicted of any such felony, the applicant is excluded from



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955 licensure for a period of 4 years after expiration of sentence
956 or final release by the Florida Commission on Offender Review
957 unless the applicant, before the expiration of the 4-year
958 period, has received a full pardon or has had her or his civil
959 rights restored.

960 This subparagraph does not apply to any holder of or applicant
961 for a permit under paragraph (g) or to a business organization
962 or a governmental entity seeking initial licensure or renewal of
963 an existing license solely for the purpose of inspecting,
964 servicing, repairing, marking, recharging, hydrotesting, and
965 maintaining fire extinguishers used and located on the premises
966 of and owned by such organization or entity.

967 (g) A permit of any class may not be issued or renewed to a
968 person by the division, and a permit of any class does not
969 remain operative, unless the person has:

- 970 1. Submitted a nonrefundable examination fee in the amount
971 of \$50.
972 2. Successfully completed a training course that includes
973 both written and practical training offered at ~~by~~ the State Fire
974 College and ~~or an equivalent course~~ approved by the State Fire
975 Marshal as applicable to the class of license being sought.
976 3. Passed, with a grade of at least 70 percent, a written
977 examination testing his or her knowledge of the rules and
978 statutes governing the activities authorized by the permit and
979 demonstrating his or her knowledge and ability to perform those
980 tasks in a competent, lawful, and safe manner. Such examination
981 must be developed and administered by the State Fire Marshal in
982 accordance with the policies and procedures of the State Fire
983



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984 Marshal. An examination fee must be paid for each examination
985 scheduled. A reexamination may not be scheduled sooner than 30
986 days after any administration of an examination to an applicant.
987 An applicant may not be permitted to take an examination for any
988 level of permit more than four times during 1 year, regardless
989 of the number of applications submitted. As a prerequisite to
990 taking the permit examination, the applicant must be at least 16
991 years of age.

992 (h) An applicant for a license or permit under this section
993 who fails the examination may take it three more times during
994 the 1-year period after he or she originally filed an
995 application for the examination. If the applicant fails the
996 examination within 1 year after the application date and he or
997 she seeks to retake the examination, he or she must file a new
998 application, pay the application and examination fees, and
999 successfully complete a prescribed training course that includes
1000 both written and practical training offered at by the State Fire
1001 College and or an equivalent course approved by the State Fire
1002 Marshal as applicable to the class of license being sought. The
1003 applicant may not submit a new application within 6 months after
1004 the date of his or her fourth reexamination. An applicant who
1005 passes the examination but does not meet the remaining
1006 qualifications prescribed by law and rule within 1 year after
1007 the application date must file a new application, pay the
1008 application and examination fee, successfully complete a
1009 prescribed training course that includes both written and
1010 practical training offered at approved by the State Fire College
1011 and or an equivalent course approved by the State Fire Marshal
1012 as applicable to the class of license being sought, and pass the



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1013 written examination.

1014 Section 17. Subsection (1) of section 633.402, Florida
1015 Statutes, is amended to read:

1016 633.402 Firefighters Employment, Standards, and Training
1017 Council; organization; meetings; quorum; compensation; seal;
1018 special powers; firefighter training.-

1019 (1) There is created within the department a Firefighters
1020 Employment, Standards, and Training Council of 15 44 members.

1021 (a) The members shall be appointed as follows:

1022 1. Two fire chiefs appointed by the Florida Fire Chiefs
1023 Association.

1024 2. Two firefighters, who are not officers, appointed by the
1025 Florida Professional Firefighters Association.

1026 3. Two firefighter officers, who are not fire chiefs,
1027 appointed by the State Fire Marshal.

1028 4. One individual appointed by the Florida League of
1029 Cities.

1030 5. One individual appointed by the Florida Association of
1031 Counties.

1032 6. One individual appointed by the Florida Association of
1033 Special Districts.

1034 7. One individual appointed by the Florida Fire Marshals'
1035 and Inspectors' Association.

1036 8. One employee of the Florida Forest Service of the
1037 Department of Agriculture and Consumer Services appointed by the
1038 director of the Florida Forest Service.

1039 9. One individual appointed by the State Fire Marshal.

1040 10. One director or instructor of a state-certified
1041 firefighting training facility appointed by the State Fire



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1042 Marshal.

1043 11. ~~One individual The remaining member, who shall be~~
1044 appointed by the State Fire Marshal, who may not be a member or
1045 representative of the firefighting profession or of any local
1046 government.

1047 12. One individual from the Department of Health, appointed
1048 by the Surgeon General.

1049 (b) To be eligible for appointment as a member under
1050 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
1051 subparagraph (a)8., or subparagraph (a)10., a person must have
1052 had at least 4 years' experience in the firefighting profession.
1053 Members shall serve only as long as they continue to meet the
1054 criteria under which they were appointed, or unless a member has
1055 failed to appear at three consecutive and properly noticed
1056 meetings unless excused by the chair.

1057 Section 18. Subsection (1) of section 633.416, Florida
1058 Statutes, is amended to read:

1059 633.416 Firefighter employment and volunteer firefighter
1060 service; saving clause.—

1061 (1) A fire service provider may not employ an individual
1062 to:

1063 (a) Extinguish fires for the protection of life or property
1064 or to supervise individuals who perform such services unless the
1065 individual holds a current and valid Firefighter Certificate of
1066 Compliance. However, a person who is currently serving as a
1067 volunteer firefighter and holds a volunteer firefighter
1068 certificate of completion with a fire service provider, who is
1069 then employed as a regular or permanent firefighter by such fire
1070 service provider, may function, for a period of 1 year under the



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1071 direct supervision of an individual holding a valid firefighter
1072 certificate of compliance, in the same capacity in which he or
1073 she acted as a volunteer firefighter, provided that he or she
1074 has completed all training required by the volunteer
1075 organization. Under no circumstance can this period extend
1076 beyond 1 year either collectively or consecutively from the
1077 start of employment to obtain a Firefighter Certificate of
1078 Compliance; or

1079 (b) Serve as the administrative and command head of a fire
1080 service provider for a period in excess of 1 year unless the
1081 individual holds a current and valid Firefighter Certificate of
1082 Compliance or Special Certificate of Compliance.

1083 Section 19. Section 843.08, Florida Statutes, is amended to
1084 read:

1085 843.08 False personation.—A person who falsely assumes or
1086 pretends to be a firefighter, a sheriff, an officer of the
1087 Florida Highway Patrol, an officer of the Fish and Wildlife
1088 Conservation Commission, an officer of the Department of
1089 Environmental Protection, ~~a fire or arson investigator of the~~
1090 ~~Department of Financial Services,~~ an officer of the Department
1091 of Financial Services, any personnel or representative of the
1092 Division of Investigative and Forensic Services, an officer of
1093 the Department of Corrections, a correctional probation officer,
1094 a deputy sheriff, a state attorney or an assistant state
1095 attorney, a statewide prosecutor or an assistant statewide
1096 prosecutor, a state attorney investigator, a coroner, a police
1097 officer, a lottery special agent or lottery investigator, a
1098 beverage enforcement agent, a school guardian as described in s.
1099 30.15(1)(k), a security officer licensed under chapter 493, any



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1100 member of the Florida Commission on Offender Review or any
1101 administrative aide or supervisor employed by the commission,
1102 any personnel or representative of the Department of Law
1103 Enforcement, or a federal law enforcement officer as defined in
1104 s. 901.1505, and takes upon himself or herself to act as such,
1105 or to require any other person to aid or assist him or her in a
1106 matter pertaining to the duty of any such officer, commits a
1107 felony of the third degree, punishable as provided in s.
1108 775.082, s. 775.083, or s. 775.084. However, a person who
1109 falsely personates any such officer during the course of the
1110 commission of a felony commits a felony of the second degree,
1111 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1112 If the commission of the felony results in the death or personal
1113 injury of another human being, the person commits a felony of
1114 the first degree, punishable as provided in s. 775.082, s.
1115 775.083, or s. 775.084.

1116 Section 20. Paragraph (f) is added to subsection (11) of
1117 section 943.045, Florida Statutes, to read:

1118 943.045 Definitions; ss. 943.045-943.08.—The following
1119 words and phrases as used in ss. 943.045-943.08 shall have the
1120 following meanings:

1121 (11) "Criminal justice agency" means:

1122 (f) The investigations component of the Department of
1123 Financial Services which investigates the crimes of fraud and
1124 official misconduct in all public assistance given to residents
1125 of the state or provided to others by the state.

1126 Section 21. Effective upon this act becoming a law,
1127 paragraph (e) of subsection (1) and subsections (2) and (3) of
1128 section 40 of chapter 2019-140, Laws of Florida, are amended to



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1129 read:

1130 Section 40. (1) The Legislature finds that:

1131 (e) It is in the public interest to establish a Florida
1132 Financial Technology and Blockchain Task Force comprised of
1133 government and industry representatives to study the ways in
1134 which state, county, and municipal governments can benefit from
1135 a transition to a blockchain-based system for recordkeeping,
1136 security, and service delivery and to develop and submit
1137 recommendations to the Governor and the Legislature concerning
1138 the potential for implementation of blockchain-based systems
1139 that promote government efficiencies, better services for
1140 citizens, economic development, and safer cyber-secure
1141 interaction between government and the public.

1142 (2) The Florida Financial Technology and Blockchain Task
1143 Force, a task force as defined in s. 20.03, Florida Statutes, is
1144 established within the Department of Financial Services to
1145 explore and develop a master plan for fostering the expansion of
1146 financial technology and the blockchain industry in the state,
1147 to recommend policies and state investments to help make this
1148 state a leader in financial and blockchain technologies
1149 ~~technology~~, and to issue a report to the Governor and the
1150 Legislature. The task force shall study if and how state,
1151 county, and municipal governments can benefit from a transition
1152 to a blockchain-based system for recordkeeping, data security,
1153 financial transactions, and service delivery and identify ways
1154 to improve government interaction with businesses and the
1155 public. The task force shall also consider financial technology
1156 innovations related to money transmitters and payment instrument
1157 sellers, as defined in s. 560.103, Florida Statutes, including



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1158 mediums of exchange which are in electronic or digital form, and
1159 identify new products and services that could lead to business
1160 growth in this state.

1161 (a) The master plan shall:

1162 1. Identify the economic growth and development
1163 opportunities presented by financial and blockchain technologies
1164 technology.

1165 2. Assess the existing blockchain industry in the state.

1166 3. Identify innovative and successful blockchain
1167 applications currently used by industry and other governments to
1168 determine viability for state applications.

1169 4. Review workforce needs and academic programs required to
1170 build blockchain technology expertise across all relevant
1171 industries.

1172 5. Make recommendations to the Governor and the Legislature
1173 that will promote innovation and economic growth by reducing
1174 barriers to and expediting the expansion of the state's
1175 financial technology and blockchain industries industry.

1176 (b) The task force shall consist of 13 members. Membership
1177 shall be as follows:

1178 1. Three agency heads or executive directors of cabinet
1179 agencies, or their designees, appointed by the Governor.

1180 2. Four members of the public or private sector with
1181 knowledge and experience in blockchain technology, appointed by
1182 the Governor.

1183 3. Three members from the public or private sector with
1184 knowledge and experience in blockchain technology, appointed by
1185 the Chief Financial Officer.

1186 4. One member from the private sector with knowledge and



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1187 experience in blockchain technology, appointed by the President
1188 of the Senate.

1189 5. One member from the private sector with knowledge and
1190 experience in blockchain technology, appointed by the Speaker of
1191 the House of Representatives.

1192 6. One certified public accountant licensed pursuant to
1193 chapter 473 with knowledge and experience in blockchain
1194 technology, appointed by the Governor.

1195
1196 Members of the task force shall reflect the ethnic diversity of
1197 the state.

1198 (c) Within 90 days after the effective date of this act, a
1199 majority of the members of the task force must be appointed and
1200 the task force shall hold its first meeting. The task force
1201 shall elect one of its members to serve as chair. Members of the
1202 task force shall serve for the duration of the existence of the
1203 task force. Any vacancy that occurs shall be filled in the same
1204 manner as the original appointment. Task force members shall
1205 serve without compensation, and are not entitled to
1206 reimbursement for per diem or travel expenses.

1207 (d) The task force shall study blockchain technology,
1208 including, but not limited to, the following:

1209 1. Opportunities and risks associated with using blockchain
1210 and distributed ledger technology for state and local
1211 governments.

1212 2. Different types of blockchains, both public and private,
1213 and different consensus algorithms.

1214 3. Projects and cases currently under development in other
1215 states and local governments, and how these cases could be



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1216 applied in this state.

1217 4. Ways the Legislature can modify general law to support
1218 secure paperless recordkeeping, increase cybersecurity, improve
1219 interactions with citizens, and encourage blockchain innovation
1220 for businesses in the state.

1221 5. Identifying potential economic incentives for companies
1222 investing in blockchain technologies in collaboration with the
1223 state.

1224 6. Recommending projects for potential blockchain
1225 solutions, including, but not limited to, use cases for state
1226 agencies that would improve services for citizens or businesses.

1227 7. Identifying the technical skills necessary to develop
1228 blockchain technology and ensuring that instruction in such
1229 skills is available at secondary and postsecondary educational
1230 institutions in this state.

1231 (3) The task force shall submit a report to the Governor,
1232 the President of the Senate, and the Speaker of the House of
1233 Representatives and present its findings to the appropriate
1234 legislative committees in each house of the Legislature by
1235 January 31, 2021 ~~within 180 days after the initial meeting of~~
1236 ~~the task force~~. The report must include:

1237 (a) A general description of the costs and benefits of
1238 state and local government agencies using blockchain technology.

1239 (b) Recommendations concerning the feasibility of
1240 implementing blockchain technology in the state and the best
1241 approach to finance the cost of implementation.

1242 (c) Recommendations for specific implementations to be
1243 developed by relevant state agencies.

1244 (d) Any draft legislation the task force deems appropriate



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1245 to implement such blockchain technologies.

1246 (e) Identification of one pilot project that may be
1247 implemented in the state.

1248 (f) Any other information deemed relevant by the task
1249 force.

1250 Section 22. Except as otherwise expressly provided in this
1251 act and except for this section, which shall take effect upon
1252 this act becoming a law, this act shall take effect July 1,
1253 2020.

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 Appropriations

BILL: CS/CS/SB 1404

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senators Perry and Brandes

SUBJECT: Financial Services

DATE: March 5, 2020

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|-------------------|----------------|------------|--------------------------|
| 1. <u>Palecki</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. <u>Sanders</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Fav/CS</u> |
| 3. <u>Sanders</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1404 amends sections of Florida Statutes governing the following Department of Financial Services (DFS) Divisions: Investigative and Forensic Services; Public Assistance Fraud; Funeral, Cemetery, and Consumer Services; and State Fire Marshal. The bill:

- Prohibits employees who fall under the State Risk Management Trust Fund from engaging in retaliatory conduct against a sexual harassment victim;
- Provides that willful and knowing dissemination of certain identifying information of a sexual harassment victim is a misdemeanor of the first degree;
- Adds firefighter cancer into the self-insurance coverages provided by Risk Management; requires the Department of Management Services to verify and approve payments prior to distribution from the State Risk Management Trust Fund;
- Designates the Division of Public Assistance Fraud a criminal justice agency;
- Amends the composition requirements of the Board of Funeral, Cemetery, and Consumer Services; clarifies member requirements; amends the definition of “quorum” to enable ease of business; removes term staggering requirements; and clarifies rulemaking responsibilities;
- Clarifies and provides grounds for disqualification of death care licensure applicants based on criminal history;
- Amends provisions for criminal background checks for Funeral, Cemetery and Consumer Services applicants;

- Prohibits specific unlicensed funeral activity and increases the penalty to a third-degree felony;
- Increases criminal penalties associated with unlicensed funeral activity;
- Updates the definition of “two-component explosive” to reflect changes in the marketplace;
- Amends continuing education requirements for individuals licensed to solicit, sell, or adjust insurance in the state;
- Reduces from three years to 24 months the timeframe in which an insured can provide initial notice of a windstorm or hurricane claim while retaining the 36 month time frame for supplemental or reopened claims;
- Allows contractors to begin repairs on a previously permitted fire alarm prior to receiving a permit to do so, yet maintains that such repair will not be compliant until permitted and approved;
- Extends the expiration date for exemptions that allow doorstep refuse and recycling collection containers in apartments with enclosed corridors under certain circumstances;
- Amends the Fire and Emergency Incident Information Reporting Program by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider;”
- Eliminates a fire protection sprinkler system contractor designation and increases the number of sprinklers that can be relocated, added or deleted;
- Revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel and the Firefighters Employment, Standards and Training Council;
- Requires those seeking a license to install or maintain a fire protection system, to successfully complete a prescribed training course, to include both written and practical training, and requires such training to be offered at the State Fire College;
- Creates parity between residential and high rise apartment buildings and extends assessment and compliance deadlines by three years with regards to minimum radio signal strength for fire department communications and two-way radio systems;
- Requires existing apartment buildings to complete a minimum radio strength assessment for fire department communications and two-way radio system enhancements under the Florida Fire Prevention Code instead of applying for a permit for the required communication installation by December 31, 2022;
- Prohibits influencing a firesafety inspector to violate applicable law through threats, coercion, trickery, or compensation, and prohibits a firesafety inspector from knowingly and willingly accepting such an attempt;
- Allows fire service providers to hire volunteer firefighters, and allow them to continue to function in a volunteer firefighter capacity for the first year of employment while they obtain career firefighter certifications;
- Expands the applicability of criminal penalties for impersonation of investigators and personnel of the DFS; and
- Extends the Florida Blockchain Task Force report date from March 21, 2020 to January 31, 2021.

The bill does not impact state revenues or expenditures; however, as to the criminal penalties created by the bill, the Criminal Justice Impact Conference (CJIC) has not yet adopted a prison bed impact for this legislation and the fiscal impact relating to those penalties is indeterminate.

The bill, except as otherwise expressly provided, has an effective date of July 1, 2020.

II. Present Situation:

The Department of Financial Services (DFS) is statutorily responsible for:

- Carrying out the state's accounting and auditing functions; including preparing the state's Comprehensive Annual Financial Report, monitoring state contracts, and making payment for state expenditures;
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use;
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities;
- Managing the state Treasury and directing safekeeping and the investment of all state funds;
- Managing the deferred compensation program for state employees;
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state;
- Regulating cemeteries and funeral homes;
- Licensing and oversight of insurance agents and agencies;
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner;
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services; and
- Collecting and returning unclaimed property belonging to Florida residents.¹

The DFS is composed of the following divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.²

¹ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/sitepages/required/agencyorg.aspx> (last visited January 30, 2020).

² Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited January 30, 2019)

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (PAF) is responsible for enforcing state laws regarding program eligibility and proper use of public assistance benefits. PAF is responsible for investigating allegations of fraud related to the Cash Assistance/Temporary Assistance for Needy Families (TANF) program, the Supplemental Nutritional Assistance Program (SNAP); Medicaid recipients; disaster assistance/emergency benefits; the School Readiness and Voluntary Pre-Kindergarten programs; and Social Security Disability benefits.³

PAF has operated as a criminal justice agency since its inception in 1972. However, when the Division of Investigative and Forensic Services (DIFS) was created in 2016, under ch. 20, F.S., PAF was not designated as a criminal justice agency⁴, thereby limiting access to information within criminal records systems. Under Florida law, a criminal justice agency is defined, in part, as any governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.^{5,6} PAF currently operates, in part, as a criminal justice agency. However, current statute does not appropriately reflect this designation.

State Risk Management

The State Risk Management Trust Fund (Fund) is administered by the DFS and is a self-insurance fund.⁷ The Fund provides various types of insurance to all departments of the State of Florida, including their employees, agents, and volunteers.⁸ The Fund provides the following insurance coverage:

- Property Claims, to include:⁹
 - Loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage;
 - Loss from removal of personal property from such properties when endangered by covered perils;
 - Flood insurance to the extent necessary to meet self-insurance requirements under the National Flood Insurance Program;

³ Division of Public Assistance, <https://myfloridacfo.com/Division/PAF/> (last visited January 16, 2020).

⁴ Department of Financial Services, *Legislative Bill Analysis of SB 1404* (January 14, 2020) (on file with Senate Banking and Insurance Committee).

⁵ Section 943.045(11)(e), F.S. *See also*: s. 943.045(2), F.S.; the term “administration of criminal justice” means “performing functions of detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies.”

⁶ Section 943.045(11)(a)-(e), F.S., defines a criminal justice agency as a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, which investigates the crime of crimes of abuse and neglect, and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule court and that allocates a substantial part of its annual budget to the administration of criminal justice.

⁷ Section 284.30, F.S.

⁸ Section 284.31, F.S.

⁹ Section 284.01, F.S.

- All buildings, whether financed in whole or in part by revenue bonds or certificates, and the contents thereof of any other buildings leased or rented by the state, to include manufactured homes and contents;
- Rental value insurance is provided to indemnify the state or its agencies for loss of income when such rental income insurance is required to be carried by bonding or revenue certificates or resolutions; and
- Rental value insurance is also provided to indemnify the state or its agencies for loss of income from those buildings operated and maintained by the Department of Management Services from the Supervision Trust Fund;
- Casualty Claims, to include: ¹⁰
 - Workers' Compensation;
 - General Liability:
 - Premises and Operations
 - Personal Injury; and
 - Professional Malpractice Liability;¹¹
 - Fleet Automotive Liability;
 - Federal Civil Rights Actions under 42 U.S.C. s. 1983 or similar federal statutes; and
 - Court-awarded fees in other proceedings against the state, except for such awards in eminent domain or for inverse condemnation or awards by the Public Employees Relations Commission.

Separate accounts must be kept for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. 1983 or similar federal statutes, and court-awarded attorney's fees barring exceptions.¹²

Each entity covered by the Fund must develop and implement a loss prevention program,¹³ provide for regular and periodic facility and equipment inspections,¹⁴ investigate job-related employee accidents,¹⁵ and establish a program to promote increased safety awareness among employees.¹⁶ The Division of Risk Management, within the DFS, provides loss prevention services and technical assistance to state agencies and universities for managing risk.¹⁷

Premiums, as calculated on all coverages, are billed and charged to each state agency according to coverages obtained from the Fund.^{18, 19} All premiums paid into the Fund and all moneys received from the Fund from investment or any other source is held by the DFS for the purpose

¹⁰ Section 284.30, F.S.

¹¹ Department of Financial Services, Division of Risk Management, *Insurance Coverage Provided*, <https://www.myfloridacfo.com/Division/Risk/liability/LiabilityInsuranceCoverage.htm> (last visited February 19, 2020).

¹² Section 284.31, F.S.

¹³ Section 284.50(1)(a), F.S.

¹⁴ Section 284.50(1)(b), F.S.

¹⁵ Section 284.50(1)(c), F.S.

¹⁶ Section 284.50(1)(d), F.S.

¹⁷ Department of Financial Services, Division of Risk Management, *Welcome to the Division of Risk Management*, <https://www.myfloridacfo.com/Division/Risk/> (last visited February 19, 2020).

¹⁸ Section 284.02(1), F.S.

¹⁹ Section 284.36, F.S.

of paying: losses, expenses incurred in adjustment of losses, premiums for reinsurance, risk and claims management and operating expenses.^{20, 21}

Firefighters

A “firefighter” is defined as a person who is employed full-time by the state or local governments and whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county and state fire prevention codes and laws pertaining to the prevention and control of fires.²² Based on this definition, the employers include the Department of Agriculture and Consumer Service (Florida Forest Service), the Department of Financial Services (State Fire Marshal’s Office), the Department of Children and Families, the Department of Military Affairs, state universities, cities, counties, port authorities, and fire control districts.

Benefits in lieu of Workers Compensation Benefits

Upon a diagnosis of cancer as defined in s. 112.1816, F.S., a firefighter is entitled to certain benefits, as an alternative to pursuing workers’ compensation benefits under ch. 440, F.S., if the firefighter has been employed by his or her employer for at least five continuous years, has not used tobacco products for at least the preceding five years, and has not been employed in any other position in the preceding five years which is proven to create a higher risk for cancer. The benefits are:

- Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for out-of-pocket deductible, copayment, or coinsurance costs incurred by the firefighter.
- A one-time cash payout of \$25,000, upon the firefighter’s initial diagnosis of cancer.²³

If the firefighter elects to continue coverage in the employer-sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits must be made available by a former employer of a firefighter for 10 years following the date that the firefighter terminates employment, so long as the firefighter has otherwise met the employment criteria when he or she terminated employment and was not subsequently employed as a firefighter following that date.²⁴ A firefighter’s cancer diagnosis must be considered an injury or illness incurred in the line of duty by the employer for purposes of determining leave time and employee retention policies.²⁵

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (Board) within the Division of Funeral, Cemetery, and Consumer Services of the Department of

²⁰ Section 284.02(2), F.S.

²¹ Section 284.37, F.S.

²² See ss. 112.81, 112.191 and 633.102(9), F.S.; ch. 2019-21, L.O.F.

²³ Ch. 2019-21, Laws of Florida

²⁴ *Id.*

²⁵ *Id.*

Financial Services. The board acts as the licensing authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.²⁶

Currently, the board must have 10 members; one member must be the State Health Officer, or their designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.²⁷ The composition of the board must be as follows:

- The State Health Officer.
- Two funeral directors who are:
 - Licensed under part III of ch. 497, F.S., as funeral directors, and
 - Associated with a funeral establishment;
- One funeral director who is:
 - Licensed under part III of ch. 497, F.S.,
 - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
 - Operates an incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
 - Are residents of Florida;
 - Have never been licensed funeral directors or embalmers;
 - Are not connected with a cemetery or licensed cemetery company;
 - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
 - At least one of which is at least 60 years of age; and
 - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Members must not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.²⁸ The DFS reports that the CFO often does not receive a sufficient amount of applications to fill member positions.²⁹ For example, the position that must be filled by a certified public accountant has remained vacant since September 2017.³⁰

²⁶ See s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

²⁷ Section 497.101(1), F.S.

²⁸ Section 497.101(2), F.S.

²⁹ See *Supra* note 4.

³⁰ *Id.*

Board members are appointed for four-year terms, except for the State Health Officer, who serves as long as they hold office.³¹ The CFO is authorized to stagger the terms of members after the terms of the initial members expire.³² The terms have already been staggered at the initiation of the board.³³

A quorum is necessary to conduct the business of the board. A quorum consists of six members of the board.³⁴ The DFS indicates that it can be difficult to obtain this number due to board vacancies, absenteeism, and necessary recusal.³⁵

The DFS is required to adopt rules regarding application forms and procedures for appointment to the board.³⁶

Disqualification of Licensure Applicants

Section 497.142(10), F.S., requires all licensure and licensure renewal applicants to disclose criminal history. The following crimes must be disclosed:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;
- Any other felony committed within 20 years preceding the application; and
- Any other misdemeanor committed within five years preceding the application.

Licensing Background Checks

Applicants for licensure under ch. 497, F.S., relating to Funeral, Cemetery, and Consumer Services, must provide certified true copies of any crime committed in any jurisdiction, within the 10 years preceding their application, in order to deem the application complete.³⁷ Currently, regardless of adjudication, disclosure of the following crimes is required:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;³⁸
- Any other felony that was committed within the 20 years immediately preceding the application under this chapter;³⁹ and
- Any other misdemeanor that was committed within the five years preceding the application under this chapter.⁴⁰

³¹ Section 497.101(3), F.S.

³² *Id.*

³³ *See supra* note 4.

³⁴ Section 497.101(6), F.S.

³⁵ *See supra* note 4.

³⁶ *Id.*, s. 497.103(2)(c), F.S.

³⁷ Section 497.142(9), F.S.

³⁸ Section 497.142(10)(c)1., F.S.

³⁹ Section 97.142(10)(c)2., F.S.

⁴⁰ Section 497.142(10)(c)3., F.S.

Unlicensed Practice

Chapter 497, F.S., requires individuals to maintain a license for specified death care industry practices. The DFS is authorized to issue administrative complaints against entities believed to be in violation of licensure requirements.⁴¹ Section 497.159, F.S., provides for criminal penalties; unlicensed activity is a second degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.⁴²

Continuing Education Requirements

Individuals licensed to engage in the sale of insurance or adjustment of insurance claims in this state are required to fulfill continuing education requirements, pursuant to s. 626.2815, F.S. Currently, licensees, except title insurance agents, are required to complete a five-hour update course every two years, specific to the license they hold.⁴³ Unless otherwise provided, licensees must also complete 19 hours of elective continuing education courses every two years.⁴⁴ If a licensee has been licensed for six years or more, this requirement drops to 15 hours.⁴⁵ An individual subject to chapter 648, F.S., relating to bail bond agents, is required to complete a five-hour update course and a minimum of nine hours of elective continuing education courses every two years.⁴⁶

If continuing education requirements are not met, the DFS has the authority to immediately terminate or refuse to renew the appointment of an agent or adjuster, following notification from the DFS, unless an extension or waiver has been granted.⁴⁷

Property Insurance Contracts

Homeowners Insurance

Homeowners' insurance combines real and personal property coverage with personal liability coverage.⁴⁸ Mortgage lenders usually require homeowners' insurance as part of the mortgage terms.

The standard homeowners' insurance policy is divided into several component parts:

- Coverage A Dwelling;
- Coverage B Other Structures;
- Coverage C Personal Property;
- Coverage D Loss of Use/Additional Living Expenses;
- Coverage E Personal Liability;
- Coverage F Medical Payments to Others;

⁴¹ Section 497.157(2), F.S.

⁴² Section 497.159(6), F.S.

⁴³ Section 626.2815(3), F.S.

⁴⁴ Section 626.2815(3)(a), F.S.

⁴⁵ Section 626.2815(3)(b), F.S.

⁴⁶ Section 626.2815(3)(e), F.S.

⁴⁷ Section 626.2815(9), F.S.

⁴⁸ National Association of Insurance Commissioners, Glossary of Insurance Terms, https://content.naic.org/consumer_glossary.htm (last visited March 4, 2010).

- Additional Coverages; and
- Exclusions.

While homeowners' insurance can specifically refer to the insurance of a house, it also encompasses the insurance of other types of structures associated with personal residences including tenants (renters) and condominium unit owners.⁴⁹

Hurricane Irma and Michael Claims Data

On September 10, 2017, Hurricane Irma made landfall as a Category 4 hurricane with 115 miles per hour winds. The center of Irma moved into Central Florida and into northern Florida as it weakened.⁵⁰ As of November 14, 2018, the Office of Insurance Regulation (OIR) reported, 1,002,821 claims were filed with estimated losses of \$11,082,199,367.⁵¹

| Hurricane Irma Data⁵² | | | | | |
|---|----------------------------------|-----------------------------------|--------------------------------------|------------------------------|---------------------------------|
| Lines of Business | Number of Claims Reported | Claims Closed with Payment | Claims Closed without Payment | Number of Open Claims | Percent of Claims Closed |
| Residential Property | 838,109 | 522,493 | 256,605 | 59,011 | 93.0% |
| Homeowners | 668,228 | 408,475 | 211,827 | 47,926 | 92.8% |
| Dwelling | 105,101 | 66,327 | 30,140 | 8,634 | 91.8% |
| Mobile Homeowners | 55,443 | 44,084 | 10,630 | 729 | 98.7% |
| Commercial Residential | 9,337 | 3,607 | 4,008 | 1,722 | 81.6% |
| Commercial Property | 60,024 | 20,173 | 25,449 | 14,402 | 76.0% |
| Private Flood | 1,835 | 1,074 | 651 | 110 | 94.0% |
| Business Interruption | 3,982 | 1,842 | 1,773 | 367 | 90.8% |
| Other Lines of Business | 98,871 | 72,764 | 23,699 | 2,408 | 97.6% |
| TOTALS | 1,002,821 | 618,346 | 308,177 | 76,298 | 92.4% |

Hurricane Michael made landfall as a Category 5 hurricane on October 10, 2018. The OIR has conducted forty-four data calls per s. 624.307, F.S. As of October 19, 2019, the total estimated insured losses was \$7,439,396,739⁵³ with 149,773 claims⁵⁴ reported. This includes 99,554 residential property claims, 11,152 commercial property claims, 242 private flood claims, 872 business interruption claims, and 37,953 other lines of business claims.⁵⁵

⁴⁹ Florida Office of Insurance Regulation, Homeowners' Insurance, <https://www.floir.com/Sections/PandC/Homeowners/default.aspx> (last visited March 3, 2020).

⁵⁰ National Weather Service, Hurricane Irma Local Report/Summary, <https://www.weather.gov/mfl/hurricaneirma> (last visited March 3, 2020).

⁵¹ Florida Office of Insurance Regulation, *Hurricane Irma Claims Data*, available at <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited March 3, 2020).

⁵² *Id.*

⁵³ Florida Office of Insurance Regulation, *Hurricane Michael Claims Data*, available at <https://www.floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited March 3, 2020).

⁵⁴ *Id.*

⁵⁵ Florida Office of Insurance Regulation, *Hurricane Michael Analysis*, available at <https://www.floir.com/siteDocuments/HurricaneMichaelAnalysis.pdf> (last visited March 3, 2020).

| Hurricane Michael Data⁵⁶ | | | | | |
|--|----------------------------------|-----------------------------------|--------------------------------------|------------------------------|---------------------------------|
| Lines of Business | Number of Claims Reported | Claims Closed with Payment | Claims Closed without Payment | Number of Open Claims | Percent of Claims Closed |
| Residential Property | 99,554 | 74,363 | 13,790 | 11,401 | 88.5% |
| Homeowners | 73,222 | 53,567 | 10,528 | 9,127 | 87.5% |
| Dwelling | 15,993 | 11,950 | 2,444 | 1,599 | 90.0% |
| Mobile Homeowners | 9,423 | 8,307 | 657 | 459 | 95.1% |
| Commercial Residential | 916 | 539 | 161 | 216 | 76.4% |
| Commercial Property | 11,512 | 5,042 | 2,594 | 3,516 | 68.5% |
| Private Flood | 242 | 169 | 53 | 20 | 91.7% |
| Business Interruption | 872 | 351 | 250 | 271 | 68.9% |
| Other Lines of Business | 37,953 | 32,975 | 4,293 | 685 | 98.2% |
| TOTALS | 149,773 | 112,900 | 20,980 | 15,893 | 89.4% |

Insurers reported, of the more than \$7 billion in paid losses, homeowners’ coverage represents 47.4 percent or \$3.4 billion of paid claims, followed by commercial property at 25.9 percent or \$1.7 billion. Paid losses are indemnity payments that exclude adjustment expense. Payments are the net of actual salvage and subrogation recoveries. For applicable lines, they include losses associated with loss of use, additional living expense, fair rental value and other factors.⁵⁷

While Hurricane Irma affected a much larger area of the state, insurers report that Hurricane Michael is a costlier storm when comparing the number of claims with the amount of paid losses. Hurricane Irma produced over one million claims, costing more than \$10.8 billion with an average claims cost of \$10,800. Conversely, Hurricane Michael, with 149,448 claims, produced more than \$7 billion in paid losses with an average claims cost of \$62,661.⁵⁸

Insurers reported 1,426 claims in the 90 days prior to the October 19, 2019, Hurricane Michael analysis; indicating policyholders have continued to file new claims throughout the last reporting period.⁵⁹

Notice of Windstorm or Hurricane Claim

During the 2011 legislative session, SB 408 was passed and subsequently became law (Chapter 2011-39, Laws of Fla.) SB 408 enacted a five-year statute of limitations for bringing an action for the breach of a property insurance contract that runs from the date of the loss. The bill created shorter timeframes for providing notice of a hurricane or sinkhole loss. A claim, supplemental claim, or reopened windstorm or hurricane claim must be given to the insurer within three years after the hurricane first makes landfall or the windstorm causes covered damage. The bill also required that sinkhole loss claims be given to the insurer within two years after the policyholder knew or should have known about the sinkhole loss.

⁵⁶ See *supra* note 58.

⁵⁷ *Id.*

⁵⁸ *Id.* at page 16. Hurricane Irma losses are as of November 14, 2018, approximately 14 months after the storm as compared to Hurricane Michael losses at approximately 13 months after the storm.

⁵⁹ See *supra* note 60.

State Fire Marshal

Explosives

Chapter 552, F.S., sets forth the requirements to lawfully engage in the business of a manufacturer-distributor, or to acquire, sell, possess, store, or engage in the use of explosives in this state. The chapter's current definition of a two-component explosive requires the use of a "No. 6 blasting cap" for detonation.⁶⁰ No. 6 blasting caps went out of production several years ago and current blasting caps no longer use the same rating system.⁶¹

Uniform Fire Alarm Permit Application

Contractors are required to file a Uniform Fire Alarm Permit Application with a local law enforcement agency, and must receive the permit before installing, replacing, or repairing an existing fire alarm that was previously permitted by the local enforcement agency, if the local enforcement agency requires a permit for the repair.⁶²

Florida Fire Prevention Code

The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules.⁶³ The State Fire Marshal adopts a new edition of the Fire Code every three years.⁶⁴ The 6th edition of the Fire Code took effect on January 1, 2018.

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code⁶⁵ requirements in s. 633.208, F.S., as long as they do not conflict with ch. 633, F.S., relating to fire prevention and control, or any other state law.⁶⁶

Doorstep Refuse and Recycling Collection

Residents of apartment buildings may place combustible waste and refuse in exit access corridors in apartment buildings if the following conditions are met:

- Doorstep refuse and recycling collection containers do not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste, which is in a doorstep refuse and recycling collection container, is not placed in an exit access corridor for a single period greater than five hours;

⁶⁰ Section 552.081(13), F.S.

⁶¹ See *supra* note 4.

⁶² Section 553.7921(1)(b), F.S.

⁶³ Chapter 69A-60, F.A.C.

⁶⁴ Section 633.202, F.S.

⁶⁵ Sections 633.108 and 633.208, F.S.

⁶⁶ Sections 633.208 and 633.214(4), F.S.

- Doorstep refuse and recycling collection containers are not in an exit access corridor for a single period greater than 12 hours for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not reduce the exit access corridor's width below the width required by the Fire Code;
- Doorstep refuse and recycling collection containers are able to stand upright on their own and may not leak fluids when standing upright; and
- The apartment's management staff have written policies and procedures to ensure compliance with the above conditions. Management staff must enforce the policies and must provide a copy of the policies to the authority having jurisdiction upon request.⁶⁷

Currently, this provision expires on July 1, 2021.

Fire and Emergency Incident Information Reporting Program

The Florida Fire Incident Reporting System (FFIRS) is located within the Division of State Fire Marshal. The FFIRS was created by rule and is a means for fire protection agencies to report and maintain computerized records of fires and other fire department incidents in a uniform manner.⁶⁸ Annual reports are furnished to the Governor, Legislature and fire protection agencies, and upon request, the public.⁶⁹

Established in 2005, the Fire and Emergency Incident Reporting Program (Program) included the creation of the Fire and Emergency Incident Information Technical Advisory Panel (Panel) and codified FFIRS language. The FFIRS is the Florida coordinating officer for the National Fire Incident Reporting Section (NFIRS)⁷⁰. The NFIRS provides system resources and an overview of the standard national reporting system used by the United States fire departments to report fires and other incidents to which they respond and to maintain records of such incidents in a uniform manner.⁷¹ The NFIRS provides software and training at no cost to fire departments.⁷²

The Panel was created to advise, review and make recommendations to the State Fire Marshal. Currently, the membership is comprised of 15 members:

- The thirteen members of Firefighters Employment, Standards, and Training Council;⁷³
- One member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- One member from the Department of Health, appointed by the State Surgeon General.⁷⁴

⁶⁷ Section 633.202(20), F.S.

⁶⁸ Department of Financial Services, Division of State Fire Marshal, *Florida Fire and Incident Reporting System*, <https://www.myfloridacfo.com/Division/SFM/FFIRS/> (last visited February 18, 2020).

⁶⁹ Section 633.136, F.S.

⁷⁰ See *supra* note 57.

⁷¹ U.S. Fire Administration, National Fire Incident Reporting System, <https://www.nfirs.fema.gov/> (last visited February 18, 2020).

⁷² See *supra* note 57.

⁷³ See *infra* note 108 and accompanying text.

⁷⁴ Section 633.136(2), F.S.

Fire Sprinkler Systems

A licensed fire protection engineer or architect, with fire protection design experience, may design any type of fire protection system.⁷⁵ A person certified as a Contractor I,⁷⁶ Contractor II,⁷⁷ or Contractor IV,⁷⁸ under ch. 633, F.S., relating to fire prevention and control, may design fire protection systems of 49 or fewer sprinklers. These designated contractors may also design the alteration of an existing fire sprinkler system, as long as no more than 49 sprinklers are relocated, added, or deleted.⁷⁹

Firesafety Inspectors

Section 633.216, F.S., requires each county, municipality, and special district that has firesafety enforcement responsibilities to employ or contract with a firesafety inspector. Subject to certain exceptions⁸⁰, the firesafety inspector is responsible for conducting all firesafety inspections required by law.⁸¹ These firesafety inspections include the inspection of buildings and facilities, on a recurring or regular basis, on behalf of the state or any county, municipality, or special district with fire safety responsibilities.⁸² The Florida Fire Prevention Code⁸³ governs design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules. These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S., but may not enact firesafety ordinances that conflict with ch. 633, F.S., or any other state law.⁸⁴

The Chief Financial Officer is designated as the “State Fire Marshal.”⁸⁵ In any county, municipality, or special district that does not employ or appoint a firesafety inspector, the State

⁷⁵ Section 633.102(3), F.S. A fire protection system is defined as “a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire.” Section 633.102(11), F.S.

⁷⁶ “A contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.” Section 633.102(3)(a), F.S.

⁷⁷ “A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.” Section 633.102(3)(b), F.S.

Section 633.102(3)(b), F.S.

⁷⁸ “A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings.” Section 633.102(3)(d), F.S.

Section 633.102(3)(d), F.S.

⁷⁹ Section 633.102(3), F.S.

⁸⁰ For example, this requirement does not apply to farm outbuildings or licensed plumbing contractor installed standpipe systems and certain connected items. Section 633.226, F.S.

⁸¹ Section 633.216(1), F.S.

⁸² Section 633.102(12), F.S.

⁸³ Chapter 69A-60, F.A.C. The Florida Fire Prevention Code is adopted by the State Fire Marshal, and contains and incorporates by reference all firesafety laws and rules. Section 633.202(1), F.S.

⁸⁴ See Rule 69A-60.002, F.A.C.; s. 633.214(4), F.S.

⁸⁵ Section 633.104(1), F.S.

Fire Marshal assumes the duties of the local county, municipality, or independent special fire control district with respect to firesafety inspections of educational property.⁸⁶

A person who violates any provision of ch. 633, F.S., Fire Prevention and Control, any order or rules of the State Fire Marshal, or any order to cease and desist or to correct conditions commits a misdemeanor of the second degree.⁸⁷

It is illegal to impersonate the State Fire Marshal or a firesafety inspector. A person who impersonates either official commits a felony of the third degree, and if the impersonation occurs during the commission of a separate felony, a person commits a felony of the first degree.⁸⁸ Section 468.629, F.S., makes it illegal for a person to influence a building code enforcement official by coercion or compensation.⁸⁹ Any person who commits such acts commits a misdemeanor of the first degree, and, if the person was previously convicted of such act, a felony of the third degree.⁹⁰

Volunteer Firefighter Employment

The National Fire Prevention Association estimates that there were approximately 1,056,200 local firefighters in the United States as of 2017.⁹¹ Of the total number of firefighters, 35 percent were career firefighters, and 65 percent were volunteer firefighters.⁹² Florida has 528 fire departments.⁹³ At least 315 Florida fire departments utilize volunteers to sustain operations.⁹⁴ Approximately 12 million Florida residents depend on volunteer firefighters to protect their communities.⁹⁵ The Firefighter Assistance Grant Program, created in 2016 to improve the emergency response capability of fire departments reliant on volunteer firefighters, provides grant money to such fire departments to provide volunteer firefighter training and procure equipment. In 2018, 29 fire departments were awarded such grants.⁹⁶

Florida fire service providers are currently prohibited from employing an individual to extinguish fires or to supervise those who do unless the individual holds a current and valid Firefighter Certificate of Compliance.⁹⁷ Thus, fire service providers are currently prohibited from employing volunteer firefighters, who hold a Volunteer Firefighter Certificate of Completion.⁹⁸ Volunteer

⁸⁶ Section 633.104(7), F.S.

⁸⁷ Section 633.124(1), F.S.

⁸⁸ Section 633.122, F.S.

⁸⁹ Section 468.629(1)(f) and (g), F.S.

⁹⁰ Section 468.629(2), F.S.

⁹¹ National Fire Prevention Association, U.S. Fire Department Profile, <https://www.nfpa.org/News-and-Research/Data-research-and-tools/Emergency-Responders/US-fire-department-profile> (last visited January 16, 2020).

⁹² *Id.*

⁹³ National Fire Prevention Association, *Number of U.S. Fire Departments by State*, <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osNumberOfFireDeptInUS.ashx?la=en> (last visited January 16, 2020).

⁹⁴ Department of Financial Services, Division of State Fire Marshal, *Florida Volunteer Firefighter Information*, <https://myfloridacfo.com/Division/SFM/VOLFF/default.htm> (last visited January 16, 2020).

⁹⁵ *Id.*

⁹⁶ Department of Financial Services, Division of State Fire Marshal, *FY2018 Florida Firefighter Assistance Grant Award Outcomes*, https://myfloridacfo.com/Division/SFM/VOLFF/FY2018_GrantOutcomes.pdf (last visited January 16, 2020).

⁹⁷ Section 633.416(1)(a), F.S.

⁹⁸ Section 633.408, F.S.

firefighters can enter immediately dangerous to life and health (IDLH) environments. However, if employed by the same department prior to achieving a Firefighter Certificate of Compliance they would not be allowed to enter the IDLH environments they were authorized to enter the day before beginning career employment.⁹⁹

False Personation

Pursuant to s. 843.08, F.S., any person who falsely assumes or pretends to be an officer of a specified type commits a felony of the third degree, a felony of the second degree when committed with another felony, and a felony in the first degree if the felony is the cause of death or personal injury of another individual.¹⁰⁰ A person who impersonates an officer of the DFS is subject to these criminal penalties.¹⁰¹ However, there is no criminal penalty for impersonating an investigator or personnel of the DFS. The DFS employs personnel who are not officers but have access to active criminal cases and conduct criminal investigations.¹⁰²

Firefighters Employment, Standards and Training Council (Council)

The Council is comprised of fifteen members and are appointed as follows:

- Two fire chiefs appointed by the Florida Fire Chiefs Association;
- Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association;
- Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal;
- One individual appointed by the Florida League of Cities;
- One individual appointed by the Florida Association of Counties;
- One individual appointed by the Florida Association of Special Districts;
- One individual appointed by the Florida Fire Marshals' and Inspectors' Association;
- One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service;
- One individual appointed by the State Fire Marshal;
- One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal; and
- The remaining member, who shall be appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government.¹⁰³

There are certain eligibility requirements set forth for membership. Members shall serve only as long as they continue to meet the criteria under which they were appointed or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.¹⁰⁴ Members are appointed for four year terms and are not eligible to serve more than two

⁹⁹ See *supra* note 4.

¹⁰⁰ Section 843.08, F.S., contains a list specifying which types of officers it is unlawful to impersonate. This list includes, but is not limited to, firefighters, sheriffs, officers of agencies, and school guardians.

¹⁰¹ Section 843.08, F.S.

¹⁰² See *supra* note 4.

¹⁰³ Section 633.402(1), F.S.

¹⁰⁴ Section 633.402(1)(b), F.S.

consecutive terms¹⁰⁵ and serve without compensation¹⁰⁶ but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.¹⁰⁷

The Council has special powers in connection with the employment and training of firefighters¹⁰⁸ to recommend for adoption by the Division of State Fire Marshal:

- Uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters;¹⁰⁹
- Minimum curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters;¹¹⁰
- Matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter;¹¹¹

In addition, the Council may make or support studies on any aspect of firefighting employment, education, and training or recruitment¹¹² or may make recommendations concerning any matter within its purview pursuant to this section.¹¹³

Florida Blockchain Task Force

In 2019, the Florida Blockchain Task Force was established within DFS,¹¹⁴ to explore and develop a master plan for fostering the expansion of the blockchain industry in the state. Consisting of 13 appointed members, the task force's master plan must do the following:

- Identify the economic growth and development opportunities presented by blockchain technology;
- Assess the existing blockchain industry in the state;
- Identify innovative and successful blockchain applications currently used by industry and other governments to determine viability for state applications;
- Review workforce needs and academic programs required to build blockchain technology expertise across all relevant industries; and
- Make recommendations to the Governor and the Legislature that will promote innovation and economic growth by reducing barriers to and expediting the expansion of the state's blockchain industry.¹¹⁵

¹⁰⁵ Section 633.402(2), F.S.

¹⁰⁶ Section 633.402(7), F.S.

¹⁰⁷ *Id.*

¹⁰⁸ Section 633.402(9), F.S.

¹⁰⁹ Section 633.402(9)(a), F.S.

¹¹⁰ Section 633.402(9)(b), F.S.

¹¹¹ Section 633.402(9)(c), F.S.

¹¹² Section 633.402(9)(d), F.S.

¹¹³ Section 633.402(9)(e), F.S.

¹¹⁴ Chapter 2019-140, Laws of Fla.

¹¹⁵ Chapter 2019-140, Laws of Fla.

The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as well as present its findings to the appropriate legislative committees in each house of the Florida Legislature. The report must include the following:

- A general description of the costs and benefits of state and local government agencies using blockchain technology;
- Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation;
- Recommendations for specific implementations to be developed by relevant state agencies;
- Any draft legislation the task force deems appropriate to implement such blockchain technologies;
- Identification of one pilot project that may be implemented in the state; and
- Any other information deemed relevant by the task force.

The report is to be submitted within 180 days after the initial meeting. The task force's initial meeting was September 23, 2019, making the current due date for the report March 21, 2020.

Public Records Law

Overview

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹¹⁶ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.¹¹⁷

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.¹¹⁸ The Public Records Act states:

It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.¹¹⁹

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

Legislative and Judicial Records

The Public Records Act does not apply to legislative or judicial records.¹²⁰ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

¹¹⁶ FLA. CONST., art. I, s. 24(a).

¹¹⁷ *Id.*

¹¹⁸ Public records laws are found throughout the Florida Statutes.

¹¹⁹ Section 119.01(1), F.S.

¹²⁰ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995)

Definition

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.¹²¹ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”¹²²

Access

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.¹²³ A violation of the Public Records Act may result in civil or criminal liability.¹²⁴

Exemptions

The Legislature has the sole authority to create an exemption to public records requirements.¹²⁵ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹²⁶ An exemption serves an identifiable purpose if it meets one of the following statutory purposes, the Legislature finds that the purpose of the exemption outweighs open government policy, and the purpose cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹²⁷
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹²⁸ or
- It protects trade or business secrets.¹²⁹

Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. Additionally, a bill enacting an exemption may not contain other substantive

¹²¹ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

¹²² *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

¹²³ Section 119.07(1)(a), F.S.

¹²⁴ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹²⁵ FLA. CONST., art. I, s. 24(c).

¹²⁶ *Id.*

¹²⁷ Section 119.15(6)(b)1., F.S.

¹²⁸ Section 119.15(6)(b)2., F.S.

¹²⁹ Section 119.15(6)(b)3., F.S.

provisions¹³⁰ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³¹

“Confidential and Exempt” or “Exempt” Designations

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³² Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹³³

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹³⁴ with specified exceptions.¹³⁵ It requires the automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹³⁶ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹³⁷

General Public Records Exemptions for State Agency Personnel

There are three general public records exemptions that apply to all state agency personnel: disclosure of an employee’s (1) social security number, (2) medical information, and (3) personal identifying information of dependent children who are insured by an agency group insurance plan.¹³⁸

¹³⁰ The bill may, however, contain multiple exemptions that relate to one subject.

¹³¹ FLA. CONST., art. I, s. 24(c) and FLA. CONST., art. X, s. 12(e).

¹³² If the Legislature designates a record as confidential, the record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004)

¹³³ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹³⁴ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹³⁵ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹³⁶ Section 119.15(3), F.S.

¹³⁷ Section 119.15(6)(b), F.S. Section 119.15(6)(a), F.S., asks the Legislature to carefully question the purpose and necessity of reenacting the exemption, and specifically requires that the Legislature consider the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹³⁸ Section 119.071(4)(a) and (b), F.S.

(1) Social Security Numbers

Social security numbers of all current and former agency personnel are confidential and exempt when held by the employing agency.¹³⁹ An employing agency may only release social security numbers for the following reasons:

- It is required by law.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.¹⁴⁰

In addition, there is a general exemption for social security numbers that applies to the public that makes social security numbers confidential and exempt.¹⁴¹ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.¹⁴²

(2) Medical Information

An agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. This exemption applies to prospective, current, and former employees.¹⁴³

(3) Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the children of current and former employees and is also retroactively applied.¹⁴⁴

Public Records Exemptions for Enumerated Personnel

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency that holds the employee's information.¹⁴⁵ Additionally, all of these exemptions have retroactive application.¹⁴⁶ In order to have such exemption applied to a court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.¹⁴⁷ Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.¹⁴⁸

¹³⁹ Section 119.071(4)(a)1., F.S.

¹⁴⁰ Section 119.071(4)(a), F.S.

¹⁴¹ Section 119.071(5)(a)5., F.S.

¹⁴² Section 119.071(5)(a)5.f. and g., F.S.

¹⁴³ Section 119.071(4)(b)1., F.S.

¹⁴⁴ Section 119.071(4)(b)2., F.S.

¹⁴⁵ Section 119.071(4)(d)3., F.S.

¹⁴⁶ Section 119.071(4)(d)5., F.S.

¹⁴⁷ Section 119.0714(2)(f) and (3)(f), F.S.

¹⁴⁸ Section 119.071(4)(d)4., F.S.

Confidential and Exempt –Alleged Sexual Harassment Victim

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt.¹⁴⁹ Such information may be disclosed to another governmental entity in the furtherance of its official duties.¹⁵⁰

Section 119.10(2)(a), F.S., provides that any person who willfully and knowingly violates any provisions of chapter 119 commits a first degree misdemeanor punishable by imprisonment up to one year or a fine up to \$1,000.

III. Effect of Proposed Changes:**Division of Public Assistance Fraud (Sections 1 and 23)**

Section 1 amends s. 20.121(2)(f), F.S., to designate the Department of Financial Services (DFS), Division of Public Assistance Fraud (PAF) as a criminal justice agency for the purposes of ss. 943.045-943.08, F.S. The designation allows the PAF to continue having access to criminal justice information contained in Florida Crime Information Center (FCIC) and National Crime Center Information Center (NCIC) systems of criminal records when conducting criminal investigations and other law enforcement support functions.¹⁵¹

Section 23 amends s. 943.045, F.S., to include the PAF in the definition of “criminal justice agency.”

State Risk Management***Benefits in lieu of Workers Compensation Benefits - Florida Firefighters***

Section 2 amends s. 284.30, F.S., to add benefits payable to firefighters diagnosed with cancer pursuant to s. 112.1816(2) F.S., to the self-insurance coverage provided through the State Risk Management Trust Fund (Fund).

Section 3 amends s. 284.31, F.S., to require separate accounting in the Fund for benefits payable to firefighters diagnosed with cancer.

Section 4 amends s. 284.385, F.S., to require the Department of Management Services to validate and approve firefighter cancer benefits before disbursement from the Fund.

Workplace Sexual Harassment

Section 5 creates s. 284.45, F.S., to define a sexual harassment victim as an individual employed with or being considered for employment with an entity participating in the Fund, who becomes a victim of workplace sexual harassment within the entity. The bill prohibits individuals working for an entity covered by the Fund from engaging in retaliatory conduct, of any kind, toward a sexual harassment victim. The section also prohibits the willful and knowing distribution of

¹⁴⁹ Section 119(2)(n), F.S., and s. 24(a), Art. 1 of the State Constitution

¹⁵⁰ Subject to the Open Government Sunset Review Act and stands repeal on October 2, 2022 unless reviewed and saved from repeal through reenactment by the Legislature.

¹⁵¹ See *supra* note 4.

personal identifying information of a sexual harassment victim, and specifically provides that personal identifying information includes the victim's name and his or her:

- Home address;
- Home phone number;
- Cellular phone number;
- E-mail address;
- Social media account username or uniform resource locator (URL); or
- Any other information that could reasonably be used to identify the alleged sexual harassment victim.

Personal identifying information of a victim may not be distributed to any party other than a government entity, in furtherance of its official duties, or pursuant to a court order. Any violation results in a first degree misdemeanor, punishable as provided in s. 775.082, F.S.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services (Board)

Section 6 amends s. 497.101, F.S., to reduce the minimum number of nominations the Chief Financial Officer (CFO) must make for nine board member positions from three nominations to one, though the CFO may nominate up to three persons to fill a vacancy. The bill also reduces from three to two the number of positions on the Board that must be filled by consumers who are residents of Florida; have never been licensed funeral directors or embalmers; are not connected with a cemetery or licensed cemetery company nor connected to the death care industry or the practice of embalming, funeral directing, or direct disposition. The Board must also now have a consumer member who is: a resident; a licensed certified public accountant who has never been licensed as a funeral director or embalmer; not a principal or employee of any ch. 497, F.S., licensee; and not otherwise in control (as defined in s. 497.005, F.S.) over any ch. 497, F.S., licensee. This change requires the appointment of a licensed certified public account (CPA) who has some knowledge of and association with, but not a controlling interest in, licensees in the death care industry.

The definition of a “quorum” for the purposes of conducting Board business is amended to constitute a simple majority of eligible members instead of six members.

The section eliminates unnecessary statutory provisions regarding the staggered terms of board members, which have already been established. The statutory change will also eliminate the DFS’ rulemaking responsibilities concerning the application process, which the DFS asserts is unnecessary, as the Governor makes the appointments.¹⁵²

Disqualification of Licensure Applicants

Section 7 of the bill creates s. 497.1411, F.S., to provide and clarify grounds for disqualification of licensure applicants based on criminal history. Subsection (1) provides definitions of “applicant,” “felony of the first degree,” “capital felony,” and “financial services business.”

¹⁵² *Id.*

Subsection (2) provides an enumerated list of crimes that, if an applicant is found guilty of or pleads nolo contendere to, regardless of adjudication, permanently bars the applicant from licensure under ch. 497, F.S. These crimes are a first degree felony, a capital felony, a felony money laundering offense, or a felony embezzlement.

Subsection (3) provides the following disqualifying periods for other specified crimes:

- A 10-year disqualifying period for all felonies involving moral turpitude not subject to a permanent bar on licensure; and
- A five-year disqualifying period for all other felonies and for all misdemeanors directly related to the financial services business, defined as any financial activity regulated by the DFS, the Office of Insurance Regulation, or the Office of Financial Regulation.

These specifications are intended to provide clarity beyond the current statutory scheme, which provides no guidelines to determine whether a specific crime is considered “directly or indirectly related to or involving any aspect of the practice or business” of death care industry functions. The DFS suggests that the lack of clarity and guidance in current statute has led to inconsistencies in recommendations and Board rulings on applications.¹⁵³

Subsection (4) requires the DFS to adopt rules to administer the section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant’s criminal history. The rules must also provide mitigating and aggravating factors, except that mitigation may not result in a disqualification period of less than five years.

Subsection (5) specifies that a disqualifying period begins upon an applicant’s final release from supervision or upon completion of the applicant’s criminal sentence. The subsection further prohibits the DFS from issuing a license unless all related fines, court costs and fees, and court-ordered restitutions have been paid. Subsection (6) places the burden of proof for rehabilitation on the applicant.

Subsection (7) allows the DFS to award a license, despite a conviction, upon a grant of a pardon or restoration of civil rights. Subsection (8) authorizes the Board to grant an exemption from a criminal record related disqualification, and provides standards for mitigating factors. Chapter 120, F.S., provides administrative remedies available to applicants for whom the Board has granted or denied an exemption. Subsection (9) clarifies the disqualification periods provided in this section do not apply to the renewal of a license or to a new licensure application if the applicant has an active license as of July 1, 2020 and the applicable criminal history was considered by the Board on the prior active license approval.

Licensing Background Checks

Section 8 amends s. 497.142, F.S., to require certified true copies of any crime committed in any jurisdiction in order to deem an application complete, regardless of how many years have passed. The bill requires disclosure of all felonies, regardless of when committed and regardless of

¹⁵³ *Id.*

adjudication. It also requires disclosure of any misdemeanor directly or indirectly related to the financial services business,¹⁵⁴ no matter when committed.

Unlicensed Practice

Section 9 of the bill amends s. 497.157, F.S., to increase penalties for unlicensed activity from a misdemeanor to a felony of the third degree. Section 9 also expands unlicensed activity to include acting, advertising, or otherwise holding oneself out to be a funeral director, embalmer, direct disposer, or preneed sales agent, unless currently licensed or appointed as such.

Section 10 of the bill amends s. 497.159, F.S., by removing the second-degree misdemeanor penalty for unlicensed activity under ch. 497, F.S.

Explosives

Section 11 updates the definition of “two-component explosives” in s. 552.081, F.S., by removing the requirement of a “No. 6 cap,” which is no longer manufactured.

Fire Alarm Permits

Section 12 amends s. 553.7921, F.S., to authorize contractors to begin repairs on existing permitted fire alarms upon filing a Uniform Fire Alarm Permit Application but prior to receiving the permit for the repair. Fire alarms repaired under such circumstances are not considered compliant until the permit is issued and the local law enforcement agency approves the repair.

Continuing Education Requirements

Section 13 amends s. 626.2815, F.S., by lowering the update course requirement to four hours for individuals licensed to solicit, sell, or adjust insurance in the state, barring title insurance agents. The update course is raised to six hours for an individual who holds a license as a customer representative, and who is not a licensed life or health agent. Licensees must complete 20 hours of elective continuing education every two years, and if a licensee has been licensed for six years or more, he or she must complete 16 hours of continuing education every two years. Lastly, individuals who fall under chapter 648, F.S., relating to bail bond agents, are required to complete a four hour update course and a minimum of ten hours of continuing education every two years.

The effective date of this section is January 1, 2021.

Property Insurance Contracts

Notice of Windstorm or Hurricane Claim

Section 14 amends s. 627.70132, F.S., by revising the timeframe in which an insurer has to file an initial claim under an insurance policy that provides property insurance, as defined in s. 624.604, F.S., for loss or damage caused by the peril of windstorm or hurricane from thirty-six

¹⁵⁴ The bill defines financial services business as “any financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation.”

months to twenty-four months. An insurer has 36 months after the hurricane first made landfall or the windstorm caused the damage in which to file a supplemental claim or a re-opened claim.

This will require the initial filing of Hurricane Irma claims by approximately September 10, 2019, and require the initial filing of Hurricane Michael claims by approximately October 19, 2021.

Florida Fire Marshal - Florida Fire Prevention and Control

Fire Sprinkler Systems

Section 15 amends s. 633.102, F.S., to allow a person certified as a Contractor I or a Contractor II to design new fire protection systems of 49 or fewer sprinklers, and to design the alteration of an existing system if it adds 49 or fewer sprinklers. A person certified as a Contractor IV can no longer design or alter fire protection systems. Additionally, the bill allows a Contractor I or II to alter an existing fire sprinkler system, as long as it entails the relocation or deletion of 249 or fewer sprinklers, and such alteration requires no change in occupancy as defined in the Florida Building Code, no change in water demand as defined in National Fire Protection Association Publication (NFPA) No. 13, and the occupancy hazard classification, as defined in NFPA No. 13, is either reduced or remains the same following the alteration.

Fire and Emergency Incident Information Reporting Program

Section 16 amends s. 633.136, F.S., by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider.” This section also revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel (Panel) to:

- Retain 15 members on the Panel;
- Remove one member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- Remove one member from the Department of Health.

Fire services provider is defined as a municipality or county, the state, the division, or any political subdivision of the state, including authorities and special districts, that employs firefighters or uses volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.¹⁵⁵

Florida Fire Prevention Code

Section 17 amends s. 633.202(18), F.S., to extend the deadlines for certain buildings to comply with requirements for minimum radio strength for fire department communications by three years.

The bill also amends s. 633.202(20), F.S., to extend, by three years, the current expiration of exemptions that allow doorstep refuse and recycling collection containers in apartments with enclosed corridors under certain circumstances. The bill eliminates a requirement that such

¹⁵⁵ Fire service provider is defined in s. 633.102, F.S.

buildings apply for a permit for the required communications installation by December 31, 2022, and instead requires the completion of a minimum radio strength assessment by that date.

Influencing a Firesafety Inspector

Section 18 creates s. 633.217, F.S., to prohibit influencing or attempting to influence a firesafety inspector by threatening, coercing, tricking, or offering compensation for the purpose of inducing the firesafety inspector to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Subsection (2) prohibits a firesafety inspector from knowingly and willingly accepting an attempt by a person to influence them into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Section 633.124(1), F.S., provides that any person who violates any provision of ch. 633, F.S., commits a misdemeanor of the second degree. Violations of s. 633.217, F.S., relating to influencing a firesafety inspector carry the criminal penalty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

State Fire College Training

Section 19 amends s. 633.304, F.S., to require any organization or individual engaging in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or preengineered system seeking licensure in this state to complete a prescribed training course that:

- Includes both written and practical training;
- Is offered at the State Fire College; and
- Is approved by the State Fire Marshal, as applicable to the class of license being sought.

Firefighters Employment, Standards and Training Council

Section 20 amends s. 633.402, F.S., to revise the composition of the Firefighters Employment, Standards, and Training Council to include one individual from the Department of Health, appointed by the Surgeon General. This increases the size of the board from 14 to 15 members.

Volunteer Firefighter Employment

Section 21 amends s. 633.416, F.S., to authorize fire service providers to employ volunteer firefighters and allow them to act in volunteer firefighter capacity for up to one year under the direct supervision of an individual holding a valid firefighter certificate of compliance while they obtain career firefighter certifications. This will increase the availability of firefighters capable of entering immediately dangerous to life and health (IDLH) environments and protecting their communities. The DFS anticipates that this change will improve rural and small agency recruitment and retention efforts by facilitating the hiring of local candidates who are more inclined to remain in the area instead of hiring candidates from other parts of the state who are inclined to return to their home communities once gaining some experience.¹⁵⁶

¹⁵⁶ See *supra* note 4.

False Personation

Section 21 of the bill amends s. 843.08, F.S., to expand the applicability of criminal penalties associated with false personation of a fire or arson investigator of the DFS to any personnel or representative of the Division of Investigative and Forensic Services.

Florida Blockchain Task Force (task force)

Section 24 amends ch. 2019-140, L.O.F., to extend the due date for the task force's report from March 21, 2020, to January 21, 2021. All other aspects of the task force remain unchanged. This section is effective upon becoming law.

Effective Date

Section 25 provides, except as otherwise expressly provided and except for this section, which shall take effect upon the act becoming law, the bill has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

To the extent that an email address or social media account username or uniform resource locator may not actually identify a person, this provision may constitute an expansion of the public records exemption, which requires a standalone bill and a two-thirds vote to pass.

Vote Requirement

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of each house for final passage of a bill creating an exemption to the public records requirements.¹⁵⁷ This bill may create an exemption for certain information relating to alleged sexual harassment victims, if it does, the bill requires a two-thirds vote of each house to be enacted.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill, in its current form, does not address public necessity for an exemption.

¹⁵⁷ Article X, s. 12(e), of the State Constitution, Rules of Construction, states that a "Vote or other action of a legislative house . . . means the vote or action of a majority or other specified percentage of those members voting on the matter." Accordingly, this two-thirds vote requirement means a favorable two-thirds vote of the members present and voting for final passage.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article 1, s. 24(a) of the State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business. This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government. Public records laws are codified in ch. 119, F.S., the Public Records Act. Section 119.071(2)(n), F.S., makes confidential and exempt from the public disclosure personal identifying information of an alleged victim of sexual harassment. For the purposes of this public records exemption, “personal identifying information” is undefined.

Section 2 of the bill prohibits an individual working for certain agencies from disseminating “personal identifying information” of a sexual harassment victim to any party other than a governmental entity or pursuant to a court order, under threat of criminal punishment. Section 2 of the bill defines “personal identifying information” for the purposes of s. 284.45, F.S., to include the victim’s name, home address, home and cellular phone numbers, E-mail address, social media account username or URL, or any other information that could reasonably be used to identify the victim.

In some instances, an e-mail address or social media account information may not, in reality, be personally identifying information under the public records exemption codified in s. 119.071(2)(n), F.S. If that is the case, then the language contained in section 2 of the bill may be viewed as an expansion of the public records exemption. If that is the legislative intent, the Legislature should consider the expanded exemption in a separate bill that otherwise meets the constitutional requirements of an exemption to Art. I, s. 24(a) of the State Constitution – namely a public necessity statement and a two-thirds vote of each chamber of the legislature to be enacting.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures. However, in section 9 of the CS, s. 497.157, F.S., is amended to increase the criminal penalty to a third degree felony for impersonating a funeral director, embalmer, direct disposer, or a preneed sales agent. In addition, in section 22 of the CS, s. 843.08, F.S., relating to false impersonation is amended by expanding the subjects of false impersonation from fire or arson investigators within the Department of Financial Services to all personnel or representatives of the Division of Investigative and Forensic Services. These changes could increase the number of people subject to a felony penalty, but would seem to be insignificant. The Criminal Justice Impact Conference (CJIC) has not adopted a prison bed impact for this legislation.

The bill has an indeterminate negative fiscal impact to the State Risk Management Trust Fund relating to self-insuring firefighter cancer benefits.

VI. Technical Deficiencies:

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt. The bill creates s. 284.45, F.S., which defines “personal identifying information” for sexual harassment victims to include the victim’s name, home address, home and cellular phone numbers, E-mail address, social media account username or URL, or any other information that could reasonably be used to identify the victim.

In some instances, an e-mail address or social media account information may not, in reality, be personally identifying information under the public records exemption codified in s. 119.071(2)(n), F.S. If that is the case, then the language contained in the newly created s. 284.45, F.S., may be viewed as an expansion of the public records exemption. If that is the legislative intent, the Legislature should consider the expanded exemption in a separate bill that otherwise meets the constitutional requirements of an exemption to Art. I, sec. 24(a) of the State Constitution – namely a public necessity statement and a 2/3 vote of each chamber of the legislature to be enacting.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 284.30, 284.31, 284.385, 497.101, 497.142, 497.157, 497.159, 552.081, 553.7921, 626.2815, 627.70132, 633.102, 633.136, 633.202, 633.304, 633.402, 633.416, 843.08, and 943.045.

The bill substantially amends chapter 2019-140 of the Laws of Florida.

This bill creates sections 284.45, 497.1411, and 633.217 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/CS by Appropriations on March 3, 2020:**

The committee substitute:

- Adds firefighter cancer benefits provided under s. 112.1816(2), F.S., into the self-insurance coverages provided by the Risk Management Trust Fund and requires the Department of Management Service to validate and approve requests for payment;
- Prohibits retaliatory conduct against a sexual harassment victim;
- Prohibits willful and knowledgeable distribution of a victim's personal identifying information and provides criminal penalties for violations;
- Revises the crimes which must be disclosed in order to apply for a license, and deleted conflicting penalties, under ch. 497, F.S., related to Funeral, Cemetery, and Consumer Services;
- Adds the ability for a Contractor I or II licensee to alter an existing fire sprinkler system involving 249 or fewer sprinkler heads if there is no change in occupancy of the affected areas, no change in the water demand, and the occupancy hazard classification is reduced or remains the same;
- Extends the current expiration date of July 1, 2021 to July 1, 2024, for provisions that allow residents in apartment buildings to place garbage cans containing combustible waste and refuse in exit access corridors during certain hours;
- Creates parity between residential and high rise apartments for compliance with minimum radio strength for fire department communications and two-way radio system enhancements under the Florida Fire Prevention Code and extended the requirement for assessment and compliance by three years;
- Requires existing apartment buildings to complete a minimum radio strength assessment for fire department communications and two-way radio system enhancements under the Florida Fire Prevention Code instead of applying for a permit for the required communication installation by December 31, 2022;
- Specifies that training courses offered by the State Fire College must include a written and a practical element and be approved by the State Fire Marshal;
- Revises the Fire and Emergency Incident Information Reporting Program to include a reference to fire service providers; defined the term "fire service providers" and revised the membership of the Fire and Emergency Incident Information System Technical Advisory Panel to delete two state agency members;
- Reduces from three years to 24 months the timeframe in which an insured can provide notice of a windstorm or hurricane claim while retaining the 36 month time frame for supplemental or reopened claims;
- Increases by one the membership of the Firefighters Employment, Standards, and Training Council;
- Revises the continued education hours required for individuals licensed to solicit, sell, or adjust insurance in the state;
- Extends the Florida Blockchain Task Force report due date to January 31, 2021.

CS by Banking and Insurance on January 21, 2020:

Creates s. 633.217, F.S., prohibiting the act of threatening, coercing, tricking, or attempting to threaten, coerce, or trick, or bribe a firesafety inspector for the purpose of influencing or inducing the firesafety officer to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any other provision of ch. 633, F.S., which governs Fire Prevention and Control.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Perry

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1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 20.121, F.S.; specifying powers
 4 and duties of the Division of Public Assistance Fraud;
 5 amending s. 497.101, F.S.; revising provisions
 6 relating to membership of the Board of Funeral,
 7 Cemetery, and Consumer Services; deleting a
 8 requirement for the department to adopt certain rules;
 9 creating s. 497.1411, F.S.; defining terms; providing
 10 for permanent disqualification of applicants for
 11 licensure under ch. 497, F.S., for certain offenses;
 12 providing for disqualifying periods for applicants for
 13 certain offenses; requiring the department to adopt
 14 rules; providing for calculation of disqualifying
 15 periods; providing conditions for licensure after
 16 completion of a disqualifying period; providing for
 17 the effect of a pardon or clemency; providing for
 18 exemptions from disqualification in certain
 19 circumstances; providing procedures for consideration
 20 of applications for such exemptions; providing
 21 construction; amending s. 497.157, F.S.; prohibiting
 22 persons from acting as or advertising themselves as
 23 being funeral directors, embalmers, direct disposers,
 24 or preneed sales agents unless they are so licensed;
 25 prohibiting persons from engaging in certain
 26 activities requiring licensure without holding
 27 required licenses; providing criminal penalties;
 28 amending s. 552.081, F.S.; revising the definition of
 29 the term "two-component explosives" for the purpose of

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30 regulation by the Division of State Fire Marshal;
 31 amending s. 553.7921, F.S.; authorizing a contractor
 32 repairing certain existing fire alarm systems to begin
 33 work after filing an application for a required permit
 34 but before receiving the permit; providing
 35 construction; creating s. 633.217, F.S.; prohibiting
 36 certain acts to influence a firesafety inspector into
 37 violating certain laws; prohibiting a firesafety
 38 inspector from knowingly and willfully accepting an
 39 attempt to influence him or her into violating certain
 40 laws; amending s. 633.416, F.S.; providing that
 41 certain persons serving as volunteer firefighters may
 42 serve as a regular or permanent firefighter for a
 43 limited period, subject to certain restrictions;
 44 amending s. 843.08, F.S.; prohibiting false
 45 personation of personnel or representatives of the
 46 Division of Investigative and Forensic Services;
 47 providing criminal penalties; amending s. 943.045,
 48 F.S.; revising the definition of the term "criminal
 49 justice agency" to include the investigations
 50 component of the department which investigates certain
 51 crimes; providing an effective date.

52
 53 Be It Enacted by the Legislature of the State of Florida:

54
 55 Section 1. Paragraph (f) of subsection (2) of section
 56 20.121, Florida Statutes, is amended to read:
 57 20.121 Department of Financial Services.—There is created a
 58 Department of Financial Services.

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59 (2) DIVISIONS.—The Department of Financial Services shall
60 consist of the following divisions and office:

61 (f) The Division of Public Assistance Fraud, which shall
62 function as a criminal justice agency for purposes of ss.
63 943.045-943.08. The division shall conduct investigations
64 pursuant to s. 414.411 within or outside of this state as it
65 deems necessary. If, during an investigation, the division has
66 reason to believe that any criminal law of this state has or may
67 have been violated, it shall refer any records tending to show
68 such violation to state or federal law enforcement or
69 prosecutorial agencies and shall provide investigative
70 assistance to those agencies as required.

71 Section 2. Subsections (1), (2), (3), (6), and (8) of
72 section 497.101, Florida Statutes, are amended to read:

73 497.101 Board of Funeral, Cemetery, and Consumer Services;
74 membership; appointment; terms.—

75 (1) The Board of Funeral, Cemetery, and Consumer Services
76 is created within the Department of Financial Services and shall
77 consist of 10 members, 9 of whom shall be appointed by the
78 Governor from nominations made by the Chief Financial Officer
79 and confirmed by the Senate. The Chief Financial Officer shall
80 nominate one to three persons for each of the nine vacancies on
81 the board, and the Governor shall fill each vacancy on the board
82 by appointing one of the ~~three~~ persons nominated by the Chief
83 Financial Officer to fill that vacancy. If the Governor objects
84 to each of the ~~three~~ nominations for a vacancy, she or he shall
85 inform the Chief Financial Officer in writing. Upon notification
86 of an objection by the Governor, the Chief Financial Officer
87 shall submit one to three additional nominations for that

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88 vacancy until the vacancy is filled. One member must be the
89 State Health Officer or her or his designee.

90 (2) Two members of the board shall be funeral directors
91 licensed under part III of this chapter who are associated with
92 a funeral establishment. One member of the board shall be a
93 funeral director licensed under part III of this chapter who is
94 associated with a funeral establishment licensed under part III
95 of this chapter that has a valid preneed license issued pursuant
96 to this chapter and who owns or operates a cinerator facility
97 approved under chapter 403 and licensed under part VI of this
98 chapter. Two members of the board shall be persons whose primary
99 occupation is associated with a cemetery company licensed
100 pursuant to this chapter. ~~Two~~ Three members of the board shall
101 be consumers who are residents of the state, have never been
102 licensed as funeral directors or embalmers, are not connected
103 with a cemetery or cemetery company licensed pursuant to this
104 chapter, and are not connected with the death care industry or
105 the practice of embalming, funeral directing, or direct
106 disposition. One of the two consumer members shall be at least
107 60 years of age, ~~and one shall be licensed as a certified public~~
108 ~~accountant under chapter 473. One member of the board shall be a~~
109 consumer who is a resident of this state; is licensed as a
110 certified public accountant under chapter 473; has never been
111 licensed as a funeral director or embalmer; is not a principal
112 or employee of any licensee licensed under this chapter; and
113 does not otherwise have control, as defined in s. 497.005, over
114 any licensee licensed under this chapter. One member of the
115 board shall be a principal of a monument establishment licensed
116 under this chapter as a monument builder. One member shall be

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117 the State Health Officer or her or his designee. There shall not
 118 be two or more board members who are principals or employees of
 119 the same company or partnership or group of companies or
 120 partnerships under common control.

121 (3) Board members shall be appointed for terms of 4 years,
 122 and the State Health Officer shall serve as long as that person
 123 holds that office. The designee of the State Health Officer
 124 shall serve at the pleasure of the Governor. ~~When the terms of~~
 125 ~~the initial board members expire, the Chief Financial Officer~~
 126 ~~shall stagger the terms of the successor members as follows: one~~
 127 ~~funeral director, one cemetery representative, the monument~~
 128 ~~builder, and one consumer member shall be appointed for terms of~~
 129 ~~2 years, and the remaining members shall be appointed for terms~~
 130 ~~of 4 years. All subsequent terms shall be for 4 years.~~

131 (6) The headquarters and records of the board shall be in
 132 the Division of Funeral, Cemetery, and Consumer Services of the
 133 Department of Financial Services in the City of Tallahassee. The
 134 board may be contacted through the Division of Funeral,
 135 Cemetery, and Consumer Services of the Department of Financial
 136 Services in the City of Tallahassee. The Chief Financial Officer
 137 shall annually appoint from among the board members a chair and
 138 vice chair of the board. The board shall meet at least every 6
 139 months, and more often as necessary. Special meetings of the
 140 board shall be convened upon the direction of the Chief
 141 Financial Officer. A quorum is necessary for the conduct of
 142 business by the board. Unless otherwise provided by law, a
 143 majority of the board members eligible to vote shall constitute
 144 a quorum for the purpose of conducting its business ~~six board~~
 145 ~~members shall constitute a quorum for the conduct of the board's~~

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146 ~~business.~~

147 ~~(8) The department shall adopt rules establishing forms by~~
 148 ~~which persons may apply for membership on the board and~~
 149 ~~procedures for applying for such membership. Such forms shall~~
 150 ~~require disclosure of the existence and nature of all current~~
 151 ~~and past employments by or contracts with, and direct or~~
 152 ~~indirect affiliations or interests in, any entity or business~~
 153 ~~that at any time was licensed by the board or by the former~~
 154 ~~Board of Funeral and Cemetery Services or the former Board of~~
 155 ~~Funeral Directors and Embalmers or that is or was otherwise~~
 156 ~~involved in the death care industry, as specified by department~~
 157 ~~rule.~~

158 Section 3. Section 497.1411, Florida Statutes, is created
 159 to read:

160 497.1411 Disqualification of applicants and licensees;
 161 penalties against licensees; rulemaking.-

162 (1) For purposes of this section, the term:

163 (a) "Applicant" means an individual applying for licensure
 164 or relicensure under this chapter, and an officer, a director, a
 165 majority owner, a partner, a manager, or other person who
 166 manages or controls an entity applying for licensure or
 167 relicensure under this chapter.

168 (b) "Felony of the first degree" and "capital felony"
 169 include all felonies designated as such in this state at the
 170 time of the commission of the offense, as well as any offense in
 171 another jurisdiction that is substantially similar to an offense
 172 so designated in this state.

173 (c) "Financial services business" means any financial
 174 activity regulated by the department, the Office of Insurance

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175 Regulation, or the Office of Financial Regulation.
 176 (2) An applicant who has been found guilty of or has
 177 pleaded guilty or nolo contendere to any of the following
 178 crimes, regardless of adjudication, is permanently barred from
 179 licensure under this chapter:
 180 (a) A felony of the first degree.
 181 (b) A capital felony.
 182 (c) A felony money laundering offense.
 183 (d) A felony embezzlement.
 184 (3) An applicant who has been found guilty of or has
 185 pleaded guilty or nolo contendere to a crime not included in
 186 subsection (2), regardless of adjudication, is subject to:
 187 (a) A 10-year disqualifying period for all felonies
 188 involving moral turpitude that are not specifically included in
 189 the permanent bar contained in subsection (2).
 190 (b) A 5-year disqualifying period for all felonies to which
 191 neither the permanent bar in subsection (2) nor the 10-year
 192 disqualifying period in paragraph (a) applies.
 193 (c) A 5-year disqualifying period for all misdemeanors
 194 directly related to the financial services business.
 195 (4) The department shall adopt rules to administer this
 196 section. The rules must provide for additional disqualifying
 197 periods due to the commitment of multiple crimes and may include
 198 other factors reasonably related to the applicant's criminal
 199 history. The rules shall provide for mitigating and aggravating
 200 factors. However, mitigation may not result in a period of
 201 disqualification of less than 5 years and may not mitigate the
 202 disqualifying periods in paragraphs (3)(b) and (c).
 203 (5) For purposes of this section, a disqualifying period

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204 begins upon the applicant's final release from supervision or
 205 upon completion of the applicant's criminal sentence. The
 206 department may not issue a license to an applicant unless all
 207 related fines, court costs and fees, and court-ordered
 208 restitution have been paid.
 209 (6) After the disqualifying period has expired, the burden
 210 is on the applicant to demonstrate that he or she has been
 211 rehabilitated, does not pose a risk to the public, is fit and
 212 trustworthy to engage in business regulated by this chapter, and
 213 is otherwise qualified for licensure.
 214 (7) Notwithstanding subsections (2) and (3), upon a grant
 215 of a pardon or the restoration of civil rights pursuant to
 216 chapter 940 and s. 8, Art. IV of the State Constitution with
 217 respect to a finding of guilt or a plea under subsection (2) or
 218 subsection (3), or such pardon or the restoration of civil
 219 rights under the laws of another jurisdiction with respect to a
 220 conviction in that jurisdiction, such finding or plea no longer
 221 bars or disqualifies the applicant from licensure under this
 222 chapter; however, such a pardon or restoration of civil rights
 223 does not require the department to award such license.
 224 (8)(a) The Board of Funeral, Cemetery, and Consumer
 225 Services may grant an exemption from disqualification to any
 226 person disqualified from licensure under this section because of
 227 a criminal record if:
 228 1. The applicant has paid in full any fee, fine, fund,
 229 lien, civil judgment, restitution, or cost of prosecution
 230 imposed by the court as part of the judgment and sentence for
 231 any disqualifying offense; and
 232 2. At least 5 years have elapsed since the applicant

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233 completed or has been lawfully released from confinement,
 234 supervision, or nonmonetary condition imposed by the court for a
 235 disqualifying offense.

236 (b) For the board to grant an exemption under this
 237 subsection, the applicant must clearly and convincingly
 238 demonstrate that he or she would not pose a risk to persons or
 239 property if licensed under this chapter, evidence of which must
 240 include, but need not be limited to, facts and circumstances
 241 surrounding the disqualifying offense, the time that has elapsed
 242 since the offense, the nature of the offense and harm caused to
 243 the victim, the applicant's history before and after the
 244 offense, and any other evidence or circumstances indicating that
 245 the applicant will not present a danger if licensed or
 246 certified.

247 (c) The board has discretion whether to grant or deny an
 248 exemption under this subsection. The board's decision is subject
 249 to chapter 120, except that a formal proceeding under s.
 250 120.57(1) is available only if there are disputed issues of
 251 material fact that the department relied upon in reaching its
 252 decision.

253 Section 4. Present subsections (2) through (5) of section
 254 497.157, Florida Statutes, are redesignated as subsections (4)
 255 through (7), respectively, new subsections (2) and (3) and
 256 subsection (8) are added to that section, and present subsection
 257 (3) of that section is amended, to read:

258 497.157 Unlicensed practice; remedies concerning violations
 259 by unlicensed persons.—

260 (2) A person may not be, act as, or advertise or hold
 261 himself or herself out to be a funeral director, embalmer, or

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262 direct disposer unless he or she is currently licensed by the
 263 department.

264 (3) A person may not be, act as, or advertise or hold
 265 himself or herself out to be a preneed sales agent unless he or
 266 she is currently licensed by the department and appointed by a
 267 preneed main licensee for which they are executing preneed
 268 contracts.

269 (5)(3) Where the department determines that an emergency
 270 exists regarding any violation of this chapter by any unlicensed
 271 person or entity, the department may issue and serve an
 272 immediate final order upon such unlicensed person or entity, in
 273 accordance with s. 120.569(2)(n). Such an immediate final order
 274 may impose such prohibitions and requirements as are reasonably
 275 necessary to protect the public health, safety, and welfare, and
 276 shall be effective when served.

277 (a) For the purpose of enforcing such an immediate final
 278 order, the department may file an emergency or other proceeding
 279 in the circuit courts of the state seeking enforcement of the
 280 immediate final order by injunctive or other order of the court.
 281 The court shall issue its injunction or other order enforcing
 282 the immediate final order pending administrative resolution of
 283 the matter under subsection (4) (2), unless the court determines
 284 that such action would work a manifest injustice under the
 285 circumstances. Venue for judicial actions under this paragraph
 286 shall be, at the election of the department, in the courts of
 287 Leon County, or in a county where the respondent resides or has
 288 a place of business.

289 (b) After serving an immediate final order to cease and
 290 desist upon any person or entity, the department shall within 10

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291 days issue and serve upon the same person or entity an
 292 administrative complaint as set forth in subsection (4) ~~(2)~~,
 293 except that, absent order of a court to the contrary, the
 294 immediate final order shall be effective throughout the pendency
 295 of proceedings under subsection (4) ~~(2)~~.

296 (8) Any person who is not licensed under this chapter and
 297 who engages in activity requiring licensure under this chapter
 298 commits a felony of the third degree, punishable as provided in
 299 s. 775.082, s. 775.083, or s. 775.084.

300 Section 5. Subsection (13) of section 552.081, Florida
 301 Statutes, is amended to read:

302 552.081 Definitions.—As used in this chapter:

303 (13) “Two-component explosives” means any two inert
 304 components which, when mixed, become capable of detonation by
 305 any detonator a No. 6 blasting cap, and shall be classified as a
 306 Class “A” explosive when so mixed.

307 Section 6. Present subsection (2) of section 553.7921,
 308 Florida Statutes, is redesignated as subsection (3), a new
 309 subsection (2) is added to that section, and subsection (1) of
 310 that section is amended, to read:

311 553.7921 Fire alarm permit application to local enforcement
 312 agency.—

313 (1) A contractor must file a Uniform Fire Alarm Permit
 314 Application as provided in subsection (3) ~~(2)~~ with the local
 315 enforcement agency and must receive the fire alarm permit
 316 before+

317 ~~(a)~~ installing or replacing a fire alarm, if the local
 318 enforcement agency requires a plan review for the installation
 319 or replacement;—~~or~~

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320 ~~(b) Repairing an existing alarm system that was previously~~
 321 ~~permitted by the local enforcement agency if the local~~
 322 ~~enforcement agency requires a fire alarm permit for the repair.~~

323 (2) If the local enforcement agency requires a fire alarm
 324 permit to repair an existing alarm system that was previously
 325 permitted by the local enforcement agency, a contractor may
 326 begin work after filing a Uniform Fire Alarm Permit Application
 327 as provided in subsection (3). A fire alarm repaired pursuant to
 328 this subsection may not be considered compliant until the
 329 required permit is issued and the local enforcement agency
 330 approves the repair.

331 Section 7. Section 633.217, Florida Statutes, is created to
 332 read:

333 633.217 Influencing a firesafety inspector; prohibited
 334 acts.—

335 (1) A person may not influence a firesafety inspector by:

336 (a) Threatening, coercing, tricking, or attempting to
 337 threaten, coerce, or trick, the firesafety inspector into
 338 violating any provision of the Florida Fire Prevention Code, any
 339 rule adopted by the State Fire Marshal, or any provision of this
 340 chapter.

341 (b) Offering any compensation to the firesafety inspector
 342 to induce a violation of the Florida Fire Prevention Code, any
 343 rule adopted by the State Fire Marshal, or any provision of this
 344 chapter.

345 (2) A firesafety inspector may not knowingly and willfully
 346 accept an attempt by a person to influence the firesafety
 347 inspector into violating any provision of the Florida Fire
 348 Prevention Code, any rule adopted by the State Fire Marshal, or

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349 any provision of this chapter.

350 Section 8. Subsection (1) of section 633.416, Florida
351 Statutes, is amended to read:

352 633.416 Firefighter employment and volunteer firefighter
353 service; saving clause.—

354 (1) A fire service provider may not employ an individual
355 to:

356 (a) Extinguish fires for the protection of life or property
357 or to supervise individuals who perform such services unless the
358 individual holds a current and valid Firefighter Certificate of
359 Compliance. However, a person who is currently serving as a
360 volunteer firefighter and holds a volunteer firefighter
361 certificate of completion with a fire service provider, who is
362 then employed as a regular or permanent firefighter by such fire
363 service provider, may function, for a period of 1 year under the
364 direct supervision of an individual holding a valid firefighter
365 certificate of compliance, in the same capacity in which he or
366 she acted as a volunteer firefighter, provided that he or she
367 has completed all training required by the volunteer
368 organization. Under no circumstance can this period extend
369 beyond 1 year either collectively or consecutively from the
370 start of employment to obtain a Firefighter Certificate of
371 Compliance; or

372 (b) Serve as the administrative and command head of a fire
373 service provider for a period in excess of 1 year unless the
374 individual holds a current and valid Firefighter Certificate of
375 Compliance or Special Certificate of Compliance.

376 Section 9. Section 843.08, Florida Statutes, is amended to
377 read:

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378 843.08 False personation.—A person who falsely assumes or
379 pretends to be a firefighter, a sheriff, an officer of the
380 Florida Highway Patrol, an officer of the Fish and Wildlife
381 Conservation Commission, an officer of the Department of
382 Environmental Protection, ~~a fire or arson investigator of the~~
383 ~~Department of Financial Services,~~ an officer of the Department
384 of Financial Services, any personnel or representative of the
385 Division of Investigative and Forensic Services, an officer of
386 the Department of Corrections, a correctional probation officer,
387 a deputy sheriff, a state attorney or an assistant state
388 attorney, a statewide prosecutor or an assistant statewide
389 prosecutor, a state attorney investigator, a coroner, a police
390 officer, a lottery special agent or lottery investigator, a
391 beverage enforcement agent, a school guardian as described in s.
392 30.15(1)(k), a security officer licensed under chapter 493, any
393 member of the Florida Commission on Offender Review or any
394 administrative aide or supervisor employed by the commission,
395 any personnel or representative of the Department of Law
396 Enforcement, or a federal law enforcement officer as defined in
397 s. 901.1505, and takes upon himself or herself to act as such,
398 or to require any other person to aid or assist him or her in a
399 matter pertaining to the duty of any such officer, commits a
400 felony of the third degree, punishable as provided in s.
401 775.082, s. 775.083, or s. 775.084. However, a person who
402 falsely personates any such officer during the course of the
403 commission of a felony commits a felony of the second degree,
404 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
405 If the commission of the felony results in the death or personal
406 injury of another human being, the person commits a felony of

Page 14 of 15

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

597-02425-20

20201404c1

407 the first degree, punishable as provided in s. 775.082, s.
408 775.083, or s. 775.084.

409 Section 10. Paragraph (f) is added to subsection (11) of
410 section 943.045, Florida Statutes, to read:

411 943.045 Definitions; ss. 943.045-943.08.—The following
412 words and phrases as used in ss. 943.045-943.08 shall have the
413 following meanings:

414 (11) "Criminal justice agency" means:

415 (f) The investigations component of the Department of
416 Financial Services which investigates the crimes of fraud and
417 official misconduct in all public assistance given to residents
418 of the state or provided to others by the state.

419 Section 11. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2020

I respectfully request that **Senate Bill #1404**, relating to Department of Financial Services, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style and is positioned above a horizontal line.

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/03/2020

Meeting Date

1404

Bill Number (if applicable)

810530

Amendment Barcode (if applicable)

Topic Department of Financial Services

Name Emily Buckley

Job Title Legislative Affairs Director

Address 400 S. Monroe Street PL 10 Cap

Phone 850-617-7700

Street

Tallahassee

FL

32399

Email emily.buckley@fdacs.gov

City

State

Zip

Speaking: For Against Information

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

Representing FL Department of Agriculture and Consumer Services

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)

3/3

Meeting Date

CS/SB 1404

Bill Number (if applicable)

810530

Amendment Barcode (if applicable)

Topic DFS Agency Bill

Name Amy BOGGS

Job Title _____

Address 4554 Central ave Suite L

Phone _____

Street

Saint Petersburg, FL 33711

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing Florida Justice 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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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)

MARCH, 3, 2020
Meeting Date

SB 1404
Bill Number (if applicable)

810530
Amendment Barcode (if applicable)

Topic DEPARTMENT OF FINANCIAL SERVICES

Name Chief Ray Colburn

Job Title Executive Director

Address 5289 PALM DR

Phone 407-468-6622

Street

MELBOURNE BEACH, FL

City

State

32951

Zip

Email ray@FFCA.org

Speaking: For Against Information

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

Representing FLORIDA FIRE CHIEFS' ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

3-3-20

Meeting Date

1404

Bill Number (if applicable)

810530

Amendment Barcode (if applicable)

Topic SB 1404

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, Capitol

Phone 413-2890

Street

Tallahassee FL 32399

City

State

Zip

Email Meredith.Stanfield@~~senate~~my.floridacfo.com

Speaking: For Against Information

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

Representing Department of Financial Services

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20
Meeting Date

1404
Bill Number (if applicable)

Topic DEPARTMENT OF FINANCIAL SERVICES

~~XXXXXXXXXX~~
Amendment Barcode (if applicable)

Name Wayne "Bernie" BERNOSKA

~~XXXXXXXXXX~~
810530

Job Title PRESIDENT

Address 343 W MADISON ST.
Street

Phone 321-231-9116

Tallahassee FL 32301
City State Zip

Email Bernie@FFFP.org

Speaking: For Against Information

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

Representing FLORIDA PROFESSIONAL FIREFIGHTERS

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)

2/3/2020
Meeting Date

1404

Bill Number (if applicable)

863800

Amendment Barcode (if applicable)

Topic radio strength assessments

Name Kelly Mallette

Job Title _____

Address 104 W. Jefferson Street
Street

Phone (850) 224-3427

City

State

Zip

Email kelly@rlbookpa.com

Speaking: For Against Information

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

Representing Florida Apartment 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)

MARCH 3, 2020
Meeting Date

SB 1404
Bill Number (if applicable)

863800 - BOOK
Amendment Barcode (if applicable)

Topic DEPARTMENT of FINANCIAL SERVICES

Name Chief Ray Colburn

Job Title EXECUTIVE DIRECTOR

Address 5289 PALM DR

Phone 407-468-6622

MELBOURNE BEACH, FL 32951
City State Zip

Email ray@ffca.org

Speaking: For Against Information

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

Representing FLORIDA FIRE Chiefs' 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)

3/3/20
Meeting Date

1404
Bill Number (if applicable)
964622
Amendment Barcode (if applicable)

Topic Insurance

Name Steve Geller

Job Title Attorney

Address 110 E Broward Blvd 17th Floor

Phone 954-35-3926

FT. Lauderdale FL 33301
City State Zip

Email Steve@gellerlawfirm.com

Speaking: For Against Information

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

Representing Merritt Law Group + Florida Assn of Public Insurance Adjusters

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)

3/3/2020
Meeting Date

1404
Bill Number (if applicable)

9641022
Amendment Barcode (if applicable)

Topic _____

Name Hillary Cassel

Job Title Attorney

Address 4000 Hollywood Blvd. 685-S

Phone (954) 589-5504

Hollywood FL 33021
City State Zip

Email hcassel@cassel.law

Speaking: For Against Information

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

Representing Florida Policyholders Cooperative

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)

3/3

Meeting Date

CS/B
1404

Bill Number (if applicable)

964622

Amendment Barcode (if applicable)

Topic Flores Amendment

Name Amy BOGGS

Job Title

Address 4554 Central Ave Suite L

Street

Phone 727-954-8833

Saint Petersburg FL 33711

City

State

Zip

Email ABOGGS@BOGGS LAW GROUP.COM

Speaking: For Against Information

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

Representing FJA

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)

MARCH 3, 2020
Meeting Date

SB 1404
Bill Number (if applicable)

Topic Department of Financial SERVICES

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Job Title Executive Director

Address 5284 PALM DR

Phone 407-468-6622

Street

MELBOURNE BEACH, FL 32951

City

State

Zip

Email ray@ffca.org

Speaking: For Against Information

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

Representing FLORIDA FireChiefs' 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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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)

3/3/20

Meeting Date

SB 1404

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Laura Pearce

Job Title General Counsel

Address Street

Phone

City

State

Zip

Email Lpearce@faia.com

Speaking: [X] For [] Against [] Information

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

Representing Florida Association of Insurance Agents

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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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)

3/3/20

Meeting Date

1404

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol

Phone (850) 413-2890

Tallahassee FL 32399

Email meredith.stanfield@myfloridacfo.com

Speaking: [] For [] Against [] Information

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

Representing Department of Financial Services

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

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 Appropriations

BILL: CS/CS/SB 1440

INTRODUCER: Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senators Powell and Rouson

SUBJECT: Children's Mental Health

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|------------|-----------------------------|
| 1. | <u>Delia</u> | <u>Hendon</u> | <u>CF</u> | <u>Fav/CS</u> |
| 2. | <u>Sneed</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Favorable</u> |
| 3. | <u>Sneed</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CSCS/SB 1440 requires the Department of Children and Families (DCF) and the Agency for Health Care Administration (AHCA) to identify children, adolescents, and young adults age 25 and under, who are the highest users of crisis stabilization services and collaboratively take action to meet the behavioral health needs of such children. The bill directs these agencies to jointly submit a quarterly report to the Legislature during Fiscal Years 2020-2021 and 2021-2022 on the actions taken by both agencies to better serve these individuals.

The bill requires the behavioral health managing entities (MEs) to develop a plan that promotes the development and implementation of a coordinated system of care for children, adolescents, and young adults to integrate behavioral health services provided through state-funded child serving systems, to facilitate access to mental health and substance abuse treatment and services. The bill requires the DCF to contract with the MEs for crisis response services provided through mobile response teams (MRTs) to provide immediate, onsite behavioral health services 24 hours per day, seven days per week with onsite response time of 60 minutes from the time the request for services is made.

In order to procure contracts with MRTs, the MEs must collaborate with local sheriff's offices and public schools in the selection process. The bill also requires that the provider establish response protocols with local law enforcement agencies, community-based care (CBC) lead agencies, the child welfare system, and the Department of Juvenile Justice (DJJ), and requires

access to psychiatrists or psychiatric nurse practitioners, and requires MRTs to refer children, adolescents, or young adults and their families to an array of crisis response services that address their individual needs.

The bill requires the ME to promote the use of available crisis intervention services by requiring contracted providers to provide to parents and caregivers who receive safety-net behavioral health services with MRT contact information.

The bill amends foster parent preservice training requirements to include local MRT contact information and requires community-based care (CBC) lead agencies to provide MRT contact information to all individuals that provide care for dependent children.

The bill requires the DCF and the AHCA to assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of such services and submit a joint report to the Governor and Legislature. The bill also requires the AHCA to regularly test managed care plan provider network databases to ensure that behavioral health providers are accepting enrollees and confirm that enrollees have access to behavioral health systems.

The bill has an indeterminate, but likely insignificant, fiscal impact on state expenditures. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

The Department of Children and Families (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. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally established priority populations.

Behavioral Health Managing Entities

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (MEs) as the management structure for the delivery of local mental health and substance abuse services.¹ The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized the DCF to implement MEs statewide.² Full implementation of the statewide managing entity system occurred by April, 2013; all geographic regions are now served by a managing entity.³

The DCF contracts with seven MEs - Big Bend Community Based Care, Lutheran Services Florida, Central Florida Cares Health System, Central Florida Behavioral Health Network, Inc.,

¹ Chapter 2001-191, Laws of Fla.

² Chapter 2008-243, Laws of Fla.

³ *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, Office of Program Policy Analysis and Government Accountability, July 18, 2014.

Southeast Florida Behavioral Health, Broward Behavioral Health Network, Inc., and South Florida Behavioral Health Network, Inc., that in turn contract with local service providers⁴ for the delivery of mental health and substance abuse services:⁵

Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address the mental health needs of individuals in the state. The Baker Act allows for voluntary and, under certain circumstances, involuntary, examinations of individuals suspected of having a mental illness and presenting a threat of harm to themselves or others. The Baker Act also establishes procedures for courts, law enforcement, and certain health care practitioners to initiate such examinations and then act in response to the findings.

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.⁶ An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:⁷

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

Involuntary Admissions

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.⁸

Within the 72-hour examination period, or if the 72 hours ends on a weekend or holiday, no later than the next business day, one of the following must occur:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;

⁴ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

⁵ The Department of Children and Families, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited Jan. 30, 2020).

⁶ Sections 394.4625 and 394.463, F.S.

⁷ Section 394.463(1), F.S.

⁸ Section 394.455(39), F.S. This term does not include a county jail.

- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.⁹

Receiving facilities must give prompt notice¹⁰ of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,¹¹ guardian advocate,¹² health care surrogate or proxy, attorney, and representative.¹³ If the patient is a minor, the receiving facility must give prompt notice to the minor's parent, guardian, caregiver, or guardian advocate. Notice for an adult may be provided within 24 hours of arrival; however, notice for a minor must be provided immediately after the minor's arrival at the facility. The facility may delay the notification for a minor for up to 24 hours if it has submitted a report to the central abuse hotline. The receiving facility must attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until it receives confirmation that the notice has been received. Attempts must be repeated at least once every hour during the first 12 hours after the minor's arrival and then once every 24 hours thereafter until confirmation is received, the minor is released, or a petition for involuntary services is filed with the court.¹⁴

Task Force Report on Involuntary Examination of Minors

In 2017, the Legislature created a task force within the DCF to address the issue of involuntary examination of minors ages 17 years old or younger. The task force was composed of stakeholders from the education, mental health, law enforcement, and legal fields. The task force reported its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives on November 15, 2017¹⁵.

Analysis by the Task Force

Based on an analysis of available data regarding involuntary examinations of minors, the task force found that:¹⁶

- Involuntary examinations for children occur in varying degrees across counties.
- There is an increasing trend statewide and in certain counties to initiate involuntary examinations of minors.

⁹ Section 394.463(2)(g), F.S.

¹⁰ Notice may be provided in person or by telephone; however, in the case of a minor, notice may also be provided by other electronic means. *See* s. 394.455(2), F.S.

¹¹ "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated. *See* s. 394.455(17), F.S.

¹² "Guardian advocate" means a person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment. *See* s. 394.455(18), F.S.

¹³ Section 394.4599(2)(b), F.S.

¹⁴ Section 394.4599(c), F.S.

¹⁵ The Department of Children and Families, Office of Substance Abuse and Mental Health, Task Force Report on Involuntary Examination of Minors, (Nov. 15, 2017), available at: <http://www.dcf.state.fl.us/service-programs/samh/publications/> (last visited January 30, 2020).

¹⁶ *Id.*

- The seasonal pattern shows that involuntary examinations are more common when school is in session.
- Some children have multiple involuntary examinations, although most children who have an involuntary examination have only one.
- Decreases in juvenile arrests correlate with increases of involuntary examinations of children, although it is important to note that the analyses did not show a causal link and there has been a long pattern of decreases in juvenile crime over more than a decade.
- While recent increases in involuntary examinations in certain counties are deserving of focus, a more important focus needs to be on counties that have high rates of involuntary examination. Counties with high rates are, for the most part, not the same counties with the recent increases.
- The most common involuntary examination for children is initiated by law enforcement based on evidence of harm to self.
- The majority of involuntary examinations initiated for children by mental health professionals are initiated by physicians, followed by licensed mental health counselors, and clinical social workers, with many fewer initiated by psychologists, psychiatric nurses, marriage and family therapists, and physicians' assistants.

Recommendations by the Task Force

The task force made six recommendations for encouraging alternatives to and eliminating inappropriate initiations of involuntary examinations of minors under the Baker Act:¹⁷ The recommendations are:

- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis.
- Expand access to outpatient crisis intervention services and treatment.
- Create within the DCF the “Invest in the Mental Health of our Children” grant program to provide matching funds to counties that can be used to plan, implement, or expand initiatives that increase public safety, avert increased mental health spending, and improve the accessibility and effectiveness of prevention and intervention services for children who have a diagnosed mental illness or co-occurring mental health and substance use disorder.
- Encourage school districts, through legislative intent language, to adopt a standardized suicide assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination.¹⁸
- Revise s. 394.463, F.S., to include school psychologists licensed under ch. 490, F.S., on the list of mental health professionals who are qualified to initiate a Baker Act.
- Require Youth Mental Health First Aid or Crisis Intervention Team (CIT)¹⁹ training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools.

¹⁷ *Id.*

¹⁸ The Task Force found that data supports the conclusion that implementation of risk assessment protocols significantly reduced the number of children and youth who received Baker Act initiations in school districts across the state.

¹⁹ U.S. Department of Health and Human Services, *Crisis Intervention Team (CIT) Methods for Using Data to Inform Practice: A Step-by-Step Guide*, 2018, available at: <https://store.samhsa.gov/system/files/sma18-5065.pdf>, states that: “CIT training is an effective law enforcement response program designed for first responders who handle crisis situations involving individuals with mental illness or co-occurring disorders. It emphasizes a partnership between law enforcement, the mental health and substance abuse treatment system, mental health advocacy groups, and consumers of mental health

Additionally, the task force recommended amending s. 394.463, F.S., to increase the timeframe from the next working day to five working days in which a receiving facility has to submit forms to the DCF required by s. 394.463, F.S. The task force determined that this change would allow the department to capture data on whether the minor was admitted, released, or a petition filed with the court.²⁰

The DCF subsequently released an updated version of the report in 2019.²¹ The report revealed that some crisis stabilization units are not meeting the needs of children and adolescents with significant behavioral health needs, contributing to multiple exams.

The 2019 report found there were 205,781 involuntary examinations in Fiscal Year 2017-2018, 36,078 of which were of minors.²² From Fiscal Years 2013-2014 to 2017-2018, statewide involuntary examinations increased nearly 19 percent for children.²³ Children have a larger increase in examinations compared to young adults ages 18 to 24 (over 14 percent) and adults (over 12 percent).²⁴ Additionally, nearly 23 percent of minors had multiple involuntary examinations in Fiscal Year 2017-2018, ranging from 2 to 19 examinations.²⁵ The DCF identified 21 minors who had more than 10 involuntary examinations in Fiscal Year 2017-2018, with a combined total of 285 initiations.²⁶ The DCF's review of medical records found:²⁷

- Most initiations were a result of minors harming themselves and were predominately initiated by law enforcement (88 percent);
- Many minors were involved in the child welfare system and most experienced significant family dysfunction;
- Most had Medicaid health insurance;
- Most experienced multiple traumas such as abuse, bullying, exposure to violence, parental incarceration, and parental substance abuse and mental health issues;
- Most had behavioral disorders of childhood, such as ADHD or Oppositional Defiant Disorder, followed by mood disorders, followed by anxiety disorders;
- Most involuntary examinations were initiated at home or at a behavioral health provider; and
- Discharge planning and care coordination by the receiving facilities was not adequate enough to meet the child's needs.

The 2019 report recommended:

- Increasing care coordination for minors with multiple involuntary examinations;

services and their families. Additionally, this training offers evidence-informed techniques designed to calm the individual in crisis down, reduces reliance on the Baker Act as a means of handling the crisis, and informs individuals of local resources that are available to people in need of mental health services and supports.”

²⁰ *Id.*

²¹ The Florida Department of Children and Families, Task Force Report on Involuntary Examination of Minors, 2019, (Nov. 2019), available at: <https://www.myflfamilies.com/service-programs/samh/publications/> (last visited Jan. 31, 2020).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

- Utilizing the wraparound care coordination approach for children with complex behavioral health needs and multi-system involvement to ensure one point of accountability and individualized care planning;
- Utilizing existing local review teams;
- Revising administrative rules to gather more information about actions taken after the initiation of exams, require electronic submission of forms, and improve care coordination and discharge planning;
- Funding an additional staff position in the DCF to provide technical assistance; and
- Ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon child's discharge.

Mobile Response Teams

Mobile response teams (MRTs) provide readily available crisis care in a community-based setting and increase opportunities to stabilize individuals in the least restrictive setting to avoid the need for jail or hospital/emergency department utilization.²⁸ Early intervention services are critical to reducing involuntary examinations in minors and there are areas across the state where options short of involuntary examination via the Baker Act are limited or nonexistent. MRTs are available to individuals 25 years of age and under, regardless of their ability to pay, and must be ready to respond to any mental health emergency.²⁹ Telehealth can be used to provide direct services to individuals via video-conferencing systems, mobile phones, and remote monitoring. Telehealth can also be used to provide assessments and follow-up consultation as well as initial triage to determine if an in-person visit is needed to respond to the crisis call.³⁰

In Fiscal Year 2018-2019, the Legislature funded additional mobile response teams to serve areas of the state that were not being served by such teams at a total cost of \$18.3 million.³¹ There are currently 40 MRTs serving all 67 Florida counties, targeting services to individuals ages 25 and under. Recent MRT monthly reports showed an 80 percent statewide average of diverting individuals from involuntary examination.³²

The DCF established a framework to guide procurement of MRTs. This framework suggests that the procurement:

- Be conducted with the collaboration of local Sheriff's Offices and public schools in the procurement planning, development, evaluation, and selection process;
- Be designed to ensure reasonable access to services among all counties in the Managing Entity's service region, taking into consideration the geographic location of existing mobile crisis teams;
- Require services be available 24 hours per day, seven days per week with on-site response time to the location of referred crises within 60 minutes of the request for services;

²⁸ The Department of Children and Families, *Mobile Response Teams Framework*, (Aug. 29, 2018), p. 4, available at: <https://www.myflfamilies.com/service-programs/samh/publications/docs/Mobile%20Response%20Framework.pdf> (last visited Jan. 30, 2020).

²⁹ *Id.*

³⁰ *Id.*

³¹ Chapter 2018-003, Laws of Fla.

³² *Id.*

- Require the Network Service Provider to establish formalized written agreements to establish response protocols with local law enforcement agencies and local school districts or superintendents;
- Require access to a board-certified or board-eligible Psychiatrist or Psychiatric Nurse Practitioner; and
- Provide for an array of crisis response services that are responsive to the individual and family needs, including screening, standardized assessments, early identification, or linkage to community services as necessary to address the immediate crisis event.

III. Effect of Proposed Changes:

Section 1 amends s. 394.493, F.S., requiring the DCF and the AHCA to identify children and adolescents that are high utilizers of crisis stabilization services beginning in Fiscal Years 2020-2021 through 2021-2022. The bill requires both agencies to use this information to meet the behavioral health needs of these children within existing resources. The bill also requires the DCF and the AHCA to jointly submit quarterly reports to the Legislature listing the actions taken to address those needs.

Section 2 amends s. 394.495 F.S., requiring the DCF to contract with the MEs for crisis response services provided through MRTs throughout the state to provide immediate, onsite behavioral health services to children and young adults through age 25. The bill provides that mobile response services must be available to children and young adults:

- With an emotional disturbance;
- Experiencing an acute mental health or emotional crisis;
- Experiencing escalating emotional or behavioral [health] symptoms that effect their ability to function within their community; or
- Children served by the child welfare system experiencing placement instability.

The bill requires mobile response services to respond to new requests for services within 60 minutes in the location where the crisis is occurring. Services must be responsive to the needs of the child, young adult, and their family. Services must be evidence-based, enabling the individuals served to independently and effectively deescalate, reducing the possibility for future crises. MRT services must include screening, standardized assessment, and referral to community services and engage children, young adults, and their families as active participants in the process when possible. The bill also requires that MRT providers develop a care plan, provide care coordination by facilitating referrals to community-based services, establish a process for obtaining informed consent, promote information sharing and the use of innovative technology, coordinate with the ME and other service providers and interested parties including schools, the Multiagency Network for Students with Emotional/Behavioral Disabilities (SEDNET), the child welfare system, and the DJJ.

When procuring MRT providers under the bill, MEs must:

- Collaborate with local law enforcement agencies and public schools in the planning, development, evaluation and selection processes;
- Require that services must be available 24 hours a day, seven days a week, with onsite response time to the location of the crisis within 60 minutes;

- Require the MRT provider to establish protocols with law enforcement agencies, community-based care lead agencies (CBCs), the child welfare system, and the DJJ;
- Require access to a board certified or board eligible psychiatrist or psychiatric nurse practitioner; and
- Require MRTs to develop referral processes for individuals served to an array of crisis response services that address individual and family needs, including screening, standardized assessments, early identification, and community services to address the immediate crisis.

Section 3 creates s. 394.4955, F.S., requiring each ME to develop a plan that promotes the development and effective implementation of a coordinated system of care to integrate services provided and funded through the state child serving systems to facilitate access to needed mental health services. The development of the plan must include a planning process led by the ME and must include the DCF, individuals served and their families, behavioral health providers, law enforcement agencies, school districts or superintendents, the SEDNET, representatives from the child welfare system, the DJJ, early learning coalitions, the AHCA, the Agency for Persons with Disabilities, Medicaid managed medical assistance plans, and other community partners. The bill requires that during the planning process, the ME and the collaborating organizations consider the geographical distribution of the population, needs, and resources, and create separate plans for each county or multi-county area to maximize local collaboration and communication.

To the extent permitted by available resources, the local coordinated system of care must include the services listed in s. 394.495, F.S. The bill also requires each local plan to be integrated with the local designated receiving system plan developed under s. 394.4573, F.S., and must document each coordinated system of care through written memoranda of understanding or other binding arrangements. The ME and collaborating organizations must also create integrated service delivery approaches within current resources that facilitate parents and caregivers obtaining services and supports by making referrals to specialized treatment providers, if necessary, with follow-up to ensure services are received as part of the plan. MEs must complete plans by July 1, 2021, for submission to the DCF. The ME and collaborating organizations are required to implement the coordinated system of care as specified in the plan by July 1, 2022, and must review and update, as necessary, the plans every three years thereafter. When implementing the coordinated system of care, MEs must also identify gaps in the services arrays that are listed in s. 394.495, F.S., for each plan and include any relevant information in their needs assessment required by s. 394.9082, F.S.

Section 4 amends s. 394.9082, F.S., requiring the DCF to consider adolescents who require assistance in transitioning to services provided by the adult system of care when defining the priority populations that will benefit receiving care coordination. The bill requires MEs to include a list and descriptions of gaps in the array of services for children and adolescents identified pursuant to s. 394.4955, F.S., and recommendations for addressing these gaps. The bill also requires MEs to promote the use of available crisis intervention services by requiring contracted service providers to provide MRT contact information to parents and caregivers of children, adolescents, and young adults between ages 18 and 25, who receive safety-net behavioral health services.

Section 5 amends s. 409.175, F.S., requiring preservice training for foster parents to include information about the local MRT, including contact information, as a means for addressing any behavioral health crisis or to prevent placement disruption.

Section 6 amends s. 409.967, F.S., requiring the AHCA to conduct or contract for systematic and continuous testing of provider network databases maintained by managed care plans in order to confirm that behavioral health providers are accepting enrollees, and confirm that enrollees have access to behavioral health services.

Section 7 amends s. 409.988, F.S., requiring that the CBCs ensure that all individuals providing care for dependent children receive contact information for the local MRTs.

Section 8 amends s. 985.601, F.S., requiring the DJJ to participate in the planning process for promoting a coordinated system of care for children and adolescents established in section 3 of the bill.

Section 9 amends s. 1003.02, F.S., requiring district school boards to participate in the planning process for promoting a coordinated system of care for children and adolescents established in section 3 of the bill.

Section 10 amends s. 1004.44, F.S., requiring the Louis De La Parte Florida Mental Health Institute (FMHI)³³ within the University of South Florida, to develop a model response protocol for schools to utilize MRTs by August 1, 2020 and sets minimum requirements for the response protocol. The FMHI must consult with school districts that effectively work with MRTs, school districts that use MRTs less often, law enforcement agencies, the DCF, MEs, and MRT providers.

Section 11 amends s. 1006.04, F.S., requiring the SEDNET to participate in the planning process for promoting a coordinated system of care for children and adolescents as established in section 3 of the bill.

Section 12 requires the DCF and the AHCA to assess the quality of care provided in crisis stabilization units to children and adolescents who are high utilizers of services. The bill requires the DCF and the AHCA to review current laws regarding licensure and designation under s. 394.461, F.S., and compare standards to other states and national standards to make recommendations for improvements. This assessment shall address efforts by facilities to gather and assess information regarding the child or adolescent, to create comprehensive discharge plans to effectively address the needs of the child to help avoid or reduce the need for future crisis stabilization services.

The bill requires the DCF and the AHCA to jointly submit a report of the findings and recommendations to the Governor, the Senate President, and the Speaker of the House of Representatives by November 15, 2020.

³³ The Louis De La Parte Florida Mental Health Institute is housed within the College of Behavioral and Community Sciences at the University of South Florida. Available at: <https://www.usf.edu/cbcs/fmhi/>.

Section 13 provides an effective date of July 1, 2020.

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:

Private sector providers of behavioral health services for children, adolescents, and adults ages 25 and under, will need to revise policies and procedures, generate new forms, and provide training to service provider staff and administrators on the new requirements in the bill. Additional staff may be required for some providers to meet the increased need for services and revised patient response time requirements. The fiscal impact of these changes is indeterminate.

The additional responsibilities under the bill will create a significant fiscal impact for MRTs. Requiring services to be provided within 60 minutes of a request will be difficult to provide given the current strained capacity of MRTs and that MRTs often provide services remotely (via telehealth or other means of electronic communication). Additionally, there will be a significant fiscal impact to MRTs if the teams are responsible for on-going care. Currently, MRTs are responsible for the hand off and transition to ongoing behavioral health and wraparound services. The agency or agencies are responsible for providing ongoing services to ensure the active participation of parents and children and continued treatment.

C. Government Sector Impact:**Department of Children and Families**

The DCF estimates that it will require one additional full-time employee (FTE) to carry out the duties of coordinating care for children and adolescents that are high utilizers of crisis stabilization services. The department estimates the recurring cost for the position to be \$85,281 from the General Revenue Fund.³⁴ However, the department should be able to absorb the additional workload within existing department resources.

To the extent more children and their families are referred to behavioral health services, a managing entity may incur an administrative workload increase.

The Agency for Health Care Administration

The AHCA estimates that it will require two additional FTEs to implement the behavioral health network adequacy requirements and data analysis outline in the bill. The agency estimates that the two staff positions will result in recurring costs of \$173,174 with \$86,587 being funded from the General Revenue Fund. However, the department should be able to absorb the additional workload within existing department resources.

School Districts

The bill requires public schools to collaborate with MEs in the planning, development evaluation and selection of MRT service providers. The fiscal impact to the school districts is expected to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.493, 394.495, 394.9082, 409.175, 409.967, 409.988, 985.601, 1003.02, 1004.44, and 1006.04.

This bill creates section 394.4955 of the Florida Statutes.

³⁴ The Department of Children and Families Agency Analysis, HB 945, Dec. 19, 2019. On file with the Senate Children, Families, and Elder Affairs Committee.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute:

- Removes the requirement for school districts to:
 - Develop agreements with managing entities for the referral of students to community-based behavioral health providers in order to receive mental health assistance allocation funding.
 - Use the services of MRTs to the extent services are available.

CS by Children, Families, and Elder Affairs on February 4, 2020:

- Requires the AHCA to continually test the managed care plan provider network databases to ensure that behavioral health providers are accepting enrollees and confirm that enrollees have access to behavioral health systems.

- B. **Amendments:**

None.



628406

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Powell) recommended the following:

Senate Amendment

Delete lines 152 - 154
and insert:
system, and the Department of Juvenile Justice.



661698

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 456 - 568.

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

And the title is amended as follows:

Delete lines 56 - 59

and insert:

Promoting a coordinated system of care; requiring the
Department

By the Committee on Children, Families, and Elder Affairs; and
Senator Powell

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20201440c1

1 A bill to be entitled
2 An act relating to children's mental health; amending
3 s. 394.493, F.S.; requiring the Department of Children
4 and Families and the Agency for Health Care
5 Administration to identify certain children and
6 adolescents who use crisis stabilization services
7 during specified fiscal years; requiring the
8 department and agency to collaboratively meet the
9 behavioral health needs of such children and
10 adolescents and submit a quarterly report to the
11 Legislature; amending s. 394.495, F.S.; including
12 crisis response services provided through mobile
13 response teams in the array of services available to
14 children and adolescents; requiring the department to
15 contract with managing entities for mobile response
16 teams to provide certain services to certain children,
17 adolescents, and young adults; providing requirements
18 for such mobile response teams; providing requirements
19 for managing entities when procuring mobile response
20 teams; creating s. 394.4955, F.S.; requiring managing
21 entities to develop a plan promoting the development
22 of a coordinated system of care for certain services;
23 providing requirements for the planning process;
24 requiring each managing entity to submit such plan by
25 a specified date; requiring the entities involved in
26 the planning process to implement such plan by a
27 specified date; requiring that such plan be reviewed
28 and updated periodically; amending s. 394.9082, F.S.;

29 revising the duties of the department relating to

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

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30 priority populations that will benefit from care
31 coordination; requiring that a managing entity's
32 behavioral health care needs assessment include
33 certain information regarding gaps in certain
34 services; requiring a managing entity to promote the
35 use of available crisis intervention services;
36 amending s. 409.175, F.S.; revising requirements
37 relating to preservice training for foster parents;
38 amending s. 409.967, F.S.; requiring the agency to
39 conduct, or contract for, the testing of provider
40 network databases maintained by Medicaid managed care
41 plans for specified purposes; amending s. 409.988,
42 F.S.; revising the duties of a lead agency relating to
43 individuals providing care for dependent children;
44 amending s. 985.601, F.S.; requiring the Department of
45 Juvenile Justice to participate in the planning
46 process for promoting a coordinated system of care for
47 children and adolescents; amending s. 1003.02, F.S.;

48 requiring each district school board to participate in
49 the planning process for promoting a coordinated
50 system of care; amending s. 1004.44, F.S.; requiring
51 the Louis de la Parte Florida Mental Health Institute
52 to develop, in consultation with other entities, a
53 model response protocol for schools; amending s.
54 1006.04, F.S.; requiring the educational multiagency
55 network to participate in the planning process for
56 promoting a coordinated system of care; amending s.
57 1011.62, F.S.; revising the elements of a plan
58 required for school district funding under the mental

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59 health assistance allocation; requiring the Department
60 of Children and Families and the Agency for Health
61 Care Administration to assess the quality of care
62 provided in crisis stabilization units to certain
63 children and adolescents; requiring the department and
64 agency to review current standards of care for certain
65 settings and make recommendations; requiring the
66 department and agency to jointly submit a report to
67 the Governor and the Legislature by a specified date;
68 providing an effective date.

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

71
72 Section 1. Subsection (4) is added to section 394.493,
73 Florida Statutes, to read:

74 394.493 Target populations for child and adolescent mental
75 health services funded through the department.—

76 (4) Beginning with fiscal year 2020-2021 through fiscal
77 year 2021-2022, the department and the Agency for Health Care
78 Administration shall identify children and adolescents who are
79 the highest utilizers of crisis stabilization services. The
80 department and agency shall collaboratively take appropriate
81 action within available resources to meet the behavioral health
82 needs of such children and adolescents more effectively, and
83 shall jointly submit to the Legislature a quarterly report
84 listing the actions taken by both agencies to better serve such
85 children and adolescents.

86 Section 2. Paragraph (q) is added to subsection (4) of
87 section 394.495, Florida Statutes, and subsection (7) is added

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88 to that section, to read:

89 394.495 Child and adolescent mental health system of care;
90 programs and services.—

91 (4) The array of services may include, but is not limited
92 to:

93 (q) Crisis response services provided through mobile
94 response teams.

95 (7) (a) The department shall contract with managing entities
96 for mobile response teams throughout the state to provide
97 immediate, onsite behavioral health crisis services to children,
98 adolescents, and young adults ages 18 to 25, inclusive, who:

99 1. Have an emotional disturbance;

100 2. Are experiencing an acute mental or emotional crisis;

101 3. Are experiencing escalating emotional or behavioral
102 reactions and symptoms that impact their ability to function
103 typically within the family, living situation, or community
104 environment; or

105 4. Are served by the child welfare system and are
106 experiencing or are at high risk of placement instability.

107 (b) A mobile response team shall, at a minimum:

108 1. Respond to new requests for services within 60 minutes
109 after such requests are made.

110 2. Respond to a crisis in the location where the crisis is
111 occurring.

112 3. Provide behavioral health crisis-oriented services that
113 are responsive to the needs of the child, adolescent, or young
114 adult and his or her family.

115 4. Provide evidence-based practices to children,
116 adolescents, young adults, and families to enable them to

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117 independently and effectively deescalate and respond to
 118 behavioral challenges that they are facing and to reduce the
 119 potential for future crises.

120 5. Provide screening, standardized assessments, early
 121 identification, and referrals to community services.

122 6. Engage the child, adolescent, or young adult and his or
 123 her family as active participants in every phase of the
 124 treatment process whenever possible.

125 7. Develop a care plan for the child, adolescent, or young
 126 adult.

127 8. Provide care coordination by facilitating the transition
 128 to ongoing services.

129 9. Ensure there is a process in place for informed consent
 130 and confidentiality compliance measures.

131 10. Promote information sharing and the use of innovative
 132 technology.

133 11. Coordinate with the managing entity within the service
 134 location and other key entities providing services and supports
 135 to the child, adolescent, or young adult and his or her family,
 136 including, but not limited to, the child, adolescent, or young
 137 adult's school, the local educational multiagency network for
 138 severely emotionally disturbed students under s. 1006.04, the
 139 child welfare system, and the juvenile justice system.

140 (c) When procuring mobile response teams, the managing
 141 entity must, at a minimum:

142 1. Collaborate with local sheriff's offices and public
 143 schools in the planning, development, evaluation, and selection
 144 processes.

145 2. Require that services be made available 24 hours per

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146 day, 7 days per week, with onsite response time to the location
 147 of the referred crisis within 60 minutes after the request for
 148 services is made.

149 3. Require the provider to establish response protocols
 150 with local law enforcement agencies, local community-based care
 151 lead agencies as defined in s. 409.986(3), the child welfare
 152 system, and the Department of Juvenile Justice. The response
 153 protocol with a school district shall be consistent with the
 154 model response protocol developed under s. 1004.44.

155 4. Require access to a board-certified or board-eligible
 156 psychiatrist or psychiatric nurse practitioner.

157 5. Require mobile response teams to refer children,
 158 adolescents, or young adults and their families to an array of
 159 crisis response services that address individual and family
 160 needs, including screening, standardized assessments, early
 161 identification, and community services as necessary to address
 162 the immediate crisis event.

163 Section 3. Section 394.4955, Florida Statutes, is created
 164 to read:

165 394.4955 Coordinated system of care; child and adolescent
 166 mental health treatment and support.-

167 (1) Pursuant to s. 394.9082(5)(d), each managing entity
 168 shall develop a plan that promotes the development and effective
 169 implementation of a coordinated system of care which integrates
 170 services provided through providers funded by the state's child-
 171 serving systems and facilitates access by children and
 172 adolescents, as resources permit, to needed mental health
 173 treatment and services at any point of entry regardless of the
 174 time of year, intensity, or complexity of the need, and other

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175 systems with which such children and adolescents are involved,
 176 as well as treatment and services available through other
 177 systems for which they would qualify.

178 (2) (a) The managing entity shall lead a planning process
 179 that includes, but is not limited to, children and adolescents
 180 with behavioral health needs and their families; behavioral
 181 health service providers; law enforcement agencies; school
 182 districts or superintendents; the multiagency network for
 183 students with emotional or behavioral disabilities; the
 184 department; and representatives of the child welfare and
 185 juvenile justice systems, early learning coalitions, the Agency
 186 for Health Care Administration, Medicaid managed medical
 187 assistance plans, the Agency for Persons with Disabilities, the
 188 Department of Juvenile Justice, and other community partners. An
 189 organization receiving state funding must participate in the
 190 planning process if requested by the managing entity.

191 (b) The managing entity and collaborating organizations
 192 shall take into consideration the geographical distribution of
 193 the population, needs, and resources, and create separate plans
 194 on an individual county or multi-county basis, as needed, to
 195 maximize collaboration and communication at the local level.

196 (c) To the extent permitted by available resources, the
 197 coordinated system of care shall include the array of services
 198 listed in s. 394.495.

199 (d) Each plan shall integrate with the local plan developed
 200 under s. 394.4573.

201 (3) By July 1, 2021, the managing entity shall complete the
 202 plans developed under this section and submit them to the
 203 department. By July 1, 2022, the entities involved in the

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204 planning process shall implement the coordinated system of care
 205 specified in each plan. The managing entity and collaborating
 206 organizations shall review and update the plans, as necessary,
 207 at least every 3 years thereafter.

208 (4) The managing entity and collaborating organizations
 209 shall create integrated service delivery approaches within
 210 current resources that facilitate parents and caregivers
 211 obtaining services and support by making referrals to
 212 specialized treatment providers, if necessary, with follow up to
 213 ensure services are received.

214 (5) The managing entity and collaborating organizations
 215 shall document each coordinated system of care for children and
 216 adolescents through written memoranda of understanding or other
 217 binding arrangements.

218 (6) The managing entity shall identify gaps in the arrays
 219 of services for children and adolescents listed in s. 394.495
 220 available under each plan and include relevant information in
 221 its annual needs assessment required by s. 394.9082.

222 Section 4. Paragraph (c) of subsection (3) and paragraphs
 223 (b) and (d) of subsection (5) of section 394.9082, Florida
 224 Statutes, are amended, and paragraph (t) is added to subsection
 225 (5) of that section, to read:

226 394.9082 Behavioral health managing entities.—

227 (3) DEPARTMENT DUTIES.—The department shall:

228 (c) Define the priority populations that will benefit from
 229 receiving care coordination. In defining such populations, the
 230 department shall take into account the availability of resources
 231 and consider:

232 1. The number and duration of involuntary admissions within

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233 a specified time.

234 2. The degree of involvement with the criminal justice
235 system and the risk to public safety posed by the individual.

236 3. Whether the individual has recently resided in or is
237 currently awaiting admission to or discharge from a treatment
238 facility as defined in s. 394.455.

239 4. The degree of utilization of behavioral health services.

240 5. Whether the individual is a parent or caregiver who is
241 involved with the child welfare system.

242 6. Whether the individual is an adolescent, as defined in
243 s. 394.492, who requires assistance in transitioning to services
244 provided in the adult system of care.

245 (5) MANAGING ENTITY DUTIES.—A managing entity shall:

246 (b) Conduct a community behavioral health care needs
247 assessment every 3 years in the geographic area served by the
248 managing entity which identifies needs by subregion. The process
249 for conducting the needs assessment shall include an opportunity
250 for public participation. The assessment shall include, at a
251 minimum, the information the department needs for its annual
252 report to the Governor and Legislature pursuant to s. 394.4573.
253 The assessment shall also include a list and descriptions of any
254 gaps in the arrays of services for children or adolescents
255 identified pursuant to s. 394.4955 and recommendations for
256 addressing such gaps. The managing entity shall provide the
257 needs assessment to the department.

258 (d) Promote the development and effective implementation of
259 a coordinated system of care pursuant to ss. 394.4573 and
260 394.495 ~~s. 394.4573~~.

261 (t) Promote the use of available crisis intervention

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262 services by requiring contracted providers to provide contact
263 information for mobile response teams established under s.
264 394.495 to parents and caregivers of children, adolescents, and
265 young adults between ages 18 and 25, inclusive, who receive
266 safety-net behavioral health services.

267 Section 5. Paragraph (b) of subsection (14) of section
268 409.175, Florida Statutes, is amended to read:

269 409.175 Licensure of family foster homes, residential
270 child-caring agencies, and child-placing agencies; public
271 records exemption.—

272 (14)

273 (b) As a condition of licensure, foster parents shall
274 successfully complete preservice training. The preservice
275 training shall be uniform statewide and shall include, but not
276 be limited to, such areas as:

277 1. Orientation regarding agency purpose, objectives,
278 resources, policies, and services;

279 2. Role of the foster parent as a treatment team member;

280 3. Transition of a child into and out of foster care,
281 including issues of separation, loss, and attachment;

282 4. Management of difficult child behavior that can be
283 intensified by placement, by prior abuse or neglect, and by
284 prior placement disruptions;

285 5. Prevention of placement disruptions;

286 6. Care of children at various developmental levels,
287 including appropriate discipline; ~~and~~

288 7. Effects of foster parenting on the family of the foster
289 parent; and

290 8. Information about and contact information for the local

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291 mobile response team as a means for addressing a behavioral
 292 health crisis or preventing placement disruption.

293 Section 6. Paragraph (c) of subsection (2) of section
 294 409.967, Florida Statutes, is amended to read:

295 409.967 Managed care plan accountability.—

296 (2) The agency shall establish such contract requirements
 297 as are necessary for the operation of the statewide managed care
 298 program. In addition to any other provisions the agency may deem
 299 necessary, the contract must require:

300 (c) Access.—

301 1. The agency shall establish specific standards for the
 302 number, type, and regional distribution of providers in managed
 303 care plan networks to ensure access to care for both adults and
 304 children. Each plan must maintain a regionwide network of
 305 providers in sufficient numbers to meet the access standards for
 306 specific medical services for all recipients enrolled in the
 307 plan. The exclusive use of mail-order pharmacies may not be
 308 sufficient to meet network access standards. Consistent with the
 309 standards established by the agency, provider networks may
 310 include providers located outside the region. A plan may
 311 contract with a new hospital facility before the date the
 312 hospital becomes operational if the hospital has commenced
 313 construction, will be licensed and operational by January 1,
 314 2013, and a final order has issued in any civil or
 315 administrative challenge. Each plan shall establish and maintain
 316 an accurate and complete electronic database of contracted
 317 providers, including information about licensure or
 318 registration, locations and hours of operation, specialty
 319 credentials and other certifications, specific performance

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320 indicators, and such other information as the agency deems
 321 necessary. The database must be available online to both the
 322 agency and the public and have the capability to compare the
 323 availability of providers to network adequacy standards and to
 324 accept and display feedback from each provider's patients. Each
 325 plan shall submit quarterly reports to the agency identifying
 326 the number of enrollees assigned to each primary care provider.
 327 The agency shall conduct, or contract for, systematic and
 328 continuous testing of the provider network databases maintained
 329 by each plan to confirm accuracy, confirm that behavioral health
 330 providers are accepting enrollees, and confirm that enrollees
 331 have access to behavioral health services.

332 2. Each managed care plan must publish any prescribed drug
 333 formulary or preferred drug list on the plan's website in a
 334 manner that is accessible to and searchable by enrollees and
 335 providers. The plan must update the list within 24 hours after
 336 making a change. Each plan must ensure that the prior
 337 authorization process for prescribed drugs is readily accessible
 338 to health care providers, including posting appropriate contact
 339 information on its website and providing timely responses to
 340 providers. For Medicaid recipients diagnosed with hemophilia who
 341 have been prescribed anti-hemophilic-factor replacement
 342 products, the agency shall provide for those products and
 343 hemophilia overlay services through the agency's hemophilia
 344 disease management program.

345 3. Managed care plans, and their fiscal agents or
 346 intermediaries, must accept prior authorization requests for any
 347 service electronically.

348 4. Managed care plans serving children in the care and

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 349 custody of the Department of Children and Families must maintain
 350 complete medical, dental, and behavioral health encounter
 351 information and participate in making such information available
 352 to the department or the applicable contracted community-based
 353 care lead agency for use in providing comprehensive and
 354 coordinated case management. The agency and the department shall
 355 establish an interagency agreement to provide guidance for the
 356 format, confidentiality, recipient, scope, and method of
 357 information to be made available and the deadlines for
 358 submission of the data. The scope of information available to
 359 the department shall be the data that managed care plans are
 360 required to submit to the agency. The agency shall determine the
 361 plan's compliance with standards for access to medical, dental,
 362 and behavioral health services; the use of medications; and
 363 followup on all medically necessary services recommended as a
 364 result of early and periodic screening, diagnosis, and
 365 treatment.

366 Section 7. Paragraph (f) of subsection (1) of section
 367 409.988, Florida Statutes, is amended to read:

368 409.988 Lead agency duties; general provisions.—

369 (1) DUTIES.—A lead agency:

370 (f) Shall ensure that all individuals providing care for
 371 dependent children receive:

372 1. Appropriate training and meet the minimum employment
 373 standards established by the department.

374 2. Contact information for the local mobile response team
 375 established under s. 394.495.

376 Section 8. Subsection (4) of section 985.601, Florida
 377 Statutes, is amended to read:

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 378 985.601 Administering the juvenile justice continuum.—
 379 (4) The department shall maintain continuing cooperation
 380 with the Department of Education, the Department of Children and
 381 Families, the Department of Economic Opportunity, and the
 382 Department of Corrections for the purpose of participating in
 383 agreements with respect to dropout prevention and the reduction
 384 of suspensions, expulsions, and truancy; increased access to and
 385 participation in high school equivalency diploma, vocational,
 386 and alternative education programs; and employment training and
 387 placement assistance. The cooperative agreements between the
 388 departments shall include an interdepartmental plan to cooperate
 389 in accomplishing the reduction of inappropriate transfers of
 390 children into the adult criminal justice and correctional
 391 systems. As part of its continuing cooperation, the department
 392 shall participate in the planning process for promoting a
 393 coordinated system of care for children and adolescents pursuant
 394 to s. 394.4955.

395 Section 9. Subsection (5) is added to section 1003.02,
 396 Florida Statutes, to read:

397 1003.02 District school board operation and control of
 398 public K-12 education within the school district.—As provided in
 399 part II of chapter 1001, district school boards are
 400 constitutionally and statutorily charged with the operation and
 401 control of public K-12 education within their school district.
 402 The district school boards must establish, organize, and operate
 403 their public K-12 schools and educational programs, employees,
 404 and facilities. Their responsibilities include staff
 405 development, public K-12 school student education including
 406 education for exceptional students and students in juvenile

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407 justice programs, special programs, adult education programs,
408 and career education programs. Additionally, district school
409 boards must:

410 (5) Participate in the planning process for promoting a
411 coordinated system of care for children and adolescents pursuant
412 to s. 394.4955.

413 Section 10. Present subsection (4) of section 1004.44,
414 Florida Statutes, is redesignated as subsection (5), and a new
415 subsection (4) is added to that section, to read:

416 1004.44 Louis de la Parte Florida Mental Health Institute.—
417 There is established the Louis de la Parte Florida Mental Health
418 Institute within the University of South Florida.

419 (4) By August 1, 2020, the institute shall develop a model
420 response protocol for schools to use mobile response teams
421 established under s. 394.495. In developing the protocol, the
422 institute shall, at a minimum, consult with school districts
423 that effectively use such teams, school districts that use such
424 teams less often, local law enforcement agencies, the Department
425 of Children and Families, managing entities as defined in s.
426 394.9082(2), and mobile response team providers.

427 Section 11. Paragraph (c) of subsection (1) of section
428 1006.04, Florida Statutes, is amended to read:

429 1006.04 Educational multiagency services for students with
430 severe emotional disturbance.—

431 (1)

432 (c) The multiagency network shall:

433 1. Support and represent the needs of students in each
434 school district in joint planning with fiscal agents of
435 children's mental health funds, including the expansion of

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436 school-based mental health services, transition services, and
437 integrated education and treatment programs.

438 2. Improve coordination of services for children with or at
439 risk of emotional or behavioral disabilities and their families
440 by assisting multi-agency collaborative initiatives to identify
441 critical issues and barriers of mutual concern and develop local
442 response systems that increase home and school connections and
443 family engagement.

444 3. Increase parent and youth involvement and development
445 with local systems of care.

446 4. Facilitate student and family access to effective
447 services and programs for students with and at risk of emotional
448 or behavioral disabilities that include necessary educational,
449 residential, and mental health treatment services, enabling
450 these students to learn appropriate behaviors, reduce
451 dependency, and fully participate in all aspects of school and
452 community living.

453 5. Participate in the planning process for promoting a
454 coordinated system of care for children and adolescents pursuant
455 to s. 394.4955.

456 Section 12. Paragraph (b) of subsection (16) of section
457 1011.62, Florida Statutes, is amended to read:

458 1011.62 Funds for operation of schools.—If the annual
459 allocation from the Florida Education Finance Program to each
460 district for operation of schools is not determined in the
461 annual appropriations act or the substantive bill implementing
462 the annual appropriations act, it shall be determined as
463 follows:

464 (16) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health

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465 assistance allocation is created to provide funding to assist
 466 school districts in establishing or expanding school-based
 467 mental health care; train educators and other school staff in
 468 detecting and responding to mental health issues; and connect
 469 children, youth, and families who may experience behavioral
 470 health issues with appropriate services. These funds shall be
 471 allocated annually in the General Appropriations Act or other
 472 law to each eligible school district. Each school district shall
 473 receive a minimum of \$100,000, with the remaining balance
 474 allocated based on each school district's proportionate share of
 475 the state's total unweighted full-time equivalent student
 476 enrollment. Charter schools that submit a plan separate from the
 477 school district are entitled to a proportionate share of
 478 district funding. The allocated funds may not supplant funds
 479 that are provided for this purpose from other operating funds
 480 and may not be used to increase salaries or provide bonuses.
 481 School districts are encouraged to maximize third-party health
 482 insurance benefits and Medicaid claiming for services, where
 483 appropriate.

484 (b) The plans required under paragraph (a) must be focused
 485 on a multitiered system of supports to deliver evidence-based
 486 mental health care assessment, diagnosis, intervention,
 487 treatment, and recovery services to students with one or more
 488 mental health or co-occurring substance abuse diagnoses and to
 489 students at high risk of such diagnoses. The provision of these
 490 services must be coordinated with a student's primary mental
 491 health care provider and with other mental health providers
 492 involved in the student's care. At a minimum, the plans must
 493 include the following elements:

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494 1. Direct employment of school-based mental health services
 495 providers to expand and enhance school-based student services
 496 and to reduce the ratio of students to staff in order to better
 497 align with nationally recommended ratio models. These providers
 498 include, but are not limited to, certified school counselors,
 499 school psychologists, school social workers, and other licensed
 500 mental health professionals. The plan also must identify
 501 strategies to increase the amount of time that school-based
 502 student services personnel spend providing direct services to
 503 students, which may include the review and revision of district
 504 staffing resource allocations based on school or student mental
 505 health assistance needs.

506 2. An interagency agreement or memorandum of understanding
 507 with the managing entity, as defined in s. 394.9082(2), that
 508 facilitates referrals of students to community-based services
 509 and coordinates care for students served by school-based and
 510 community-based providers. Such agreement or memorandum of
 511 understanding must address the sharing of records and
 512 information as authorized under s. 1006.07(7)(d) to coordinate
 513 care and increase access to appropriate services.

514 ~~3.2-~~ Contracts or interagency agreements with one or more
 515 local community behavioral health providers or providers of
 516 Community Action Team services to provide a behavioral health
 517 staff presence and services at district schools. Services may
 518 include, but are not limited to, mental health screenings and
 519 assessments, individual counseling, family counseling, group
 520 counseling, psychiatric or psychological services, trauma-
 521 informed care, mobile crisis services, and behavior
 522 modification. These behavioral health services may be provided

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523 on or off the school campus and may be supplemented by
524 telehealth.

525 ~~4.3-~~ Policies and procedures, including contracts with
526 service providers, which will ensure that:

527 a. Parents of students are provided information about
528 behavioral health services available through the students'
529 school or local community-based behavioral health services
530 providers, including, but not limited to, the mobile response
531 team as established in s. 394.495 serving their area. A school
532 may meet this requirement by providing information about and
533 Internet addresses for web-based directories or guides of local
534 behavioral health services as long as such directories or guides
535 are easily navigated and understood by individuals unfamiliar
536 with behavioral health delivery systems or services and include
537 specific contact information for local behavioral health
538 providers.

539 b. School districts use the services of the mobile response
540 teams to the extent that such services are available. Each
541 school district shall establish policies and procedures to carry
542 out the model response protocol developed under s. 1004.44.

543 c. Students who are referred to a school-based or
544 community-based mental health service provider for mental health
545 screening for the identification of mental health concerns and
546 ensure that the assessment of students at risk for mental health
547 disorders occurs within 15 days of referral. School-based mental
548 health services must be initiated within 15 days after
549 identification and assessment, and support by community-based
550 mental health service providers for students who are referred
551 for community-based mental health services must be initiated

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552 within 30 days after the school or district makes a referral.

553 d. Referrals to behavioral health services available
554 through other delivery systems or payors for which a student or
555 individuals living in the household of a student receiving
556 services under this subsection may qualify, if such services
557 appear to be needed or enhancements in those individuals'
558 behavioral health would contribute to the improved well-being of
559 the student.

560 ~~5.4-~~ Strategies or programs to reduce the likelihood of at-
561 risk students developing social, emotional, or behavioral health
562 problems, depression, anxiety disorders, suicidal tendencies, or
563 substance use disorders.

564 ~~6.5-~~ Strategies to improve the early identification of
565 social, emotional, or behavioral problems or substance use
566 disorders, to improve the provision of early intervention
567 services, and to assist students in dealing with trauma and
568 violence.

569 Section 13. The Department of Children and Families and the
570 Agency for Health Care Administration shall assess the quality
571 of care provided in crisis stabilization units to children and
572 adolescents who are high utilizers of crisis stabilization
573 services. The department and agency shall review current
574 standards of care for such settings applicable to licensure
575 under chapters 394 and 408, Florida Statutes, and designation
576 under s. 394.461, Florida Statutes; compare the standards to
577 other states' standards and relevant national standards; and
578 make recommendations for improvements to such standards. The
579 assessment and recommendations shall address, at a minimum,
580 efforts by each facility to gather and assess information

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581 regarding each child or adolescent, to coordinate with other
582 providers treating the child or adolescent, and to create
583 discharge plans that comprehensively and effectively address the
584 needs of the child or adolescent to avoid or reduce his or her
585 future use of crisis stabilization services. The department and
586 agency shall jointly submit a report of their findings and
587 recommendations to the Governor, the President of the Senate,
588 and the Speaker of the House of Representatives by November 15,
589 2020.

590 Section 14. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2020

I respectfully request that **Senate Bill #1440**, relating to Children's Mental Health, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Bobby Powell".

Senator Bobby Powell
Florida Senate, District 30

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20

Meeting Date

SB

1440

Bill Number (if applicable)

Topic CHILDREN MENTAL HEALTH

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title CEO

Address 122 S. CALHOUN ST

Street

Phone 850 570 5747

TALAHASSEE FL 32301

City

State

Zip

Email NATALIE@FLMANAGING ENTITIES.COM

Speaking: [X] 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: [X] Yes [] No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

1440
Bill Number (if applicable)

Topic Children Mental Health

Amendment Barcode (if applicable)

Name Beth Labusier

Job Title Consultant

Address 1400 Village Sq

Phone 850 322 7335

Tallev Fla 32312
City State Zip

Email bethlabusier@

Speaking: For Against Information

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

Representing Informed Families 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 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)

3/3/20
Meeting Date

1440
Bill Number (if applicable)

Topic Children's Mental Health

Amendment Barcode (if applicable)

Name Heather Davidson

Job Title Director, Public Policy

Address 1300 S. Andrews Ave.
Street

Phone 954 308-9277

Fort Lauderdale, FL 33316
City State Zip

Email hdavidson@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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

SB 1440
Bill Number (if applicable)

Topic Children's Mental Health

Amendment Barcode (if applicable)

Name Khanh-Lien ("Con Lynn") Banks

Job Title Resolutions Chair

Address 1747 Orlando Central Pkwy

Phone _____

Street

Orlando FL 32809

Email _____

City

State

Zip

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.

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 Appropriations

BILL: CS/SB 1500

INTRODUCER: Infrastructure and Security Committee and Senator Broxson

SUBJECT: Specialty License Plate Fees

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|-----------------------------|
| 1. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | Fav/CS |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | Recommend: Favorable |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1500 establishes a uniform annual use fee of \$25 per plate for all specialty license plates created after July 1, 2020. This uniform fee is not applied to specialty license plates for motorcycles.

The bill also establishes an annual use fee of \$25 for the Blue Angels license plate.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in statute.³

¹ A list of Florida's specialty license plates is available on the Department of Highway Safety and Motor Vehicles' website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 25, 2020).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁴ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁵

During the 2019 Legislative Session, a Blue Angels license plate was established. However, the development of the license plate was contingent upon the enactment of legislation creating an annual use fee under s. 320.08056, F.S., for the Blue Angels license plate.⁶

Department of Highway Safety and Motor Vehicles Costs Defrayed

The Department of Highway Safety and Motor Vehicles is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁷

III. Effect of Proposed Changes:

The bill amends s. 320.08056, F.S., to establish a uniform annual use fee of \$25 per plate for any specialty license plate created after July 1, 2020. The bill does not impact the \$20 uniform fee for motorcycle specialty license plates that is established in s. 320.08068, F.S.

The bill also establishes an annual use fee of \$25 for the Blue Angels license plate.

The bill has an effective date of July 1, 2020.

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:

Article VII, s.19 of the Florida Constitution requires “a supermajority vote” of two-thirds of the membership of each house to pass legislation which will impose or authorize a new

⁴ Section 320.08056(10)(a), F.S.

⁵ Section 320.08062, F.S.

⁶ Chapter 2019-144, s. 3, Laws of Fla.

⁷ Section 320.08056(7), F.S.

state tax or fee.⁸ A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”⁹ A state tax or fee imposed or authorized must be contained in a separate bill that contains no other subject.¹⁰

The \$25 annual use fee charged for a specialty license plate may be a new state fee subject to the constitutional requirements since it establishes a \$25 annual use fee for all specialty license plates created in statute after July 1, 2020, as well as for the Blue Angels license plate.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Those who wish to purchase a Blue Angels license plate will have to pay a \$25 annual use fee.

The Naval Aviation Museum Foundation may receive an indeterminate amount of revenue from the annual use fees from the sale of any Blue Angels license plate.

C. Government Sector Impact:

There may be an indeterminate, insignificant negative fiscal impact to the Department of Highway Safety and Motor Vehicles to establish the \$25 annual use fee for the Blue Angels license plate due to programming requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.08056 of the Florida Statutes.

⁸ FLA. CONST. art. VII, s. 19(a).

⁹ FLA. CONST. art. VII, s. 19(d)(1).

¹⁰ FLA. CONST. art. VII, s. 19(e).

IX. Additional Information:

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

CS by Infrastructure and Security on January 21, 2020:

- Provides a \$25 annual use fee for the Blue Angels license plate; and
- Provides that the license plate annual use fee for a specialty license plate created or established after July 1, 2020, will be \$25.

- B. **Amendments:**

None.

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

By the Committee on Infrastructure and Security; and Senator Broxson

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1 A bill to be entitled
2 An act relating to specialty license plate fees;
3 amending s. 320.08056, F.S.; providing a license plate
4 annual use fee for the Blue Angels license plate;
5 providing a license plate annual use fee to be
6 collected for specialty license plates created or
7 established after a specified date; providing an
8 effective date.

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

11
12 Section 1. Subsection (4) of section 320.08056, Florida
13 Statutes, is amended, and paragraph (d) of subsection (3) of
14 that section is republished, to read:

15 320.08056 Specialty license plates.—

16 (3) Each request must be made annually to the department or
17 an authorized agent serving on behalf of the department,
18 accompanied by the following tax and fees:

19 (d) A license plate annual use fee as required in
20 subsection (4).

21
22 A request may be made any time during a registration period. If
23 a request is made for a specialty license plate to replace a
24 current valid license plate, the specialty license plate must be
25 issued with appropriate decals attached at no tax for the plate,
26 but all fees and service charges must be paid. If a request is
27 made for a specialty license plate at the beginning of the
28 registration period, the tax, together with all applicable fees
29 and service charges, must be paid.

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30 (4) The following license plate annual use fees shall be
31 collected for the appropriate specialty license plates:
32 (a) Manatee license plate, \$25.
33 (b) Challenger/Columbia license plate, \$25, except that a
34 person that purchases 1,000 or more of such license plates shall
35 pay an annual use fee of \$15 per plate.
36 (c) Collegiate license plate, \$25.
37 (d) Florida Salutes Veterans license plate, \$15.
38 (e) Florida panther license plate, \$25.
39 (f) Florida United States Olympic Committee license plate,
40 \$15.
41 (g) Florida Special Olympics license plate, \$15.
42 (h) Florida educational license plate, \$20.
43 (i) Florida Professional Sports Team license plate, \$25.
44 (j) Florida Indian River Lagoon license plate, \$15.
45 (k) Invest in Children license plate, \$20.
46 (l) Florida arts license plate, \$20.
47 (m) Bethune-Cookman University license plate, \$25.
48 (n) Florida Agricultural license plate, \$20.
49 (o) Police Athletic League license plate, \$20.
50 (p) Boy Scouts of America license plate, \$20.
51 (q) Largemouth Bass license plate, \$25.
52 (r) Sea Turtle license plate, \$23.
53 (s) Protect Wild Dolphins license plate, \$20.
54 (t) Barry University license plate, \$25.
55 (u) Everglades River of Grass license plate, \$20.
56 (v) Keep Kids Drug-Free license plate, \$25.
57 (w) Florida Sheriffs Youth Ranches license plate, \$25.
58 (x) Conserve Wildlife license plate, \$25.

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59 (y) Florida Memorial University license plate, \$25.
 60 (z) Tampa Bay Estuary license plate, \$15.
 61 (aa) Florida Wildflower license plate, \$15.
 62 (bb) United States Marine Corps license plate, \$15.
 63 (cc) Choose Life license plate, \$20.
 64 (dd) Share the Road license plate, \$15.
 65 (ee) American Red Cross license plate, \$25.
 66 (ff) United We Stand license plate, \$25.
 67 (gg) Breast Cancer Research license plate, \$25.
 68 (hh) Protect Florida Whales license plate, \$25.
 69 (ii) Florida Golf license plate, \$25.
 70 (jj) Florida Firefighters license plate, \$20.
 71 (kk) Police Benevolent Association license plate, \$20.
 72 (ll) Military Services license plate, \$15.
 73 (mm) Protect Our Reefs license plate, \$25.
 74 (nn) Fish Florida license plate, \$22.
 75 (oo) Child Abuse Prevention and Intervention license plate,
 76 \$25.
 77 (pp) Hospice license plate, \$25.
 78 (qq) Stop Heart Disease license plate, \$25.
 79 (rr) Save Our Seas license plate, \$25, except that for an
 80 owner purchasing the specialty license plate for more than 10
 81 vehicles registered to that owner, the annual use fee shall be
 82 \$10 per plate.
 83 (ss) Aquaculture license plate, \$25, except that for an
 84 owner purchasing the specialty license plate for more than 10
 85 vehicles registered to that owner, the annual use fee shall be
 86 \$10 per plate.
 87 (tt) Family First license plate, \$25.

Page 3 of 5

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596-02440-20

20201500c1

88 (uu) Wildlife Foundation of Florida license plate, \$25.
 89 (vv) Live the Dream license plate, \$25.
 90 (ww) Florida Food Banks license plate, \$25.
 91 (xx) Discover Florida's Oceans license plate, \$25.
 92 (yy) Family Values license plate, \$25.
 93 (zz) Parents Make A Difference license plate, \$25.
 94 (aaa) Support Soccer license plate, \$25.
 95 (bbb) Kids Deserve Justice license plate, \$25.
 96 (ccc) Animal Friend license plate, \$25.
 97 (ddd) Future Farmers of America license plate, \$25.
 98 (eee) Donate Organs-Pass It On license plate, \$25.
 99 (fff) A State of Vision license plate, \$25.
 100 (ggg) Homeownership For All license plate, \$25.
 101 (hhh) Florida NASCAR license plate, \$25.
 102 (iii) Protect Florida Springs license plate, \$25.
 103 (jjj) Trees Are Cool license plate, \$25.
 104 (kkk) Support Our Troops license plate, \$25.
 105 (lll) Florida Tennis license plate, \$25.
 106 (mmm) Lighthouse Association license plate, \$25.
 107 (nnn) In God We Trust license plate, \$25.
 108 (ooo) Horse Country license plate, \$25.
 109 (ppp) Autism license plate, \$25.
 110 (qqq) St. Johns River license plate, \$25.
 111 (rrr) Hispanic Achievers license plate, \$25.
 112 (sss) Endless Summer license plate, \$25.
 113 (ttt) Fraternal Order of Police license plate, \$25.
 114 (uuu) Protect Our Oceans license plate, \$25.
 115 (vvv) Florida Horse Park license plate, \$25.
 116 (www) Florida Biodiversity Foundation license plate, \$25.

Page 4 of 5

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596-02440-20

20201500c1

- 117 (xxx) Freemasonry license plate, \$25.
- 118 (yyy) American Legion license plate, \$25.
- 119 (zzz) Lauren's Kids license plate, \$25.
- 120 (aaaa) Big Brothers Big Sisters license plate, \$25.
- 121 (bbbb) Fallen Law Enforcement Officers license plate, \$25.
- 122 (cccc) Florida Sheriffs Association license plate, \$25.
- 123 (dddd) Keiser University license plate, \$25.
- 124 (eeee) Moffitt Cancer Center license plate, \$25.
- 125 (ffff) Blue Angels license plate, \$25.

126

127 The license plate annual use fee for a specialty license plate
128 created or established after July 1, 2020, is \$25.

129 Section 2. This act shall take effect July 1, 2020.

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 Appropriations

BILL: SB 1542

INTRODUCER: Senators Stargel and Gibson

SUBJECT: Alzheimer's Disease

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|------------|-----------------------------|
| 1. | <u>Hendon</u> | <u>Hendon</u> | <u>CF</u> | Favorable |
| 2. | <u>Howard</u> | <u>Kidd</u> | <u>AHS</u> | Recommend: Favorable |
| 3. | <u>Howard</u> | <u>Kynoch</u> | <u>AP</u> | Favorable |

I. Summary:

SB 1542 makes changes to the state's Alzheimer's Disease Initiative in the Department of Elder Affairs (department). The bill creates the position of Dementia Director within the department to assist the Alzheimer's Disease Advisory Committee and assist with the development of the Alzheimer's disease state plan. The bill also makes minor changes to the incentive funding formula for the state's memory disorder clinics and the formula for respite care provided to families caring for persons with Alzheimer's disease or other forms of dementia.

The department can use existing resources to establish a Dementia Director position and to perform the required tasks as outlined in the bill.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and can lead to loss of the ability to carry on a conversation and respond to one's environment. Alzheimer's disease affects parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, what causes Alzheimer's disease is known.¹

There are an estimated 580,000 individuals living with Alzheimer's disease in the state of Florida.² By 2025, it is projected that 720,000 Floridians will have Alzheimer's disease.³ Most

¹ Centers for Disease Control and Prevention, Alzheimer's Disease and Healthy Aging website. See <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease>, last visited January 16, 2020.

² Alzheimer's Association. See <https://www.alz.org/media/Documents/florida-alzheimers-facts-figures-2018.pdf>, last visited January 16, 2020.

³ *Id.*

individuals with Alzheimer's can live in the community with support, often provided by spouses or other family members. In the late stages of the disease, many patients require care 24 hours a day and are often served in long-term care facilities.

The Legislature created the Alzheimer's Disease Initiative in 1985 to provide a continuum of services to meet the needs of individuals with Alzheimer's disease and similar memory disorders, and their families.⁴ The department coordinates and develops policy to carry out the statutory requirements for the Alzheimer's Disease Initiative. In conjunction with the Alzheimer's Disease Advisory Committee, the department implements the initiative through three components:

- Supportive services to offer counseling, consumable medical supplies, and respite for caregiver relief;
- Memory disorder clinics to provide diagnosis, research, treatment, education, and referrals; and
- A brain bank to support research on Alzheimer's and other forms of dementia.

Chapter 2012-172, L.O.F., created a Purple Ribbon Task Force within the department to address Alzheimer's disease. The task force reviewed trends in the disease, assessed the disease's impact on the state, examined needs and services, and developed a state response to Alzheimer's disease. The findings and recommendations of the task force became the foundation for the Alzheimer's disease state plan. The task force ended with the submission of its report and plan on August 1, 2013.

Chapter 2019-147, L.O.F., added members to the Alzheimer's Disease Advisory Committee and required the Alzheimer's disease state plan be updated every three years. The law also required annual reports to the Governor and Legislature. The annual report provides information on state-funded Alzheimer's disease research, clinical care, institutional, home-based and community-based programs, and recommendations on Alzheimer's disease policy and any proposed updates to the Alzheimer's disease state plan.

During Fiscal Year 2018-2019, 5,637 individuals received respite and support services, including case management; specialized medical equipment, services, and supplies; and caregiver counseling, support groups, and training.⁵ The memory disorder clinics provide comprehensive diagnostic and referral services for persons with Alzheimer's disease and related disorders. The clinics served 10,516 persons during Fiscal Year 2018-2019.⁶

III. Effect of Proposed Changes:

Section 1 amends s. 430.501, F.S., establishing the Alzheimer's Disease Advisory Committee to require that all state agencies provide assistance to the committee in conducting its work.

Section 2 creates s. 430.5015, F.S., to require the Department of Elder Affairs to establish the position of Dementia Director. The director is to be appointed by the Secretary of the department and is given the following duties:

⁴ Department of Elder Affairs, 2019 Summary of Program and Services. See <http://elderaffairs.state.fl.us/doea/sops.php>. Last visited January 16, 2020.

⁵ *Id.*

⁶ *Id.*

- Coordinate Alzheimer's disease policies and programs and related forms of dementia;
- Support the Alzheimer's Disease Advisory Committee and updates to the Alzheimer's disease state plan required under s. 430.501(3)(b)8, F.S.;
- Assist memory disorder clinics in meeting performance standards;
- Facilitate outreach programs and services that increase public awareness of Alzheimer's disease and related forms of dementia;
- Coordinate services and activities among agencies and groups involved in dementia research and programs; and
- Collect and analyze data on the impact of Alzheimer's disease in the state.

Section 3 amends s. 430.502, F.S., establishing memory disorder clinics in the state to conduct research on Alzheimer's disease and other forms of dementia. The bill updates the name of the memory disorder clinic in Orange County from "Florida Hospital" to "AdventHealth." The bill requires the department to include the increase in the amount of family care planning services in setting performance goals for incentive funding for memory clinics. The bill also revises the formula the department uses to distribute funding for respite care. The county population factor in the formula is changed from the number of persons 75 years of age or older to 70 years or older.

Section 4 provides an effective date of July 1, 2020.

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:

None.

C. Government Sector Impact:

The Department of Elder Affairs will need to ensure the duties of the Dementia Director are assigned to an appropriate position as required by the bill.

Revising the allocation formula for the provision of respite care to consider the number and proportion of the county population of individuals from the number of persons 75 years of age or older to 70 years or older will have a minimal impact on respite care funding for each Planning and Service Area.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 430.501 and 430.502.

This bill creates section 430.5015 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

By Senator Stargel

22-01222B-20

20201542__

1 A bill to be entitled
 2 An act relating to Alzheimer's disease; amending s.
 3 430.501, F.S.; requiring state agencies to provide
 4 assistance to the Alzheimer's Disease Advisory
 5 Committee, upon request; creating s. 430.5015, F.S.;
 6 creating the position of Dementia Director within the
 7 Department of Elderly Affairs; requiring the Secretary
 8 of Elderly Affairs to appoint the director;
 9 authorizing the director to call upon certain agencies
 10 for assistance; requiring the agencies to assist the
 11 director under certain circumstances; providing duties
 12 and responsibilities of the director; amending s.
 13 430.502, F.S.; making a technical change; revising
 14 incentive funding criteria for memory disorder
 15 clinics; revising the information the department must
 16 consider when developing the allocation formula for
 17 respite care; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Paragraph (b) of subsection (3) of section
 22 430.501, Florida Statutes, is amended to read:
 23 430.501 Alzheimer's Disease Advisory Committee; research
 24 grants.—

25 (3)(b)1. The Governor shall appoint members from a broad
 26 cross-section of public, private, and volunteer sectors. All
 27 nominations shall be forwarded to the Governor by the Secretary
 28 of Elderly Affairs in accordance with this subsection.

29 2. Members shall be appointed to 4-year staggered terms in

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30 accordance with s. 20.052, except for the sitting members of the
 31 Senate and House of Representatives, who shall be appointed to a
 32 term corresponding to their term of office.

33 3. The Secretary of Elderly Affairs shall serve as an ex
 34 officio member of the committee.

35 4. The committee shall elect one of its members to serve as
 36 chair for a term of 1 year.

37 5. The committee may establish subcommittees as necessary
 38 to carry out the functions of the committee.

39 6. The committee shall meet quarterly, or as frequently as
 40 needed.

41 7. The committee shall submit an annual report to the
 42 Governor, the President of the Senate, the Speaker of the House
 43 of Representatives, and the Secretary of Elderly Affairs on or
 44 before September 1 of each year. The annual report shall include
 45 information and recommendations on Alzheimer's disease policy;
 46 all state-funded efforts in Alzheimer's disease research,
 47 clinical care, institutional, home-based and community-based
 48 programs and the outcomes of such efforts; and any proposed
 49 updates to the Alzheimer's disease state plan submitted under
 50 subparagraph 8.

51 8. Beginning in 2020, and every third year thereafter, on
 52 or before November 1, the Department of Elderly Affairs shall
 53 review the Alzheimer's disease state plan and submit an updated
 54 state plan to the Governor, the President of the Senate, and the
 55 Speaker of the House of Representatives. The Department of
 56 Elderly Affairs shall utilize the annual reports submitted by
 57 the committee and collaborate with state Alzheimer's disease
 58 organizations and professionals when considering such updates to

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59 the Alzheimer's disease state plan. The state plan shall:
 60 a. Assess the current and future impact of Alzheimer's
 61 disease and related forms of dementia on the state.
 62 b. Examine the existing industries, services, and resources
 63 addressing the needs of persons having Alzheimer's disease or a
 64 related form of dementia and their family caregivers.
 65 c. Examine the needs of persons of all cultural backgrounds
 66 having Alzheimer's disease or a related form of dementia and how
 67 their lives are affected by the disease from younger-onset,
 68 through mid-stage, to late-stage.
 69 d. Develop a strategy to mobilize a state response to this
 70 public health crisis.
 71 e. Provide information regarding:
 72 (I) State trends with respect to persons having Alzheimer's
 73 disease or a related form of dementia and their needs,
 74 including, but not limited to:
 75 (A) The role of the state in providing community-based
 76 care, long-term care, and family caregiver support, including
 77 respite, education, and assistance to persons who are in the
 78 early stages of Alzheimer's disease, who have younger-onset
 79 Alzheimer's disease, or who have a related form of dementia.
 80 (B) The development of state policy with respect to persons
 81 having Alzheimer's disease or a related form of dementia.
 82 (C) Surveillance of persons having Alzheimer's disease or a
 83 related form of dementia for the purpose of accurately
 84 estimating the number of such persons in the state at present
 85 and projected population levels.
 86 (II) Existing services, resources, and capacity, including,
 87 but not limited to:

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88 (A) The type, cost, and availability of dementia-specific
 89 services throughout the state.
 90 (B) Policy requirements and effectiveness for dementia-
 91 specific training for professionals providing care.
 92 (C) Quality care measures employed by providers of care,
 93 including providers of respite, adult day care, assisted living
 94 facility, skilled nursing facility, and hospice services.
 95 (D) The capability of public safety workers and law
 96 enforcement officers to respond to persons having Alzheimer's
 97 disease or a related form of dementia, including, but not
 98 limited to, responding to their disappearance, search and
 99 rescue, abuse, elopement, exploitation, or suicide.
 100 (E) The availability of home and community-based services
 101 and respite care for persons having Alzheimer's disease or a
 102 related form of dementia and education and support services to
 103 assist their families and caregivers.
 104 (F) An inventory of long-term care facilities and
 105 community-based services serving persons having Alzheimer's
 106 disease or a related form of dementia.
 107 (G) The adequacy and appropriateness of geriatric-
 108 psychiatric units for persons having behavior disorders
 109 associated with Alzheimer's disease or a related form of
 110 dementia.
 111 (H) Residential assisted living options for persons having
 112 Alzheimer's disease or a related form of dementia.
 113 (I) The level of preparedness of service providers before,
 114 during, and after a catastrophic emergency involving a person
 115 having Alzheimer's disease or a related form of dementia and
 116 their caregivers and families.

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117 (III) Needed state policies or responses, including, but
 118 not limited to, directions for the provision of clear and
 119 coordinated care, services, and support to persons having
 120 Alzheimer's disease or a related form of dementia and their
 121 caregivers and families and strategies to address any identified
 122 gaps in the provision of services.

123 9. All state agencies shall provide assistance to the
 124 committee, upon request.

125 10. The Department of Elderly Affairs shall provide staff
 126 support to assist the committee in the performance of its
 127 duties.

128 ~~11.10.~~ Members of the committee and subcommittees shall
 129 receive no salary, but are entitled to reimbursement for travel
 130 and per diem expenses, as provided in s. 112.061, while
 131 performing their duties under this section.

132 Section 2. Section 430.5015, Florida Statutes, is created
 133 to read:

134 430.5015 Dementia Director.—

135 (1) The position of Dementia Director is created within the
 136 Department of Elderly Affairs. The Secretary of Elderly Affairs
 137 shall appoint the director and the director shall serve at the
 138 pleasure of the secretary.

139 (2) The director may call upon appropriate agencies of
 140 state government for assistance as is needed pursuant to s.
 141 430.04(13).

142 (3) The director shall:

143 (a) Facilitate coordination and support of policies and
 144 programs in the Legislature and the executive branch, including
 145 agencies of the executive branch, which relate to Alzheimer's

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146 disease and related forms of dementia.

147 (b) Facilitate coordination and support for the Alzheimer's
 148 Disease Advisory Committee and the implementation of and updates
 149 to the Alzheimer's disease state plan pursuant to s.
 150 430.501(3)(b)8.

151 (c) Provide support to memory disorder clinics to help the
 152 clinics meet or exceed the minimum performance standards under
 153 s. 430.502(3).

154 (d) Facilitate and support coordination of outreach
 155 programs and services between agencies, memory disorder clinics,
 156 area agencies on aging, and other interested groups for the
 157 purpose of fostering public awareness and education regarding
 158 Alzheimer's disease and related forms of dementia.

159 (e) Facilitate coordination of services and activities
 160 between groups interested in dementia research, programs, and
 161 services, including, but not limited to, area agencies on aging,
 162 service providers, advocacy groups, legal services, emergency
 163 personnel, law enforcement, and state colleges and universities.

164 (f) Collect and monitor data related to the impact of
 165 Alzheimer's disease in the state.

166 Section 3. Subsection (1), paragraph (a) of subsection (4),
 167 and subsection (8) of section 430.502, Florida Statutes, are
 168 amended to read:

169 430.502 Alzheimer's disease; memory disorder clinics and
 170 day care and respite care programs.—

171 (1) There is established:

172 (a) A memory disorder clinic at each of the three medical
 173 schools in this state;

174 (b) A memory disorder clinic at a major private nonprofit

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175 research-oriented teaching hospital, and may fund a memory
 176 disorder clinic at any of the other affiliated teaching
 177 hospitals;

178 (c) A memory disorder clinic at the Mayo Clinic in
 179 Jacksonville;

180 (d) A memory disorder clinic at the West Florida Regional
 181 Medical Center;

182 (e) A memory disorder clinic operated by Health First in
 183 Brevard County;

184 (f) A memory disorder clinic at the Orlando Regional
 185 Healthcare System, Inc.;

186 (g) A memory disorder center located in a public hospital
 187 that is operated by an independent special hospital taxing
 188 district that governs multiple hospitals and is located in a
 189 county with a population greater than 800,000 persons;

190 (h) A memory disorder clinic at St. Mary's Medical Center
 191 in Palm Beach County;

192 (i) A memory disorder clinic at Tallahassee Memorial
 193 Healthcare;

194 (j) A memory disorder clinic at Lee Memorial Hospital
 195 created by chapter 63-1552, Laws of Florida, as amended;

196 (k) A memory disorder clinic at Sarasota Memorial Hospital
 197 in Sarasota County;

198 (l) A memory disorder clinic at Morton Plant Hospital,
 199 Clearwater, in Pinellas County;

200 (m) A memory disorder clinic at Florida Atlantic
 201 University, Boca Raton, in Palm Beach County;

202 (n) A memory disorder clinic at AdventHealth Florida
 203 ~~Hospital~~ in Orange County; and

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204 (o) A memory disorder clinic at Miami Jewish Health System
 205 in Miami-Dade County,
 206
 207 for the purpose of conducting research and training in a
 208 diagnostic and therapeutic setting for persons suffering from
 209 Alzheimer's disease and related memory disorders. However,
 210 memory disorder clinics shall not receive decreased funding due
 211 solely to subsequent additions of memory disorder clinics in
 212 this subsection.

213 (4) The department shall develop performance goals that
 214 exceed the minimum performance standards developed under
 215 subsection (3), which goals must be achieved in order for a
 216 memory disorder clinic to be eligible for incentive funding
 217 above the base level, subject to legislative appropriation.
 218 Incentive funding shall be based on criteria including, but not
 219 limited to:

220 (a) Significant increase in the volume of clinical services
 221 and family care planning services.

222 (8) Pursuant to s. 287.057, the department shall contract
 223 for the provision of respite care. All funds appropriated for
 224 the provision of respite care shall be distributed annually by
 225 the department to each funded county according to an allocation
 226 formula. In developing the formula, the department shall
 227 consider the number and proportion of the county population of
 228 individuals who are 70 ~~75~~ years of age and older. Each respite
 229 care program shall be used as a resource for research and
 230 statistical data by the memory disorder clinics established in
 231 this part. In consultation with the memory disorder clinics, the
 232 department shall specify the information to be provided by the

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233 respite care programs for research purposes.

234 Section 4. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Education, *Chair*
Appropriations
Education
Ethics and Elections
Finance and Tax
Judiciary
Rules

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR KELLI STARGEL

22nd District

February 13, 2020

The Honorable Rob Bradley
Senate Committee on Appropriations, Chair
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I respectfully request that SB 1542, related to *Alzheimer's Disease*, be placed on the Appropriations meeting agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Cynthia Sauls Kynoch/Staff Director
Alicia Weiss/AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/03/2020

Meeting Date

SB 1542

Bill Number (if applicable)

Topic SB 1542

Amendment Barcode (if applicable)

Name Jon Conley

Job Title Director of state Affairs

Address 325 John Knox Rd.

Phone (850) 566-7478

Street

Tallahassee

FL

32301

Email jconley@alz.org

City

State

Zip

Speaking: For Against Information

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

Representing Alzheimer's 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
APPEARANCE RECORD

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

3-3-20

Meeting Date

SB 1542

Bill Number (if applicable)

Topic Alzheimers Disease

Amendment Barcode (if applicable)

Name Dorone Barker

Job Title Associate State Director

Address 215 S. Monroe St, Suite 603

Phone 850-228-6387

Street

Tallahassee

FL

32301

City

State

Zip

Email dobarker@aarpa.org

Speaking: For Against Information

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

Representing AARP FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1544

INTRODUCER: Health Policy Committee and Senator Albritton

SUBJECT: Long-term Care

DATE: March 2, 2020

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|--------------------|----------------|------------|-----------------------------|
| 1. <u>Looke</u> | <u>Brown</u> | <u>HP</u> | Fav/CS |
| 2. <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | Recommend: Favorable |
| 3. <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1544 amends section 409.979, Florida Statutes, to provide additional clarity for individuals on the Medicaid Long-Term Care Managed Care waitlist, regarding the likelihood that he or she will be eligible for services through the program, and amends section 430.205, Florida Statutes, to allow a community-care-for-the-elderly service provider to dispute a referral from protective investigations of an elderly adult determined to be in need of services or to be the victim of abuse.

The bill has an insignificant fiscal impact to the Department of Elder Affairs that can be absorbed with existing resources.¹ See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

Statewide Medicaid Managed Care

The Statewide Medicaid Managed Care (SMMC) program is an integrated managed care program for Medicaid enrollees to provide all mandatory and optional Medicaid benefits. In the SMMC program, each Medicaid recipient has one managed care organization to coordinate all

¹ Department of Elder Affairs, *SB 1544 Bill Analysis* (Jan. 23, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

health care services, rather than various entities.² The SMMC program is administered by the Agency for Health Care Administration (AHCA) and is financed with federal and state funds.³ Eligibility for the SMMC program is determined by the Department of Children and Families (DCF).⁴

Within the SMMC program, the Managed Medical Assistance (MMA) program provides primary and acute medical assistance and related services to enrollees. The Long-Term Care Managed Care (LTC) Program provides services to frail elderly or disabled Medicaid recipients in nursing facilities and in community settings, including an individual's home, an assisted living facility, or an adult family care home.

Implementation of the LTC Program required approval by the federal Centers for Medicare & Medicaid Services (CMS) by virtue of 1915(b) and (c) waivers submitted by the AHCA. The waivers were approved on February 1, 2013, and authorized the LTC Program to operate effective July 1, 2013, through June 30, 2016.⁵ Initial enrollment into the LTC Program began August 1, 2013. The current LTC Program waiver is authorized through December 27, 2021.⁶

Long-Term Care Program

The LTC Program provides long term care services, including nursing facility and home and community based services, to eligible Medicaid recipients.

Federal law requires state Medicaid programs to provide nursing facility services to individuals, age 21 or older, who are in need of nursing facility care.⁷ States are prohibited from limiting access to nursing facility services, but the provision of home and community-based services is optional.⁸ Home and community based services in Florida are delivered through a federal 1915(c), home and community-based services waiver.⁹ The waiver establishes that home and community based LTC services are available to qualified recipients, subject to an enrollment cap. As such, the LTC program is managed based on a priority enrollment system and a waitlist for individuals who are not high-priority clients. Delivery of home and community based services to eligible recipients is dependent on the availability of annual funding.

² This comprehensive coordinated system of care was first successfully implemented in the 5-county Medicaid reform pilot program from 2006-2014.

³ Section 409.963, F.S.

⁴ *Id.*

⁵ Letter from U.S. Department of Health and Human Services, Disabled and Elderly Health Programs Group to Justin Senior, Deputy Secretary for Medicaid, Agency for Health Care Administration (February 1, 2013), *available at* http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/mma/Signed_approval_FL0962_new_1915c_02-01-2013.pdf (last visited Jan. 31, 2020).

⁶ Letter from U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, Division of Medicaid & Children's Health Operations to Beth Kidder, Interim Deputy Secretary for Medicaid, Agency for Health Care Administration (December 19, 2016), *available at* https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/LTC_Approval_Letter_2016-12-19.pdf (last visited Feb. 19, 2020).

⁷ Medicaid.gov, *Nursing Facilities*, *available at* <https://www.medicaid.gov/medicaid/long-term-services-supports/institutional-long-term-care/nursing-facilities/index.html> (last visited Jan. 31, 2020).

⁸ *Id.*

⁹ Section 409.906(13), F.S.

As of December 31, 2019, there were 116,507 individuals enrolled in the LTC Program, including 65,822 individuals enrolled in the home and community-based services portion of the LTC Program, and 50,685 individuals receiving nursing facility services.¹⁰

Long-Term Care Managed Care plans are required to, at a minimum, cover the following:

- Nursing facility care;
- Services provided in assisted living facilities;
- Hospice;
- Adult day care;
- Medical equipment and supplies, including incontinence supplies;
- Personal care;
- Home accessibility adaptation;
- Behavior management;
- Home-delivered meals;
- Case Management;
- Occupation therapy;
- Speech therapy;
- Respiratory therapy;
- Physical therapy;
 - Intermittent and skilled nursing;
 - Medication administration;
 - Medication Management;
 - Nutritional assessment and risk reduction;
 - Caregiver training;
 - Respite care;
 - Transportation; and
 - Personal emergency response systems.¹¹

LTC Program Eligibility

To be eligible for the LTC Program, an individual must:

- Be age 65 or older and eligible for Medicaid, or age 18 or older and eligible for Medicaid by reason of a disability;
- Have annual income at or below 222 percent of the federal poverty level (FPL);¹² and,
- Be in need of nursing home care, as determined by the Comprehensive Assessment Review and Evaluation for Long-Term Care Services (CARES) Program.¹³

In addition, an individual seeking Medicaid eligibility must demonstrate that he or she meets limits on personal assets. Both federal and state law set parameters for Medicaid LTC eligibility

¹⁰ Agency for Health Care Administration, *SMMC LTC Enrollment by County/Plan Report* (as of December 31, 2019), available at http://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited Jan. 31, 2020).

¹¹ Section 409.98, F.S.

¹² This equates to \$28,327 for an individual and \$38,273 for a family of two. For 2020 FPL standards, see U.S. Department of Health and Human Services, *HHS Poverty Guidelines for 2020* (January 8, 2020), available at <https://aspe.hhs.gov/poverty-guidelines> (last visited Jan. 31, 2020).

¹³ Section 409.979(1), F.S.

based on personal property, such as a home or vehicle, and on financial assets, such as bank accounts, stocks and bonds, and life insurance policies.¹⁴ Life insurance policies with a cash value greater than \$1,500 may not be retained by individuals seeking Medicaid eligibility. Generally, assets above certain cash thresholds must be divested at least 60 months prior to a period of Medicaid eligibility.¹⁵

When determining the need for nursing facility care, the Department of Elder Affairs (DOEA) considers the nature of the services prescribed, the level of nursing or other health care personnel necessary to provide such services, and the availability of and access to community or alternative resources.¹⁶ Imminent risk of nursing home placement can be evidenced by the need for medical observation throughout a 24-hour period and the need for care performed on a daily basis by, or under the direct supervision of, a registered nurse or other health care professional. An individual at risk of nursing home care requires services that are sufficiently medically complex to require supervision, assessment, planning, or intervention by a registered nurse because of a mental or physical incapacitation.¹⁷

LTC Program Enrollment

The DOEA administers programs and services for elders through 11 Area Agencies on Aging (AAAs), which also operate Aging and Disability Resource Centers (ADRCs). The ADRCs provide information and referral services to individuals seeking long-term care services and also screen individuals for eligibility for long-term care services.

The LTC Program enrollment process is administered by the DOEA, the Department of Children and Families (DCF), and the AHCA. An individual in need of services or seeking services must contact the appropriate ADRC to request a screening. The screening is intended to provide the ADRC with information describing the individual's level of frailty. During the screening, the ADRC gathers basic information about the individual, including general health information and any assistance the individual needs with activities of daily living. Based on the screening, the individual receives a priority score, which indicates the level of need for services and reflects the level of the individual's frailty. Using the priority score, the individual is then placed on the waitlist. An individual seeking LTC services may request a rescreening any time his or her circumstances change. In addition, ADRC staff are required to rescreen waitlisted individuals on an annual basis.¹⁸

The prioritization of the waitlist is not described in statute but rather in administrative rule promulgated by the AHCA.¹⁹ The rule sets five frailty-based levels based on the priority score calculation by the DOEA. The levels rank the individual's level of need in ascending order,

¹⁴ U.S. Department of Health and Human Services, *Financial Requirements – Assets* (last modified October 10, 2017), available at <https://longtermcare.acl.gov/medicare-medicaid-more/medicaid/medicaid-eligibility/financial-requirements-assets.html> (last visited Jan. 31, 2020).

¹⁵ 42 U.S.C. §1396p. See also Agency for Health Care Administration, *Medicaid State Plan Attachments – Eligibility Conditions and Requirements*, available at https://ahca.myflorida.com/medicaid/stateplan_attach.shtml (last visited Jan. 31, 2020).

¹⁶ Section 409.985(3), F.S.

¹⁷ Section 409.985(3), F.S.

¹⁸ Section 409.979(3), F.S.

¹⁹ Rule 59G-4.193, F.A.C.

meaning that an individual with a priority score of “1” has very low needs and an individual with a priority score of “5” has very high needs.

When funding becomes available, the frailest individuals are taken off the waitlist first, based upon priority score. The individual must then go through a comprehensive face-to-face assessment conducted by the local CARES staff.²⁰ After CARES confirms the medical eligibility of the individual, the DCF determines the financial eligibility of the individual. If the individual is approved for both medical and financial eligibility, the AHCA must notify him or her and provide information on selecting a long-term care managed care plan.

Because the waitlist is prioritized, it is highly unlikely that individuals with low priority scores will actually receive services. It is the DOEA’s current practice to add any individual who completes the initial needs screening to the wait list, even if he or she has very limited need for services and is unlikely to qualify for services in the near future. This approach may be confusing to individuals with low priority scores, giving the impression that services will become available at some point in time. In practice, only individuals with high priority scores will receive services. Current law stipulates an individual may request a rescreening if his or her circumstances change, which allows individuals with low priority scores the ability to move up the waitlist if need can be demonstrated.

Community Care for the Elderly

The Community Care for the Elderly (CCE) program provides community-based services in a continuum of care to help elders with functional impairments to live in the least restrictive and most cost-effective environment suitable to their needs.²¹

The CCE program provides a wide range of services to clients, depending on their needs. These services include, but are not limited to, adult day care, chore assistance, counseling, home-delivered meals, home nursing, legal assistance, material aid, medical therapeutic services, personal care, respite, transportation, and other community-based services.²²

The DOEA administers the program through contracts with AAAs, which subcontract with CCE Lead Agencies. Service delivery is provided by 52 Lead Agencies around the state. The CCE program is not a component of Medicaid but rather is funded by a combination of state general

²⁰ Florida Department of Elder Affairs, *Comprehensive Assessment and Review for Long-Term Care Services (CARES)*, available at <http://elderaffairs.state.fl.us/does/cares.php> (last visited Jan. 24, 2020). Comprehensive Assessment and Review for Long-Term Care Services (CARES) is Florida’s federally mandated pre-admission screening program for nursing home applicants. A registered nurse or assessor performs client assessments. A physician or registered nurse reviews each application to determine the level of care that is most appropriate for the applicant. The assessment identifies long-term care needs, and establishes the appropriate level of care (medical eligibility for nursing facility care), and recommends the least restrictive, most appropriate placement. Federal law also mandates that the CARES Program perform an assessment or review of each individual who requests Medicaid reimbursement for nursing facility placement, or who seeks to receive home and community-based services through Medicaid waivers.

²¹ Section 430.202, F.S.

²² Department of Elderly Affairs, *2019 Summary of Programs and Services – Section C: State General Revenue Programs* (January 2019), available at <http://elderaffairs.state.fl.us/does/sops.php> (last visited Jan. 31, 2020).

revenue and client contributions. Clients are assessed a co-payment based on a sliding scale developed by the DOEA.²³

To be eligible for the CCE program, an individual must be age 60 or older and functionally impaired,²⁴ as determined by an initial comprehensive assessment and annual reassessments. Primary consideration for services is given to elders referred to the DCF's Adult Protective Services (APS) and determined by APS to be victims of abuse, neglect, or exploitation and in need of immediate services to prevent further harm.²⁵ Individuals not referred by APS may still receive services, but according to a prioritization which is based upon the potential recipient's frailty level and likelihood of institutional placement. The DOEA is also required to consider an applicant's income when prioritizing services. Those less able to pay for services must receive higher priority than those with a greater ability to pay for services.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 409.979, F.S., to specify that Medicaid Long-Term Care Managed Care eligibility screenings, both annual and upon notification of a significant change in an individual's circumstances, are required for individuals with a high priority score and are not required, but are authorized, for individuals with a low priority score. After completing a screening or rescreening, the DOEA is required to place all individuals with a high priority score on the waitlist. The DOEA must maintain contact information for individuals with low priority scores and ADRC personnel must inform individuals with a low priority score of community resources available to assist them and inform them that they may contact the ADRC for a new assessment at any time if they experience a change in circumstances.

Section 2 amends s. 430.205, F.S., to allow a CCE service provider to dispute a referral from protective investigations of an elderly adult determined to be in need of services or to be the victims of abuse by requesting that the adult protective services program negotiate the referral placement of, and services provided to, the adult. If an agreement cannot be reached with the APS program, the program's recommendation prevails.

Section 3 establishes an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²³ *Id.*

²⁴ Section 430.203(7), F.S.

²⁵ Section 430.205(5)(a), F.S.

²⁶ Section 430.205(5)(b), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1544 requires updates to the database, application, and supporting reports to accommodate the designations of high priority score and low priority score. The DOEA can absorb these updates within existing resources.²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 2 of the bill republishes current statutory language requiring vulnerable elderly persons to begin to receive services from the CCE services provider within 72 hours of being referred to the provider by protective investigations. The bill's new language added in that section allows the service provider to dispute such referral; however, it is unclear whether the bill would require this dispute to be resolved within the 72-hour time frame established in current law. The bill may need to be clarified on this point.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.979 and 430.205.

²⁷ *Supra* note 1.

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 Health Policy on February 4, 2020:

The CS eliminates provisions of the underlying bill related to exempting the value of life insurance policies from an applicant's assets when applying for Medicaid. The bill also revises language related to placement of individuals on the LTC waitlist to make technical changes.

- B. **Amendments:**

None.

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



949078

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 03/03/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment (with title amendment)

Between lines 73 and 74

insert:

Section 2. Subsection (15) is added to section 430.04, Florida Statutes, to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

(15) Develop and adopt by rule a protocol for comprehensive assessment of long-term care supports and services needed by



949078

11 family and friend caregivers for elderly adults and disabled
12 adults. If relevant, decisionmakers using state funds for long-
13 term care supports and services must use this protocol when
14 making eligibility determinations and when determining which of
15 those supports and services are appropriate for service
16 recipients and their caregivers.

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Between lines 13 and 14

21 insert:

22 amending s. 430.04, F.S.; requiring the department to
23 develop and adopt by rule a protocol for comprehensive
24 assessment of certain long-term care supports and
25 services; requiring certain persons using state funds
26 for long-term care supports and services to use the
27 protocol for certain purposes;



534830

LEGISLATIVE ACTION

| | | |
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| Senate | . | House |
| Comm: WD | . | |
| 03/03/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete lines 96 - 98
and insert:
of abuse, neglect, or exploitation. The dispute must be resolved
within the 72-hour period. If an agreement cannot be reached
with adult protective services for modification of the referral
decision within such timeframe, the determination by adult
protective



534830

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

12 And the title is amended as follows:

13 Delete lines 16 - 17

14 and insert:

15 referrals; requiring that such disputes be resolved
16 within a certain timeframe; providing that a referral
17 decision by adult protective service prevails if an
18 agreement cannot be reached within such timeframe;
19 providing an effective

By the Committee on Health Policy; and Senator Albritton

588-03089-20

20201544c1

1 A bill to be entitled
 2 An act relating to long-term care; amending s.
 3 409.979, F.S.; requiring aging resource center
 4 personnel to annually rescreen certain individuals
 5 with high priority scores for purposes of the
 6 statewide wait list for enrollment for home and
 7 community-based services; authorizing such personnel
 8 to administer rescreening for certain individuals with
 9 low priority scores; requiring the Department of
 10 Elderly Affairs to maintain contact information for
 11 individuals with low priority scores for rescreening
 12 purposes; requiring aging resource center personnel to
 13 inform such individuals of community resources;
 14 amending s. 430.205, F.S.; authorizing community-care-
 15 for-the-elderly services providers to dispute certain
 16 referrals; providing that a referral decision by adult
 17 protective service prevails; providing an effective
 18 date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Paragraphs (a) and (b) of subsection (3) of
 23 section 409.979, Florida Statutes, are amended to read:

24 409.979 Eligibility.—

25 (3) WAIT LIST, RELEASE, AND OFFER PROCESS.—The Department
 26 of Elderly Affairs shall maintain a statewide wait list for
 27 enrollment for home and community-based services through the
 28 long-term care managed care program.

29 (a) The Department of Elderly Affairs shall prioritize

Page 1 of 4

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

588-03089-20

20201544c1

30 individuals for potential enrollment for home and community-
 31 based services through the long-term care managed care program
 32 using a frailty-based screening tool that results in a priority
 33 score. The priority score is used to set an order for releasing
 34 individuals from the wait list for potential enrollment in the
 35 long-term care managed care program. If capacity is limited for
 36 individuals with identical priority scores, the individual with
 37 the oldest date of placement on the wait list shall receive
 38 priority for release.

39 1. Pursuant to s. 430.2053, aging resource center personnel
 40 certified by the Department of Elderly Affairs shall perform the
 41 screening for each individual requesting enrollment for home and
 42 community-based services through the long-term care managed care
 43 program. The Department of Elderly Affairs shall request that
 44 the individual or the individual's authorized representative
 45 provide alternate contact names and contact information.

46 2. The individual requesting the long-term care services,
 47 or the individual's authorized representative, must participate
 48 in an initial screening or rescreening for placement on the wait
 49 list. The screening or rescreening must be completed in its
 50 entirety before placement on the wait list.

51 3. Pursuant to s. 430.2053, aging resource center personnel
 52 shall administer rescreening annually or upon notification of a
 53 significant change in an individual's circumstances for an
 54 individual with a high priority score. Aging resource center
 55 personnel may administer rescreening annually or upon
 56 notification of a significant change in an individual's
 57 circumstances for an individual with a low priority score.

58 4. The Department of Elderly Affairs shall adopt by rule a

Page 2 of 4

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

588-03089-20

20201544c1

59 screening tool that generates the priority score, and shall make
60 publicly available on its website the specific methodology used
61 to calculate an individual's priority score.

62 (b) Upon completion of the screening or rescreening
63 process, the Department of Elderly Affairs shall notify the
64 individual or the individual's authorized representative that
65 the individual has been placed on the wait list, unless the
66 individual has a low priority score. The Department of Elderly
67 Affairs must maintain contact information for each individual
68 with a low priority score for purposes of any future
69 rescreening. Aging resource center personnel shall inform
70 individuals with low priority scores of community resources
71 available to assist them and inform them that they may contact
72 the aging resource center for a new assessment at any time if
73 they experience a change in circumstances.

74 Section 2. Paragraph (a) of subsection (5) of section
75 430.205, Florida Statutes, is amended to read:

76 430.205 Community care service system.—

77 (5) Any person who has been classified as a functionally
78 impaired elderly person is eligible to receive community-care-
79 for-the-elderly core services.

80 (a) Those elderly persons who are determined by protective
81 investigations to be vulnerable adults in need of services,
82 pursuant to s. 415.104(3)(b), or to be victims of abuse,
83 neglect, or exploitation who are in need of immediate services
84 to prevent further harm and are referred by the adult protective
85 services program, shall be given primary consideration for
86 receiving community-care-for-the-elderly services. As used in
87 this paragraph, "primary consideration" means that an assessment

Page 3 of 4

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

588-03089-20

20201544c1

88 and services must commence within 72 hours after referral to the
89 department or as established in accordance with department
90 contracts by local protocols developed between department
91 service providers and the adult protective services program.
92 Regardless, a community-care-for-the-elderly services provider
93 may dispute a referral under this paragraph by requesting that
94 adult protective services negotiate the referral placement of,
95 and the services to be provided to, a vulnerable adult or victim
96 of abuse, neglect, or exploitation. If an agreement cannot be
97 reached with adult protective services for modification of the
98 referral decision, the determination by adult protective
99 services shall prevail.

100 Section 3. This act shall take effect July 1, 2020.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 21, 2020

I respectfully request that **Senate Bill #1544**, relating to Long Term Care, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/2/2020
Meeting Date

1544
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name MARCUS DIXON

Job Title EXECUTIVE DIRECTOR

Address 2881 Corporate Way
Street
Miramar FL 33028
City State Zip

Phone (305) 20-1627

Email Marcus.Dixon@seiufl.org

Speaking: For Against Information

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

Representing SEIU Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 3, 2020

Meeting Date

SB 1544

Bill Number (if applicable)

Topic Long Term Care

Amendment Barcode (if applicable)

Name Robert S. Beck

Job Title Partner

Address 150 S. Monroe St., Suite 303

Phone 850-766-1410

Street

Tallahassee

FL

32301

Email robert@pinpointresults.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida's Aging & Disability Resource Centers

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)

3/3/2020

Meeting Date

SB 1544

Bill Number (if applicable)

Topic Long-Term Care

Amendment Barcode (if applicable)

Name Tanya C. Jackson

Job Title _____

Address 150 S. Monroe St., Suite 303

Phone 850-445-0107

Street

Tallahassee

FL

32301

Email Tanya@PinPointResults.com

City

State

Zip

Speaking: For Against Information

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

Representing SEIU1199 United Healthcare Workers

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)

3/3/20
Meeting Date

SB 1544
Bill Number (if applicable)

Topic Long-Term Care

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 215 South Monroe St, Suite 603

Phone 850 228-6387

Tallahassee FL 32308
City State Zip

Email dobarker@arp.org

Speaking: For Against Information

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

Representing AARP FL

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)

3/3/20
Meeting Date

1544
Bill Number (if applicable)

Topic Long term care

Amendment Barcode (if applicable)

Name Melody Arnold

Job Title ASSOC. DIRECTOR OF GOVT AFFAIRS

Address 307 W. PARK AVE
Street

Phone 850 224 3907

TUT
City

FL
State

32301
Zip

Email marnold@fhaa.org

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.

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 Appropriations

BILL: SB 1570

INTRODUCER: Senator Perry

SUBJECT: Division of Library and Information Services

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|------------|-----------------------------|
| 1. | <u>Ponder</u> | <u>McVaney</u> | <u>GO</u> | Favorable |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | Recommend: Favorable |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | Pre-meeting |

I. Summary:

SB 1570 consolidates and clarifies the responsibilities and duties of the Division of Library and Information Services (division) within the Department of State, in part to better reflect current practices.

The bill requires the certification of funds provided to libraries to be given to the Chief Financial Officer *annually* – as opposed to by December 1 of each year, as provided under current law. The bill repeals responsibilities and duties that the division does not currently undertake, including efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government and the preservation of duplicate records. The bill also repeals s. 257.34, F.S., relating to the creation, duties and responsibilities of the Florida International Archive and Repository. The division has adequate authority pursuant to section 257.35, Florida Statutes, relating to the Florida State Archives, to continue to perform this function.

The bill specifies that the division is responsible for setting standards and guidelines for the retention, storage, security, and disposal of records and clarifies the division’s specific responsibilities when records are stored by other agencies in a record center it operates. The bill also specifies the role and responsibility of an agency’s records management liaison officer.

Related to library cooperative grants, the bill removes the cap of \$400,000 on an annual grant from the state available to the administrative unit of a library cooperative for the purpose of sharing library resources. With the removal of the statutory cap of \$400,000, the bill will have an indeterminate impact for multitype library cooperatives who seek funds under the library cooperative grant program.

The bill will take effect on July 1, 2020.

II. Present Situation:

The Division of Library and Information Services – Allocation of State Funds

State funds allocated to libraries must be expended only for library purposes in the manner prescribed by the division. Such funds may not be expended for the purchase or construction of a library building or library quarters except such funds specifically appropriated for construction purposes.¹

The division must establish operating standards under which libraries and library cooperatives will be eligible to receive state funds² The division is required to certify to the Chief Financial Officer the amount of funds paid to each county, municipality, special district, or special tax district on or before December 1 of each year.³

The Florida International Archive and Repository and the Florida State Archives

Section 257.34, F.S., establishes the Florida International Archive and Repository within the division for the preservation of public records,⁴ including manuscripts, international judgements involving disputes between domestic and foreign business, and all other public matters that the Department of State or the Florida Council of International Relations deems relevant to international issues. The division is charged with:

- Organizing and administering the Florida International Archive and Repository;
- Preserving and administering records that are transferred to its custody;⁵
- Permitting records to be inspected and copied at reasonable times and under the supervision of the division;⁶
- Assisting the records and information management program in the determination of retention values for records;
- Cooperating with and assisting state institutions, departments, agencies, counties, municipalities, and individuals engaged in internationally related activities;
- Providing a public research room where, under rules established by the division, the materials in the international archive and repository may be studied;
- Conducting, promoting, and encouraging research in international trade, government, and culture and maintaining a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperating with and assisting agencies, libraries, institutions, and individuals in projects concerned with internationally related issues;
- Preserving original materials relating to internationally related issues; and

¹ Section 257.24, F.S.

² Sections 257.15 and 257.41(2), F.S. Section 257.41(2), F.S., further providing that the division must issue a certificate to each library cooperative that meets the standards and rules established.

³ Section 257.22, F.S.

⁴ Public records as defined in s. 119.011, F.S.

⁵ This includes accepting, arranging, and preserving the records according to approved archival and repository practices.

⁶ All public records transferred to the custody of the division are subject to the provisions of s. 119.07(1), F.S.

- Assisting and cooperating with the records and information management program in the training and information program described in s. 257.36(1)(g), F.S.⁷

Section 257.35, F.S., creates the Florida State Archives within the division for the preservation of public records,⁸ manuscripts, and other archival material that have been determined by the division to have sufficient historical or other value to warrant continued preservation and have been accepted by the division for deposit in its custody. The division performs similar duties for the Florida State Archives as it does for the Florida International Archive, including:

- Organizing and administering the Florida State Archives;
- Preserving and administering such records transferred to its custody;⁹
- Permitting records to be inspected and copied at reasonable times and under the supervision of the division;
- Assisting the records and information management program in the determination of retention values for records;
- Cooperating with and assisting state institutions, departments, agencies, counties, municipalities, and individuals engaged in activities in the field of state archives, manuscripts, and history;
- Accepting from any person any paper, book, record, or similar material which in the judgment of the division warrants preservation in the state archives;
- Providing a public research room where, under rules established by the division, the materials in the state archives may be studied;
- Conducting, promoting, and encouraging research in Florida history, government, and culture and maintaining a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperating with and assisting agencies, libraries, institutions, and individuals in projects designed to preserve original source materials relating to Florida history, government, and culture;
- Preparing and publishing handbooks, guides, indexes, and other literature directed toward encouraging the preservation and use of the state's documentary resources;
- Encouraging and initiating efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government; and
- Assisting and cooperating with the records and information management program in the training and information program described in s. 257.36(1)(g), F.S.¹⁰

Records and Information Management

Section 257.36(1), F.S., creates a records management program within the division. The program's purpose is directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records.¹¹ The division must establish and operate a records center or centers primarily for the

⁷ Section 257.34(1), F.S.

⁸ Public records as defined in s. 119.011, F.S.

⁹ This includes accepting, arranging, and preserving the records according to approved archival practices.

¹⁰ Section 257.35(1), F.S.

¹¹ Section 257.36(1)(a), F.S.

storage, processing, servicing, and security of public records that must be retained for varying periods of time but that are not required to be retained in an agency's office equipment or space.¹²

The division must create retention schedules which govern when public records may be destroyed or otherwise disposed of.¹³

Section 257.36(1)(g), F.S., requires the division to institute and maintain a training program in (i) all phases of records and information management to bring approved practices to the attention of all agencies and (ii) the requirements relating to access to public records under ch. 119, F.S.

Each agency¹⁴ has the duty to cooperate with the division in complying with the provisions of ch. 257, F.S., and must designate a records management liaison officer. Further, each agency must establish and maintain an active and continuing program for the economical and efficient management of records.¹⁵

Library Cooperatives and Library Cooperative Grants

The Legislature intended that library cooperative programs be established to augment the local library resources with regional and statewide services.¹⁶ A multitype library cooperative (MLC) is a not-for-profit corporation, qualified or registered pursuant to ch. 617, F.S., and in good standing, consisting of two or more libraries under separate governance and of more than one type, including any combination of academic, school, special, state institution, and public libraries as required by s. 257.41(1), F.S.¹⁷

The administrative unit of a library cooperative is eligible to receive an annual grant (library cooperative grant) from the state of not more than \$400,000 for the purpose of sharing library resources. Grant funds may not be used to supplant local funds or other funds. Additionally, a library cooperative must provide from local sources matching cash funds equal to 10 percent of the grant award.¹⁸ Florida's priority for use of the library cooperative grants and matching funds is for the purpose of sharing library resources between members of the Florida Library Information Network.¹⁹ Library cooperative grants and local matching funds must be expended on resource sharing activities and related training, provided services to all Florida Information Network member libraries.

¹² Section 257.36(b), F.S.

¹³ Section 257.36(6), F.S.

¹⁴ Section 257.36(5), F.S., defines "agency", for purposes of this section, to mean any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law.

¹⁵ See s. 257.36(5), F.S.

¹⁶ Section 257.40, F.S.

¹⁷ Department of State, *Library Cooperative Grant Guidelines*, 2020-2021, at p. 5, <https://dos.myflorida.com/media/702617/cooperativegrantguidelines2020-2021.pdf> (last visited February 5, 2020).

¹⁸ Section 257.42, F.S.

¹⁹ See *supra* note 18 at p. 1.

Florida's five MLCs and their service areas for purpose of the Library Cooperative Grant Program are as follows:

- NEFLIN - Northeast Florida Library Information Network service area includes: Alachua, Baker, Bradford, Brevard, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, and Volusia counties.
- PLAN - Panhandle Library Access Network service area includes: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington counties.
- SEFLIN - Southeast Florida Library Information Network service area includes: Broward, Martin, Miami-Dade, and Palm Beach counties.
- SWFLN - Southwest Florida Library Network service area includes: Charlotte, Collier, Hendry, Lee, and Monroe counties.
- TBLC - Tampa Bay Library Consortium service area includes: Citrus, DeSoto, Glades, Hardee, Hernando, Highlands, Hillsborough, Indian River, Lake, Manatee, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Sarasota, and St. Lucie counties.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 257.22, F.S., to provide that the certification of funds by the division to the Chief Financial Officer be made *annually* – as opposed to by December 1 of each year.²¹ The Department of State indicates the division currently must provide two certifications to the Chief Financial Officer. The first is submitted by the statutory deadline of December 1 and contains estimated grant amounts. The second certification is submitted later and reflects the actual final grant amounts. Thus, the bill will allow the division to make one certification of funds.

Section 2 repeals s. 257.34, F.S., relating to the creation, duties, and responsibilities of the Florida International Archive and Repository. The division has adequate authority pursuant to s. 257.35, F.S., relating to the Florida State Archives, to continue to perform this function.

Section 3 amends s. 257.35, F.S., relating to the Florida State Archives, to eliminate the requirement that the division encourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government. According to the Department of State, these activities have not been undertaken by the department in the past.²²

Section 4 amends s. 257.36, F.S., relating to the records and information management program. The bill specifies that the requirement related to analyzing, developing, establishing, and coordinating standard, procedures, and techniques of record-making and recordkeeping, includes, but is not limited to, standards and guidelines for retention, storage, security, and disposal of records.

²⁰ *Id.* at p. 2.

²¹ See Department of State, *Senate Bill 1570 Agency Legislative Analysis* (January 22, 2020) (on file with the Senate Committee on Governmental Oversight and Accountability).

²² *Id.*

This section requires an agency's records management liaison officer to serve as the primary point of contact between the agency and the division for records management purposes and to conduct any records management functions assigned by the agency.

This section also clarifies, in certain instances, the division's specific responsibilities when records are stored by other agencies in a storage center operated by the division. This section repeals provisions related to preservation duplicates; the division will no longer be responsible for making and storing preservation duplicates of records. The Department of State indicates that the preservation of duplicates is no longer a function of the division.²³

Finally, this section amends provisions related to the destruction of records. Under current law, the division must notify, by certified mail, the agency that transferred the record to the division when the record is eligible for destruction. The agency has 90 days to respond to request continued retention of the record or authorize its destruction or disposal. Nonresponse passes the title of the record to the division. The bill repeals the requirement that the notice be sent by certified mail and the time period by which the agency must respond.

Section 5 amends s. 257.42, F.S., to remove the cap of \$400,000 on an annual library cooperative grant. Thus, the Legislature will have more discretion in making appropriations for library cooperative grants.

Section 6 amends s. 120.54, F.S., to correct a cross-reference.

Section 7 provides that the bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²³ *Id.* See also s. 92.29, F.S., which provides that photographic reproductions or reproductions through electronic recordkeeping systems made by an agency in the regular course of business shall be admitted and received as evidence similar to the original record.

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 library cooperative grant program receives an annual recurring appropriation from the General Revenue Fund of \$2 million. The bill does not alter existing, recurring appropriations for library cooperative grants. However, the bill changes how those appropriations may be used. A library cooperative may receive a grant in excess of \$400,000 annually if the bill is enacted.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 257.22, 257.35, 257.36, 257.42, and 120.54.

This bill repeals section 257.34 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 257.22, Florida Statutes, is amended to
read:

257.22 Division of Library and Information Services;
allocation of funds.—Any moneys that may be appropriated for use
by a county, a municipality, a special district, or a special
tax district for the maintenance of a library or library service



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11 shall be administered and allocated by the division ~~of Library~~
12 ~~and Information Services~~ in the manner prescribed by law. ~~On or~~
13 ~~before December 1 of each year,~~ The division shall annually
14 certify to the Chief Financial Officer the amount to be paid to
15 each county, municipality, special district, or special tax
16 district.

17 Section 2. Section 257.34, Florida Statutes, is repealed.

18 Section 3. Paragraphs (h) and (i) of subsection (1) of
19 section 257.35, Florida Statutes, are amended to read:

20 257.35 Florida State Archives.—

21 (1) There is created within the Division of Library and
22 Information Services of the Department of State the Florida
23 State Archives for the preservation of those public records, as
24 defined in s. 119.011(12), manuscripts, and other archival
25 material that have been determined by the division to have
26 sufficient historical or other value to warrant their continued
27 preservation and have been accepted by the division for deposit
28 in its custody. It is the duty and responsibility of the
29 division to:

30 (h) ~~Encourage and initiate efforts to preserve, collect,~~
31 ~~process, transcribe, index, and research the oral history of~~
32 ~~Florida government.~~

33 ~~(i)~~ Assist and cooperate with the records and information
34 management program in the training and information program
35 described in s. 257.36(1)(d) ~~s. 257.36(1)(g)~~.

36 Section 4. Section 257.36, Florida Statutes, is amended to
37 read:

38 257.36 Records and information management.—

39 (1) There is created within the Division of Library and



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40 Information Services of the Department of State a records and
41 information management program. It is the duty and
42 responsibility of the division to:

43 (a) Establish and administer a records management program
44 directed to the application of efficient and economical
45 management methods relating to the creation, utilization,
46 maintenance, retention, preservation, and disposal of records.

47 (b) Analyze, develop, establish, and coordinate standards,
48 procedures, and techniques of recordmaking and recordkeeping,
49 including, but not limited to, standards and guidelines for
50 retention, storage, security, and disposal of records.

51 (c) Establish and operate a records center or centers
52 primarily for the storage, processing, servicing, and security
53 of public records that must be retained for varying periods of
54 time but need not be retained in an agency's office equipment or
55 space. To this end, the records center shall:

56 ~~(c) Analyze, develop, establish, and coordinate standards,~~
57 ~~procedures, and techniques of recordmaking and recordkeeping.~~

58 1. ~~(d)~~ Ensure the maintenance and security of stored records
59 ~~which are deemed appropriate for preservation.~~

60 2. ~~(e)~~ Establish safeguards against unauthorized or unlawful
61 removal or loss of stored records.

62 3. ~~(f)~~ Initiate appropriate action to recover stored records
63 removed unlawfully or without authorization.

64 (d) ~~(g)~~ Institute and maintain a training and information
65 program in:

66 1. All phases of records and information management to
67 bring approved and current practices, methods, procedures, and
68 devices for the efficient and economical management of records



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69 to the attention of all agencies.

70 2. The requirements relating to access to public records
71 under chapter 119.

72 (e) ~~(h)~~ Make continuous surveys of recordkeeping operations.

73 (f) ~~(i)~~ Recommend improvements in current records management
74 practices, including the use of space, equipment, supplies, and
75 personnel in creating, maintaining, and servicing records.

76 (g) ~~(j)~~ Establish and maintain a program in cooperation with
77 each agency for the selection and preservation of records
78 considered essential to the operation of government and to the
79 protection of the rights and privileges of citizens.

80 ~~(k) Make, or have made, preservation duplicates, or~~
81 ~~designate existing copies as preservation duplicates, to be~~
82 ~~preserved in the place and manner of safekeeping as prescribed~~
83 ~~by the division.~~

84 (2) (a) All records transferred to the division for storage
85 may be held ~~by it~~ in its a records center or centers, to be
86 designated by the division ~~it~~, for such time as in its judgment
87 retention therein is deemed necessary. At such time as it is
88 established by the division, such records as are determined by
89 it as having historical or other value warranting continued
90 preservation shall be transferred to the Florida State Archives.

91 (b) Title to any record stored ~~detained~~ in any records
92 center operated by the division remains ~~shall remain~~ in the
93 agency transferring such record to the division. When the
94 Legislature transfers any duty or responsibility of an agency to
95 another agency, the receiving agency shall be the custodian of
96 public records with regard to the public records associated with
97 that transferred duty or responsibility, and shall be



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98 responsible for the records storage service charges of the
99 division. If an agency is dissolved and the legislation
100 dissolving that agency does not assign an existing agency as the
101 custodian of public records for the dissolved agency's records,
102 then the Cabinet is the custodian of public records for the
103 dissolved agency, unless the Cabinet otherwise designates a
104 custodian. The Cabinet or the agency designated by the Cabinet
105 shall be responsible for the records storage service charges of
106 the division.

107 (c) When a record held in a records center is eligible for
108 destruction, the division shall notify, in writing, ~~by certified~~
109 ~~mail,~~ the agency that ~~which~~ transferred the record. The agency
110 shall ~~have 90 days from receipt of that notice to respond by~~
111 either requesting continued retention of the record or
112 authorizing destruction or disposal of the record. ~~If the agency~~
113 ~~does not respond within that time, title to the record shall~~
114 ~~pass to the division.~~

115 (3) The division may charge fees for supplies and services,
116 including, but not limited to, shipping containers, pickup,
117 delivery, reference, and storage. Fees shall be based upon the
118 actual cost of the supplies and services and shall be deposited
119 in the Records Management Trust Fund.

120 (4) (a) ~~Any preservation duplicate of any record made~~
121 ~~pursuant to this chapter shall have the same force and effect~~
122 ~~for all purposes as the original record. A transcript,~~
123 ~~exemplification, or certified copy of such preservation~~
124 ~~duplicate shall be deemed, for all purposes, to be a transcript,~~
125 ~~exemplification, or certified copy of the original record.~~

126 ~~(5)~~ For the purposes of this section, the term "agency"



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127 means ~~shall mean~~ any state, county, district, or municipal
128 officer, department, division, bureau, board, commission, or
129 other separate unit of government created or established by law.

130 (b) It is the duty of each agency to:

131 1. ~~(a)~~ Cooperate with the division in complying with ~~the~~
132 ~~provisions of this chapter.~~

133 2. ~~and~~ Designate a records management liaison officer to
134 serve as the primary point of contact between the agency and the
135 division for records management purposes and to conduct any
136 records management functions assigned by the agency.

137 3. ~~(b)~~ Establish and maintain an active and continuing
138 program for the economical and efficient management of records.

139 (5) ~~(6)~~ A public record may be destroyed or otherwise
140 disposed of only in accordance with retention schedules
141 established by the division. The division shall adopt reasonable
142 rules not inconsistent with this chapter which shall be binding
143 on all agencies relating to the destruction and disposition of
144 records. Such rules must ~~shall~~ provide, but are not ~~be~~ limited
145 to:

146 (a) Procedures for complying and submitting to the division
147 records-retention schedules.

148 (b) Procedures for the physical destruction or other
149 disposal of records.

150 (c) Standards for the reproduction of records for security
151 or with a view to the disposal of the original record.

152 Section 5. Section 257.42, Florida Statutes, is amended to
153 read:

154 257.42 Library cooperative grants.—The administrative unit
155 of a library cooperative is eligible to receive an annual grant



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156 from the state ~~of not more than \$400,000~~ for the purpose of
157 sharing library resources based upon an annual plan of service
158 and expenditure and an annually updated 5-year, long-range plan
159 of cooperative library resource sharing. Those plans, which must
160 include a component describing how the cooperative will share
161 technology and the use of technology, must be submitted to the
162 division ~~of Library and Information Services of the Department~~
163 ~~of State~~ for evaluation and possible recommendation for funding
164 in the division's legislative budget request. Grant funds may
165 not be used to supplant local funds or other funds. A library
166 cooperative must provide from local sources matching cash funds
167 equal to 10 percent of the grant award.

168 Section 6. Subsection (8) of section 120.54, Florida
169 Statutes, is amended to read:

170 120.54 Rulemaking.—

171 (8) RULEMAKING RECORD.—In all rulemaking proceedings the
172 agency shall compile a rulemaking record. The record shall
173 include, if applicable, copies of:

174 (a) All notices given for the proposed rule.

175 (b) Any statement of estimated regulatory costs for the
176 rule.

177 (c) A written summary of hearings on the proposed rule.

178 (d) The written comments and responses to written comments
179 as required by this section and s. 120.541.

180 (e) All notices and findings made under subsection (4).

181 (f) All materials filed by the agency with the committee
182 under subsection (3).

183 (g) All materials filed with the Department of State under
184 subsection (3).



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185 (h) All written inquiries from standing committees of the
186 Legislature concerning the rule.

187
188 Each state agency shall retain the record of rulemaking as long
189 as the rule is in effect. When a rule is no longer in effect,
190 the record may be destroyed pursuant to the records-retention
191 schedule developed under s. 257.36(5) ~~s. 257.36(6)~~.

192 Section 7. Subsection (1) of section 20.201, Florida
193 Statutes, is amended to read:

194 20.201 Department of Law Enforcement.—

195 (1) There is created a Department of Law Enforcement. The
196 head of the department is the Governor and Cabinet. The
197 executive director of the department shall be appointed by the
198 Governor subject to the majority vote of the Governor and
199 Cabinet consisting of at least 3 affirmative votes, with the
200 Governor and the Attorney General on the prevailing side. The
201 appointment is also ~~with the approval of three members of the~~
202 ~~Cabinet and~~ subject to confirmation by the Senate. The executive
203 director shall serve at the pleasure of the Governor and
204 Cabinet. The executive director may establish a command,
205 operational, and administrative services structure to assist,
206 manage, and support the department in operating programs and
207 delivering services.

208 Section 8. Subsection (1) of section 20.37, Florida
209 Statutes, is amended to read:

210 20.37 Department of Veterans' Affairs.—There is created a
211 Department of Veterans' Affairs.

212 (1) The head of the department is the Governor and Cabinet.
213 The executive director of the department shall be appointed by



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214 the Governor subject to the majority vote of the Governor and
215 Cabinet consisting of at least 3 affirmative votes, with the
216 Governor on the prevailing side. The appointment is also with
217 ~~the approval of three members of the Cabinet and~~ subject to
218 confirmation by the Senate. The executive director shall serve
219 at the pleasure of the Governor and Cabinet.

220 Section 9. This act shall take effect July 1, 2020.

221
222 ===== T I T L E A M E N D M E N T =====

223 And the title is amended as follows:

224 Delete everything before the enacting clause
225 and insert:

226 A bill to be entitled

227 An act relating to governmental organization; amending
228 s. 257.22, F.S.; removing the date by which the
229 division must submit an annual report regarding the
230 allocation of library funding to the Chief Financial
231 Officer; repealing s. 257.34, F.S., relating to the
232 Florida International Archive and Repository; amending
233 s. 257.35, F.S.; revising the duties and
234 responsibilities of the division in the administration
235 of the Florida State Archives; conforming a cross-
236 reference to changes made by the act; amending s.
237 257.36, F.S.; revising the duties and responsibilities
238 of the division in the administration of the records
239 and information management program; clarifying
240 provisions governing the storage of records
241 transferred to the division for storage; removing the
242 requirement that the division notify an agency by



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243 certified mail of a record's eligibility for
244 destruction; deleting a provision that provides for
245 title of a record to pass to the division under
246 specified circumstances; deleting a provision
247 specifying the effect of a preservation duplicate of a
248 record; specifying the role and duties of records
249 management liaison officers; amending s. 257.42, F.S.;
250 removing a limitation on the annual grant amount that
251 the administrative unit of a library cooperative may
252 receive from the state for purposes of sharing library
253 resources; amending s. 120.54, F.S.; conforming a
254 cross-reference to changes made by the act; amending
255 ss. 20.201 and 20.37, F.S.; modifying the manner of
256 appointment for the executive directors of the
257 Department of Law Enforcement and the Department of
258 Veterans' Affairs, respectively; providing an
259 effective date.



420932

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Thurston) recommended the following:

1 **Senate Amendment to Amendment (463870) (with title**
2 **amendment)**

3
4 Delete lines 192 - 219.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 227 - 258

9 and insert:

10 An act relating to the Division of Library and



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11 Information Services; amending s. 257.22, F.S.;

12 removing the date by which the division must submit an

13 annual report regarding the allocation of library

14 funding to the Chief Financial Officer; repealing s.

15 257.34, F.S., relating to the Florida International

16 Archive and Repository; amending s. 257.35, F.S.;

17 revising the duties and responsibilities of the

18 division in the administration of the Florida State

19 Archives; conforming a cross-reference to changes made

20 by the act; amending s. 257.36, F.S.; revising the

21 duties and responsibilities of the division in the

22 administration of the records and information

23 management program; clarifying provisions governing

24 the storage of records transferred to the division for

25 storage; removing the requirement that the division

26 notify an agency by certified mail of a record's

27 eligibility for destruction; deleting a provision that

28 provides for title of a record to pass to the division

29 under specified circumstances; deleting a provision

30 specifying the effect of a preservation duplicate of a

31 record; specifying the role and duties of records

32 management liaison officers; amending s. 257.42, F.S.;

33 removing a limitation on the annual grant amount that

34 the administrative unit of a library cooperative may

35 receive from the state for purposes of sharing library

36 resources; amending s. 120.54, F.S.; conforming a

37 cross-reference to changes made by the act; providing

38 an

By Senator Perry

8-01372A-20

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1 A bill to be entitled
 2 An act relating to the Division of Library and
 3 Information Services; amending s. 257.22, F.S.;
 4 removing the date by which the division must submit an
 5 annual report regarding the allocation of library
 6 funding to the Chief Financial Officer; repealing s.
 7 257.34, F.S., relating to the Florida International
 8 Archive and Repository; amending s. 257.35, F.S.;
 9 revising the duties and responsibilities of the
 10 division in the administration of the Florida State
 11 Archives; conforming a cross-reference to changes made
 12 by the act; amending s. 257.36, F.S.; revising the
 13 duties and responsibilities of the division in the
 14 administration of the records and information
 15 management program; clarifying provisions governing
 16 the storage of records transferred to the division for
 17 storage; removing the requirement that the division
 18 notify an agency by certified mail of a record's
 19 eligibility for destruction; deleting a provision that
 20 provides for title of a record to pass to the division
 21 under specified circumstances; deleting a provision
 22 specifying the effect of a preservation duplicate of a
 23 record; specifying the role and duties of records
 24 management liaison officers; amending s. 257.42, F.S.;
 25 removing a limitation on the annual grant amount that
 26 the administrative unit of a library cooperative may
 27 receive from the state for purposes of sharing library
 28 resources; amending s. 120.54, F.S.; conforming a
 29 cross-reference to changes made by the act; providing

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

8-01372A-20

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30 an effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Section 257.22, Florida Statutes, is amended to
 35 read:
 36 257.22 Division of Library and Information Services;
 37 allocation of funds.—Any moneys that may be appropriated for use
 38 by a county, a municipality, a special district, or a special
 39 tax district for the maintenance of a library or library service
 40 shall be administered and allocated by the division ~~of Library~~
 41 ~~and Information Services~~ in the manner prescribed by law. ~~On or~~
 42 ~~before December 1 of each year,~~ The division shall annually
 43 certify to the Chief Financial Officer the amount to be paid to
 44 each county, municipality, special district, or special tax
 45 district.
 46 Section 2. Section 257.34, Florida Statutes, is repealed.
 47 Section 3. Paragraphs (h) and (i) of subsection (1) of
 48 section 257.35, Florida Statutes, are amended to read:
 49 257.35 Florida State Archives.—
 50 (1) There is created within the Division of Library and
 51 Information Services of the Department of State the Florida
 52 State Archives for the preservation of those public records, as
 53 defined in s. 119.011(12), manuscripts, and other archival
 54 material that have been determined by the division to have
 55 sufficient historical or other value to warrant their continued
 56 preservation and have been accepted by the division for deposit
 57 in its custody. It is the duty and responsibility of the
 58 division to:

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59 (h) ~~Encourage and initiate efforts to preserve, collect,~~
 60 ~~process, transcribe, index, and research the oral history of~~
 61 ~~Florida government.~~

62 ~~(i)~~ Assist and cooperate with the records and information
 63 management program in the training and information program
 64 described in s. 257.36(1)(d) ~~s. 257.36(1)(g)~~.

65 Section 4. Section 257.36, Florida Statutes, is amended to
 66 read:

67 257.36 Records and information management.—

68 (1) There is created within the Division of Library and
 69 Information Services of the Department of State a records and
 70 information management program. It is the duty and
 71 responsibility of the division to:

72 (a) Establish and administer a records management program
 73 directed to the application of efficient and economical
 74 management methods relating to the creation, utilization,
 75 maintenance, retention, preservation, and disposal of records.

76 (b) Analyze, develop, establish, and coordinate standards,
 77 procedures, and techniques of recordmaking and recordkeeping,
 78 including, but not limited to, standards and guidelines for
 79 retention, storage, security, and disposal of records.

80 (c) Establish and operate a records center or centers
 81 primarily for the storage, processing, servicing, and security
 82 of public records that must be retained for varying periods of
 83 time but need not be retained in an agency's office equipment or
 84 space. To this end, the records center shall:

85 ~~(c)~~ ~~Analyze, develop, establish, and coordinate standards,~~
 86 ~~procedures, and techniques of recordmaking and recordkeeping.~~

87 1. (d) Ensure the maintenance and security of stored records

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88 ~~which are deemed appropriate for preservation.~~

89 2. (e) Establish safeguards against unauthorized or unlawful
 90 removal or loss of stored records.

91 3. (f) Initiate appropriate action to recover stored records
 92 removed unlawfully or without authorization.

93 (d) (g) Institute and maintain a training and information
 94 program in:

95 1. All phases of records and information management to
 96 bring approved and current practices, methods, procedures, and
 97 devices for the efficient and economical management of records
 98 to the attention of all agencies.

99 2. The requirements relating to access to public records
 100 under chapter 119.

101 (e) (h) Make continuous surveys of recordkeeping operations.

102 (f) (i) Recommend improvements in current records management
 103 practices, including the use of space, equipment, supplies, and
 104 personnel in creating, maintaining, and servicing records.

105 (g) (j) Establish and maintain a program in cooperation with
 106 each agency for the selection and preservation of records
 107 considered essential to the operation of government and to the
 108 protection of the rights and privileges of citizens.

109 ~~(k)~~ ~~Make, or have made, preservation duplicates, or~~
 110 ~~designate existing copies as preservation duplicates, to be~~
 111 ~~preserved in the place and manner of safekeeping as prescribed~~
 112 ~~by the division.~~

113 (2) (a) All records transferred to the division for storage
 114 may be held ~~by it~~ in its a records center or centers, to be
 115 designated by the division ~~it~~, for such time as in its judgment
 116 retention therein is deemed necessary. At such time as it is

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117 established by the division, such records as are determined by
 118 it as having historical or other value warranting continued
 119 preservation shall be transferred to the Florida State Archives.

120 (b) Title to any record ~~stored~~ detained in any records
 121 center ~~operated by the division remains~~ shall remain in the
 122 agency transferring such record to the division. When the
 123 Legislature transfers any duty or responsibility of an agency to
 124 another agency, the receiving agency shall be the custodian of
 125 public records with regard to the public records associated with
 126 that transferred duty or responsibility, and shall be
 127 responsible for the records storage service charges of the
 128 division. If an agency is dissolved and the legislation
 129 dissolving that agency does not assign an existing agency as the
 130 custodian of public records for the dissolved agency's records,
 131 then the Cabinet is the custodian of public records for the
 132 dissolved agency, unless the Cabinet otherwise designates a
 133 custodian. The Cabinet or the agency designated by the Cabinet
 134 shall be responsible for the records storage service charges of
 135 the division.

136 (c) When a record held in a records center is eligible for
 137 destruction, the division shall notify, in writing, ~~by certified~~
 138 ~~mail~~, the agency that ~~which~~ transferred the record. The agency
 139 shall ~~have 90 days from receipt of that notice to respond by~~
 140 either requesting continued retention of the record or
 141 authorizing destruction or disposal of the record. ~~If the agency~~
 142 ~~does not respond within that time, title to the record shall~~
 143 ~~pass to the division.~~

144 (3) The division may charge fees for supplies and services,
 145 including, but not limited to, shipping containers, pickup,

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146 delivery, reference, and storage. Fees shall be based upon the
 147 actual cost of the supplies and services and shall be deposited
 148 in the Records Management Trust Fund.

149 (4) ~~(a) Any preservation duplicate of any record made~~
 150 ~~pursuant to this chapter shall have the same force and effect~~
 151 ~~for all purposes as the original record. A transcript,~~
 152 ~~exemplification, or certified copy of such preservation~~
 153 ~~duplicate shall be deemed, for all purposes, to be a transcript,~~
 154 ~~exemplification, or certified copy of the original record.~~

155 ~~(5)~~ For the purposes of this section, the term "agency"
 156 means ~~shall mean~~ any state, county, district, or municipal
 157 officer, department, division, bureau, board, commission, or
 158 other separate unit of government created or established by law.

159 (b) It is the duty of each agency to:

160 1. ~~(a)~~ Cooperate with the division in complying with ~~the~~
 161 ~~provisions of this chapter.~~

162 2. and Designate a records management liaison officer to
 163 serve as the primary point of contact between the agency and the
 164 division for records management purposes and to conduct any
 165 records management functions assigned by the agency.

166 3. ~~(b)~~ Establish and maintain an active and continuing
 167 program for the economical and efficient management of records.

168 (5) ~~(6)~~ A public record may be destroyed or otherwise
 169 disposed of only in accordance with retention schedules
 170 established by the division. The division shall adopt reasonable
 171 rules not inconsistent with this chapter which shall be binding
 172 on all agencies relating to the destruction and disposition of
 173 records. Such rules must ~~shall~~ provide, but are not ~~be~~ limited
 174 to:

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175 (a) Procedures for complying and submitting to the division
176 records-retention schedules.

177 (b) Procedures for the physical destruction or other
178 disposal of records.

179 (c) Standards for the reproduction of records for security
180 or with a view to the disposal of the original record.

181 Section 5. Section 257.42, Florida Statutes, is amended to
182 read:

183 257.42 Library cooperative grants.—The administrative unit
184 of a library cooperative is eligible to receive an annual grant
185 from the state ~~of not more than \$400,000~~ for the purpose of
186 sharing library resources based upon an annual plan of service
187 and expenditure and an annually updated 5-year, long-range plan
188 of cooperative library resource sharing. Those plans, which must
189 include a component describing how the cooperative will share
190 technology and the use of technology, must be submitted to the
191 division ~~of Library and Information Services of the Department~~
192 ~~of State~~ for evaluation and possible recommendation for funding
193 in the division's legislative budget request. Grant funds may
194 not be used to supplant local funds or other funds. A library
195 cooperative must provide from local sources matching cash funds
196 equal to 10 percent of the grant award.

197 Section 6. Subsection (8) of section 120.54, Florida
198 Statutes, is amended to read:

199 120.54 Rulemaking.—

200 (8) RULEMAKING RECORD.—In all rulemaking proceedings the
201 agency shall compile a rulemaking record. The record shall
202 include, if applicable, copies of:

203 (a) All notices given for the proposed rule.

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204 (b) Any statement of estimated regulatory costs for the
205 rule.

206 (c) A written summary of hearings on the proposed rule.

207 (d) The written comments and responses to written comments
208 as required by this section and s. 120.541.

209 (e) All notices and findings made under subsection (4).

210 (f) All materials filed by the agency with the committee
211 under subsection (3).

212 (g) All materials filed with the Department of State under
213 subsection (3).

214 (h) All written inquiries from standing committees of the
215 Legislature concerning the rule.

216

217 Each state agency shall retain the record of rulemaking as long
218 as the rule is in effect. When a rule is no longer in effect,
219 the record may be destroyed pursuant to the records-retention
220 schedule developed under s. 257.36(5) ~~s. 257.36(6)~~.

221 Section 7. This act shall take effect July 1, 2020.

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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)

3-3-2020

Meeting Date

1570

Bill Number (if applicable)

470932

Amendment Barcode (if applicable)

Topic Division of Library and Information Services

Name Emily Buckley

Job Title Legislative Affairs Director

Address 400 S. Monroe St PL 10 Capitol

Street

Phone 850-617-7780

Tallahassee

City

FL

State

32349

Zip

Email emily.buckley@flgov.gov

Speaking: For Against Information

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

Representing FL Dept of Agriculture and Consumer Services

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)

03/03/2020

Meeting Date

1570

Bill Number (if applicable)

463870

Topic Division of Library and Information Services

Amendment Barcode (if applicable)

Name Emily Buckley

Job Title Legislative Affairs Director

Address 400 S. Monroe Street PL 10 Cap

Phone 850-617-7700

Street

Tallahassee

FL

32399

Email emily.buckley@fdacs.gov

City

State

Zip

Speaking: For Against Information

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

Representing FL Department of Agriculture and Consumer Services

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)

THE FLORIDA SENATE
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03/03/2020

Meeting Date

1570

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Amendment Barcode (if applicable)

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

Representing FL Department of Agriculture and Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1606

INTRODUCER: Infrastructure and Security Committee; Banking and Insurance Committee; and Senator Perry

SUBJECT: Insurance Administration

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Arnold</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 3. | <u>Sanders</u> | <u>Kynoch</u> | <u>AP</u> | <u>Favorable</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1606 makes the following changes regarding insurance:

- Requires that an electronic signature used to satisfy the signature requirement for a salvage certificate of title must be executed using a system providing a Level 2 authentication level;
- Requires insurers to file with the Department of Financial Services (DFS or department) the name and email address of the person who will receive civil remedy notices;
- Amends the civil remedy notices' statute of limitations when an appraisal is invoked from 60 days after it is invoked instead of 65 days after mailing of notice;
- Prohibits the DFS and the Office of Insurance Regulation (OIR) from disseminating aggregated information if it contains trade secret information that can be individually extrapolated;
- Extends the closure of the OIR's review period for property and casualty rate and form filings to the close of the following business day if the deadline falls on a weekend or holiday;
- Clarifies that the condominium unit owner's property loss assessment coverage in effect one day before the date of an occurrence that resulted in a loss is the applicable coverage for the loss;
- Allows insurers to cancel auto policies for non-payment after 30 days, instead of the current 60 days;
- Allows for an electronic method of workers compensation payments to be used; and

- Expands the Florida Insurance Code to include a new chapter of statutes to regulate the transaction of travel insurance based on the National Association of Insurance Commissioners (NAIC) Model Act.

The OIR has indicated the bill has no impact to state revenues or expenditures.¹ However, the DFS and the OIR may have indeterminate costs associated with implementing the newly created ch. 647, F.S., entitled “Travel Insurance.” The DFS has not submitted an analysis of the bill.

The bill takes effect July 1, 2020.

II. Present Situation:

Electronic Signature Requirement for a Motor Vehicle Salvage Certificate of Title and Certificate of Destruction

The owner of a motor vehicle or mobile home that is considered to be salvage² is required to forward the title of the motor vehicle or mobile home to the Department of Highway Safety and Motor Vehicles (DHSMV) for processing within 72 hours after the motor vehicle or mobile home becomes salvage.³ However, an insurance company that pays money as compensation for the total loss of a motor vehicle or mobile home must obtain the certificate of title for the motor vehicle or mobile home; make the required notification to the National Motor Vehicle Title Information System;⁴ and within 72 hours after receiving certificate of title, forward such title to the DHSMV for processing. The certificate of title may be forwarded to the DHSMV via electronic means, the United States Postal Service, or other commercial delivery service (e.g., FedEx or UPS). The owner or insurance company may not dispose of a vehicle or mobile home that is a total loss before it obtains from the DHSMV a salvage certificate of title⁵ or certificate of destruction⁶.

¹ Telephone conversation with Grant Phillips, Office of Legislative Affairs, Office of Insurance Regulation (Feb. 28, 2020).

² Section 319.30(1)(t), F.S., defines “salvage” as a motor vehicle or mobile home that is a total loss. Under section 319.30(3)(a), F.S., a motor vehicle or mobile home is a “total loss” when:

- An insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the owner upon the theft of the motor vehicle or mobile home; or
- An uninsured motor vehicle or mobile home is wrecked or damaged and the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the owner of replacing the wrecked or damaged motor vehicle or mobile home with one of like kind and quality.

³ Section 319.30(3)(b), F.S.

⁴ The National Motor Vehicle Title Information System (NMVTIS) is an electronic system that provides consumers with valuable information about a vehicle's condition and history. NMVTIS allows consumers to find information on a vehicle's title, most recent odometer reading, brand history, and, in some cases, historical theft data.

https://www.vehiclehistory.gov/nmvtis_consumers.html (Last visited Dec. 18, 2019).

⁵ Section 319.001(1), F.S., defines “certificate of title” as the record that is evidence of ownership of a vehicle, whether a paper certificate authorized by the DHSMV or a certificate consisting of information that is stored in an electronic form in the DHSMV's database.

⁶ Section 319.30, F.S., defines “certificate of destruction” as a certificate issued pursuant to s. 713.78(11) or s. 713.785(7)(a), F.S. Under s. 713.78(11), F.S., the application for certificate of destruction must include proof of reporting to the NMVTIS and an affidavit from the applicant that all requirements have been met and, in the event the vehicle is not registered in any state, a statement from a law enforcement officer verifying the vehicle is not stolen is required.

To facilitate the issuance of salvage certificates of title and certificates of destruction when the insurer has been unable to obtain the title from the insured so that it may be surrendered to the DHSMV, effective July 1, 2020, the insurer may receive a salvage certificate of title or certificate of destruction from the DHSMV 30 days after paying the claim, if:

- There is no electronic lien on the motor vehicle or mobile home; and
- The insurer has:
 - Obtained a release of all liens;
 - Provided proof of payment of the total loss claim; and
 - Provided an affidavit⁷ on letterhead signed by the insurance company or its authorized agent stating the attempts⁸ that have been made to obtain the title from the owner or lienholder and further stating that all attempts are to no avail.⁹

The “Electronic Signature Act of 1996”¹⁰ provides that unless otherwise provided by law, an electronic signature¹¹ may be used to sign a writing and has the same force and effect as a written signature.

In 2019, the Legislature passed HB 301, related to insurance.¹² Among other things, the bill addressed the use of electronic signatures for automotive title transactions. It authorized an electronic signature consistent with ch. 668, F.S., relating to electronic commerce, to be used to satisfy any signature requirement related to the issuance of a salvage certificate of title or certificate of destruction when this new process becomes effective. However, it required an electronic signature on an odometer disclosure to meet specific security requirements.¹³

For an odometer disclosure related to a certificate of destruction, the electronic signature must meet or exceed Level 2 requirements for Identity Assurance Level, Authenticator Assurance Level, and Federation Assurance Level, as described in the National Institute of Standards and Technology Special Publication 800-63-3, as of December 1, 2017.¹⁴ For a salvage certificate of title, the electronic signature must meet or exceed Level 3 requirements of this standard. While there are several differences between Level 2 and Level 3 requirements that affect the relative security of the electronic signature, one difference limits the use of electronic signatures when executing electronic signatures for odometer disclosures related to salvage certificates of title.

⁷ The affidavit must include a request that the salvage certificate of title or certificate of destruction be issued in the insurance company’s name due to payment of a total loss claim to the owner or lienholder. Section 319.30(3)(b)1.c., F.S.

⁸ The attempts to contact the owner may be by written request delivered in person or by first-class mail with a certificate of mailing to the owner’s or lienholder’s last known address. Section 319.30(3)(b)1.c., F.S. If the owner or lienholder is notified of the request for title in person, the insurance company must provide an affidavit attesting to the in-person request for a certificate of title. Section 319.30(3)(b)1.c.2., F.S.

⁹ The request to the owner or lienholder for the certificate of title must include a complete description of the motor vehicle or mobile home and the statement that a total loss claim has been paid on the motor vehicle or mobile home. Section 319.30(3)(b)1.c.3., F.S.

¹⁰ Ch. 668, part I, F.S.

¹¹ Section 668.003(4), F.S., defines “electronic signature” as any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

¹² Ch. 2019-108, Laws of Fla.

¹³ Section 319.30(3)(d), F.S.

¹⁴ U.S. Department of Commerce, National Institute of Standards and Technology, Computer Security Resource Center, *NIST Special Publication 800-63-3, Digital Identity Guidelines*, June 2017 (includes updated through December 1, 2017), <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-63-3.pdf> (last visited February 27, 2020).

Level 3 requires in-person identity proofing, while Level 2 allows remote or in-person identity proofing.

The security levels were chosen based on ongoing federal rule development that governs odometer disclosures. The draft federal regulations included the use of Level 2 requirements in certain instances and Level 3 requirements in others.¹⁵ HB 301 mirrored this structure; however, the final federal regulation was published with an unexpected change after the passage of HB 301 and only Level 2 requirements were implemented. So, the Level 3 requirement of s. 319.30(3)(d), F.S., applicable to odometer disclosures for obtaining salvage certificates of title, exceed the federal standard.¹⁶

Workers Compensation Insurance Reporting Requirements

When a compensable work-related injury occurs, the employer and their insurance carrier may be liable for payment of lost wages to the injured worker. Payment for lost wages is interchangeably referred to as indemnity benefits or compensation. Currently, indemnity benefits, including penalties associated with incorrect or untimely payment of indemnity, may be paid to the injured worker by check or, upon authorization of the injured worker, deposited into a financial institution or to a prepaid card.^{17,18} Carriers are required to keep records of all payments made,¹⁹ and the Department of Financial Services (DFS) audits employers and carriers for appropriate payment of indemnity benefits.²⁰

Civil Remedy Notices

Pre-Suit Notice and Tolling of the Statute of Limitation Following Issuance of Pre-Suit Notice

In 1982 the Legislature enacted s. 624.155, F.S., which provides that any person may bring a claim for "bad faith" against an insurer for "not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so had it acted fairly and honestly

¹⁵ Level 2, for each level, for a certificate of destruction; Level 3, for each level, for a salvage certificate of title. Section 319.30(3)(d), F.S.

¹⁶ 84 Fed. Reg. 52664, at 52665 (Oct. 2, 2019).

¹⁷ Section 440.12(1)(a), F.S. For the purposes of workers' compensation indemnity payments, "financial institution" means a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

¹⁸ Pursuant to s. 440.12(1)(b), F.S., a carrier may use a prepaid card to deliver the payment of compensation to an employee if the employee is: 1. provided with at least one means of accessing his or her entire compensation payment once per week without incurring fees; 2. provided with the ability to make point-of-sale purchases without incurring fees from the financial institution issuing the prepaid card; and 3. provided with the terms and conditions of the prepaid card program, including a description of any fees that may be assessed. The obligation to pay indemnity benefits is satisfied when it is directly deposited compensation onto the prepaid card; further, it is considered paid on the date the funds become available for withdrawal by the injured worker. Section 440.20(1)(a), F.S.

¹⁹ Florida Department of Financial Services, Division of Workers' Compensation, *Workers' Compensation System Guide*, <https://www.myfloridacfo.com/Division/WC/pdf/WC-System-Guide.pdf> (last visited February 27, 2020).

²⁰ Florida Department of Financial Services, Division of Workers' Compensation, Bureau of Monitoring and Audit, <https://www.myfloridacfo.com/division/wc/bma.htm> (last visited February 27, 2020).

toward its insured with due regard for her or his interests,"²¹ the same as the common law standard.²² In order to bring a bad faith claim under the statute, a plaintiff must first give the insurer and the DFS 60 days' written notice of the alleged violation.²³ The 60-day period begins on the date the notice is filed. While the notice is required to be provided to both the DFS and the insurer,²⁴ the statute is silent on what constitutes filing and whether the filing date is the date the notice is received by the DFS or the date it was received by the insurer.²⁵

The notice must include:

- The statutory provision which the insurer allegedly violated;
- The facts and circumstances giving rise to the violation;
- The name of any individual involved in the violation;
- Reference to specific policy language that is relevant to the violation, unless the person bringing the civil action is a third party claimant; and
- A statement that the notice is given to perfect the right to pursue a civil remedy.²⁶

The statute of limitation for filing a lawsuit under s. 624.155, F.S., is tolled for 65 days following the issuance of the notice described above. This extends the claimant's right to sue the insurer until after the conclusion of the 60-day period following the notice within which the insurer may respond to the notice by addressing the alleged violation.

In 2019, the Legislature revised s. 624.155, F.S., to prohibit the issuance of the notice when the insurer invokes the appraisal process.²⁷ However, the appraisal process, which can be invoked for the first time following receipt of the pre-suit notice,²⁸ is unlikely to be completed within the 60-day cure period or the 65-day tolling of the applicable statute of limitations. If the appraisal process extends beyond the date the statute of limitation expires following the current tolling period, then the right to sue the insurer in civil court is lost.

²¹ Section 624.155(1)(b), F.S.

²² Fla. Standard Jury Instr. 404.4 (Civil).

²³ Section 624.155(3)(a), F.S.

²⁴ Filing of the notice with the correct insurer has been held to be a condition precedent to maintaining a bad faith suit against the insurer. *Lopez v. GEICO Casualty Co.*, 968 F.Supp. 2d 1202, at 1209 (S.D. Fla. 2013). In *Lopez*, the plaintiff filed the notice with Government Employees Insurance Company, a similarly named sister company instead of the actual insurer, GEICO Casualty Company. Because the statute of limitation had run out following the flawed delivery of the notice, the *Lopez* case was dismissed with prejudice.

²⁵ Filing of the notice with DFS has been held to establish the date that starts the 60-day cure period. *Harper v. GEICO Gen. Ins. Co.*, 272 So. 3d 448 (Fla. 2nd DCA 2019). In *Harper*, the plaintiff filed the notice with DFS electronically on Dec. 19, 2013, and mailed the notice to GEICO with it being received by GEICO on Dec. 26, 2013. When GEICO later paid the claim on Feb. 21, 2014, the payment was 65 days from the date DFS received the notice, but 57 days from the date GEICO received the notice. The trial court held that GEICO paid the claim within the 60-day cure period. On appeal, the Second DCA held that the 60-day cure period ran from the date DFS received the notice. The result allowed the plaintiff to pursue a bad faith claim against GEICO for untimely payment of the claim.

²⁶ Section 624.155(3)(b), F.S.

²⁷ See *supra* note 12.

²⁸ Invoking the appraisal process along with timely payment, if required, can be used by the insurer to cure its claims handling violations and prevent a bad faith claim. See *Effect of the Bill*, p. 13.

Property Appraisal Process

Insurance companies often include an appraisal clause in property insurance policies.²⁹ The appraisal clause provides a procedure to resolve disputes between the policyholder and the insurer concerning the value of a covered loss. The appraisal clause is used only to determine disputed values. An appraisal cannot be used to determine what is covered under an insurance policy. Coverage issues are litigated and determined by the courts.

The appraisal process *generally* works as follows:

- The insurance company and the policyholder each appoint an independent, disinterested appraiser;
- Each appraiser evaluates the loss independently;
- The appraisers negotiate and attempt to reach an agreed amount of the damages;
- If the appraisers agree as to the amount of the claim, the insurer pays the claim;
- If the appraisers cannot agree on the amount, they together choose a mutually acceptable umpire;
- Once the umpire has been chosen, the appraisers each present their loss assessment to the umpire;
- The umpire will subsequently provide a written decision to both appraisers. A decision agreed to by any two of the three will set the amount of the loss; and
- The insurance company or the policyholder may challenge the umpire's impartiality and disqualify a proposed umpire based on criteria set forth in statute.³⁰

Trade Secret Information

Public Records

Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution.³¹ The general law must state with specificity the public necessity justifying the exemption³² and must be no more broad than necessary to accomplish its purpose.³³

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act³⁴ (Act) provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In the same manner as the Florida Constitution requires a statement of public

²⁹ *Citizens Property Insurance Corporation v. Mango Hill Condominium Association 12 Inc.*, 54 So. 3d 578 (Fla. 3d DCA 2011) and *Intracoastal Ventures Corp. v. Safeco Ins. Co. of America*, 540 So. 2d 162 (Fla. 3d DCA 1989), contain examples of appraisal clauses.

³⁰ See s. 627.70151, F.S.

³¹ FLA. CONST. art. I, s. 24(c).

³² This portion of a public record exemption is commonly referred to as a "public necessity statement."

³³ FLA. CONST. art. I, s. 24(c).

³⁴ Section 119.15, F.S.

necessity and limits the breadth of a public records exemption, an exemption under the Act may be no more broad than necessary to meet one of the following purposes:³⁵

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.³⁶ Specified questions must be considered by the Legislature during the review process.³⁷

Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt³⁸ from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets. Generally, trade secret³⁹ information received by the Office of Insurance Regulation (OIR) or the DFS is not protected as confidential and exempt public record information,⁴⁰ but the insurer is given the opportunity to receive notice of a public records request and a period of time to respond so that the insurer can move to protect the trade secret through an action in circuit court, if they so desire.⁴¹ When an insurer submits trade secret information under the Florida Insurance Code⁴² or the OIR rules, the insurer may file a Notice of

³⁵ Section 119.15(6)(b), F.S.

³⁶ Section 119.15(3), F.S.

³⁷ Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

³⁸ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

³⁹ Under section 626.002(4), F.S., “trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

⁴⁰ Trade secret information contained in an insurance administrator's records that is obtained by the OIR is confidential and exempt. Section 626.884(2), F.S.,

⁴¹ Section 624.4213(2), F.S.

⁴² The Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. Section 624.01, F.S.

Trade Secret and mark and segregate the trade secret information provided to the OIR.⁴³ This protection relates to public records requests from the public that would result in the publication of materials covered under a Notice of Trade Secret. It does not expressly extend to publication of aggregate information such as the OIR's Annual Report or other OIR or DFS publications or reports that are not done in response to a public records request.

Extension of Deadlines in Insurance Rate and Form Filing

Florida law provides certain requirements regarding the OIR's review and approval of property and casualty insurance rate and form filings, including timeframes within which the OIR must review these filings.⁴⁴ However, the law is silent on the applicable deadline should the closure of the review period fall on a weekend or a holiday.

Residential Condominium Loss Assessments

Loss assessment coverage is insurance coverage for condominium unit owners that provides protection for situations where the owner of a condominium unit, as the owner of shared property, is held financially responsible for:

- Deductibles owed when a claim is made under a condominium association's property insurance policy;
- Damage that occurs to the condominium building or the common areas of a condominium property; or
- Injuries that occur in the common areas of a condominium property.⁴⁵

Florida law requires that property insurance policies held by condominium unit owners include a minimum property loss assessment coverage of \$2,000 for all assessments made as a result of the same direct loss to the condominium property.⁴⁶ The law further establishes that the maximum amount of any unit owner's coverage that can be assessed for any loss is an amount equal to the unit owner's loss assessment coverage limit in effect one day before the date of an occurrence, but it does not specify exactly what occurrence is referenced.⁴⁷

⁴³ Section 624.4213(1), F.S.

⁴⁴ Section 627.062, F.S. (which controls rating requirements for property and casualty insurance in general), s. 627.0651, F.S. (which controls rating requirements for motor vehicle insurance), and s. 627.410 (which controls form filings in general). While the statutes differentiate between issuance of a notice of intent to approve or disapprove a property and casualty rate filing, other than a motor vehicle rate filing, and simply approving or disapproving a motor vehicle rate filing following review, the practical effect of the review process is the same.

⁴⁵ The Balance, *Loss Assessment Explained for Condo Insurance*, <https://www.thebalance.com/loss-assessment-explained-for-condo-insurance-4060435> (last visited February 28, 2020).

⁴⁶ Section 627.714(1), F.S.

⁴⁷ Section 627.714(2), F.S.

Prepayment of Premium on Initial Policy Purchase and Cancellation of Motor Vehicle Insurance Policies

Florida law requires that a policy⁴⁸ of private passenger motor vehicle insurance or a binder⁴⁹ for such a policy may be initially issued only if, before the effective date of such binder or policy, the insurer or agent has collected from the insured an amount equal to one month's premium.⁵⁰ An insurer, agent, or premium finance company may not, directly or indirectly, take any action resulting in the insured having paid from the insured's own funds an amount less than the required one month premium. This applies without regard to whether the premium is financed by a premium finance company or is paid pursuant to a periodic payment plan of an insurer or an insurance agent. The statute also provides various circumstances where this would not apply, including: policy renewal, coverage to active duty or former military personnel, and payments by automatic payroll deduction or electronic funds transfer. The insurer may not cancel the policy during the first 60 days, unless the reason for the cancellation is the issuance of a check for the premium that is dishonored for any reason or any other type of premium payment that was subsequently determined to be rejected or invalid.⁵¹

Prior to July 2019, insurers were required to collect two months of premium prior to issuing a private passenger motor vehicle policy. This was reduced to one month's premium by CS/CS/CS HB 301 (2019).⁵² However, the cancellation limitation was not reduced at the same time. Now an insurer is only required to collect one month's premium, but cannot cancel the policy for 60 days.

Travel Insurance

The Florida Insurance Code⁵³ generally regulates travel insurance. The OIR currently reviews policies relating to travel insurance, pursuant to s. 626.321(1)(c), F.S. The DFS is responsible for licensing of individuals and entities that sell travel insurance.⁵⁴

Travel Insurance Rates and Forms

Policies and certificates of travel insurance may provide coverage for risks incidental to travel, planned travel, or accommodations while traveling, including, but not limited to: accidental death and dismemberment of a traveler; trip or event cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; damages to travel accommodations; baggage delay; emergency medical travel or evacuation of a traveler; or medical, surgical, and hospital expenses related to an illness or emergency of a traveler. Such policy or certificate may be issued

⁴⁸ Section 627.7295(1)(a), F.S., defines "policy" as a motor vehicle insurance policy that provides personal injury protection coverage, property damage liability coverage, or both.

⁴⁹ Section 627.7295(1)(b), F.S., defines "binder" as a binder that provides motor vehicle personal injury protection and property damage liability coverage.

⁵⁰ Section 627.7295(7), F.S.

⁵¹ Section 627.7295(4), F.S.

⁵² Chapter 2019-108, s. 16, L.O.F.

⁵³ The Florida Insurance Code in chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. Section 624.01, F.S.

⁵⁴ Section 626.321, F.S. A travel insurance license is a limited license.

for longer terms, but each policy or certificate must be limited to coverage for travel or use of accommodations of no longer than 90 days.⁵⁵

A group policy for travel insurance is exempt from filing rates and forms.⁵⁶ Currently, a travel insurance policy that is sold directly from an insurance company to a consumer is required to make annual rate filings.⁵⁷ Regardless of whether a travel insurance rate is required to be filed, it may not be excessive, inadequate, or unfairly discriminatory.⁵⁸

Travel Insurance Agent Licensing

A travel insurance agent or agency license may be issued only to:⁵⁹

- A full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency and may authorize the sale of such ticket policies only in connection with the sale of transportation tickets or to the full-time salaried employee of such an agent. No such policy shall be for a duration of more than 48 hours or for the duration of a specified one way trip or round trip.
- An entity or individual that is:
 - The developer of a timeshare plan that is the subject of an approved public offering statement under ch. 721, F.S.;
 - An exchange company operating an exchange program approved under ch. 721, F.S.;
 - A managing entity operating a timeshare plan approved under ch. 721, F.S.;
 - A seller of travel as defined in ch. 559, F.S.; or
 - A subsidiary or affiliate of any of the entities described above.
- The full-time salaried employee of a licensed general lines agent or to a business entity that offers motor vehicles for rent or lease if insurance sales activities authorized by the license are in connection with and incidental to the rental or lease of a motor vehicle.
 - A license issued to a business entity that offers motor vehicles for rent or lease encompasses each office, branch office, employee, and authorized representative located at a designated branch, or place of business making use of the entity's business name in order to offer, solicit, and sell insurance pursuant to this paragraph.
 - The application for licensure must list the name, address, and phone number for each office, branch office, or place of business that is to be covered by the license. The licensee shall notify the department of the name, address, and phone number of any new location that is to be covered by the license before the new office, branch office, or place of business engages in the sale of insurance pursuant to this paragraph. The licensee must notify the department within 30 days after closing or terminating an office, branch office,

⁵⁵ Section 626.321(1)(c), F.S. A policy or certificate providing coverage for air ambulatory services only may exceed the 90 day limit on travel/accommodation (due to illness or injury, and unforeseeable length of time may pass before return home by air ambulance).

⁵⁶ Travel insurance is not subject to rate requirements listed in s. 627.062(2)(a), F.S., or s. 627.062(2)(f), F.S., as long as it is "issued as a master group policy with a situs in another state where each certificate holder pays less than \$30 in premiums for each covered trip and where the insurer has written less than \$1 million in annual written premiums in the travel insurance product in this state during the most recent calendar year." Section 627.062(3)(d)1.n., F.S.

⁵⁷ Each rating organization filing rates for, and each insurer writing, any line of property or casualty insurance is required to complete annual filings. Section 627.0645(1)(c), F.S.

⁵⁸ Section 627.062(1), F.S.

⁵⁹ Section 626.321(1)(c), F.S.

- or place of business. Upon receipt of the notice, the department shall delete the office, branch office, or place of business from the license.
- A licensed and appointed entity is directly responsible and accountable for all acts of the licensee's employees.

The travel insurance agency license is only issued to the business entity. Each of its branches must be appointed by the insurers the agency and branch represents and the appointments must be filed with the DFS. Appointments are subject to an original appointment filing fee and a renewal fee every 24 months.⁶⁰

Travel Insurance Model Act

In 2016, the National Conference of Insurance Legislators (NCOIL)⁶¹ began considering the adoption of a Travel Insurance Model Act. The final version of this Travel Insurance Model Act was approved on July 15, 2017.⁶² The National Association of Insurance Commissioners (NAIC)⁶³ used the NCOIL model act as a template to create a model of their own.⁶⁴ At least 42 states have implemented portions of the NAIC Model Act.⁶⁵

Unfair Insurance Trade Practices Act

The Unfair Insurance Trade Practices Act,⁶⁶ among other things, defines unfair methods of competition and unfair or deceptive acts in the business of insurance.⁶⁷ It provides an extensive list of prohibited methods and acts. Among these are prohibitions on misrepresenting the benefits, advantages, conditions, or terms of any insurance policy,⁶⁸ and certain inducements to the purchase of insurance, including the promise of “free” insurance.⁶⁹ The law also describes prohibited discrimination. There are also many exceptions to the prohibitions defined by law.

Among the exceptions is authorization for insurers and their agents to offer and make gifts of charitable contributions, merchandise, goods, wares, store gift cards, gift certificates, event tickets, anti-fraud or loss mitigation services, and other items up to \$100 per calendar year to an

⁶⁰ Section 624.501(9), F.S. *See also* s. 626.381, F.S.

⁶¹ National Conference of Insurance Legislators (NCOIL) was founded in 1969 and is a legislative organization comprised principally of legislators serving on state insurance and financial institutions committees around the United States. The NCOIL writes Model laws in insurance, works to both preserve the state jurisdiction over insurance as established by the McCarran-Ferguson Act and to serve as an educational forum for public policy makers and interested parties. NCOIL, *About Us*, <http://ncoil.org/history-purpose/> (last visited February 28, 2020).

⁶² National Conference of Insurance Legislators, *Travel Insurance Model Act* (July 15, 2017), <http://ncoil.org/wp-content/uploads/2017/07/travel-insurance-model-final.pdf> (last visited January 29, 2020).

⁶³ The National Association of Insurance Commissioners is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five United States territories. National Association of Insurance Commissioners, *About*, https://content.naic.org/index_about.htm (last visited February 28, 2020).

⁶⁴ National Association of Insurance Commissioners, *Synopsis: The 2017 Spring National Meeting* (April 24, 2017), https://www.naic.org/documents/prod_serv_naic_state_syn_zs.pdf (last visited January 29, 2020).

⁶⁵ National Association of Insurance Commissioners, *Travel Insurance Model Act* (4th Quarter 2018), <https://www.naic.org/store/free/MDL-632.pdf> (last visited January 29, 2020).

⁶⁶ Chapter 626, F.S., pt. IX.

⁶⁷ Section 626.9541, F.S.

⁶⁸ Section 626.9541(1)(a), F.S.

⁶⁹ Section 626.9541(1)(n), F.S.

insured, prospective insured, or any person for the purpose of advertising.⁷⁰ There are several similar limitations on advertising gifts under the Florida Insurance Code related to the advertising practices of title insurance agents, agencies and insurers, public adjusters, group and individual health benefit plans, and motor vehicle service agreement companies.⁷¹

III. Effect of Proposed Changes:

Electronic Signature Requirement for a Motor Vehicle Salvage Certificate of Title

Section 1 amends s. 319.30, F.S., to allow electronic signatures on odometer disclosures related to salvage certificates of title to use Level 2 security requirements, consistent with the applicable federal standard. This applies the same security requirements to electronic signatures on odometer disclosures for both certificates of destruction and salvage certificates of title and allows certificate applicants to electronically sign odometer disclosures remotely in both instances, rather than remotely when applying for a certificate of destruction but in-person only for salvage certificates of title.

Workers Compensation Insurance Reporting Requirements (Sections 2 and 3)

Sections 2 and 3 amends ss. 440.12 and 440.20, F.S., to allow employers and their carriers, upon authorization of the injured worker, to pay indemnity benefits, including associated monetary penalties, by sending money electronically to the injured worker via their account with a money transmitter. Indemnity and penalties paid via money transmitter accounts is considered paid on the date the funds become available to the injured worker for withdrawal.

Civil Remedy Notices (Sections 4 and 7)

Sections 4 and 7 amends ss. 624.155 and 624.422, F.S., to require the notice to the authorized insurer must be provided by the DFS to the e-mail address designated by the insurer.

The bill adds an additional tolling period to s. 624.155, F.S. It tolls the statute of limitation for 60 days following the date appraisal is invoked in a residential property insurance claim. In combination, it also changes the current 65-day tolling period resulting from the filing of the notice, to a 60-day period after the insurer receives notice from the DFS. The statute of limitation could be tolled for up to 120 days to allow the insurer the 60-day cure period and also allow the parties to pursue the appraisal process prior to expiration of the statute of limitation.

⁷⁰ Rule 69B-186.010, F.A.C., Unlawful Inducements Related to Title Insurance Transactions, governs inducements related to title insurance, but exempts gifts within the value limitation of s. 626.9541(1)(m), F.S. However, federal law prohibits any fee, kickback or thing of value given for referral of real estate settlement services on mortgage loans related to federal programs. 12 U.S.C. s. 2607 (2017).

⁷¹ Public adjusters, their apprentices, and anyone acting on behalf of the public adjuster are prohibited from giving gifts of merchandise valued in excess of \$25 as an inducement to contract. Section 626.854(9), F.S. A group or individual health benefit plan may provide merchandise without limitation in value as part of an advertisement for voluntary wellness or health improvement programs. Section 626.9541(4)(a), F.S. Motor vehicle service agreement companies are prohibited from giving gifts of merchandise in excess of \$25 to agreement holders, prospective agreement holders, or others for the purpose of advertising. Section 634.282(17), F.S.

Additionally, the bill clarifies that the 60-day cure period runs from the date the insurer receives the notice, rather than following “filing,” which is not defined.

Trade Secret Information (Sections 5 and 6)

Sections 5 and 6 amends ss. 624.307 and 624.315, F.S., to limit the release of aggregate information by the OIR and the DFS if protected trade secret information can be extrapolated from the aggregate information that the OIR or the DFS would otherwise release. This could occur where aggregate information is reported on a line of insurance in which a small number of companies participate such that one or more of the participating companies could back-out their own data from the reported aggregate information and discern the trade secret information of their competitor. The bill does not create a new public records exception, rather, it limits what the OIR and the DFS may do with public record information that is protected as a trade secret, but is not confidential and exempt public record information.

Extension of Deadlines in Insurance Rate and Form Filing (Sections 9 through 11)

Sections 9 through 11 amend ss. 627.062, 627.0651 and 627.410, F.S., to establish that if the last day of the timeframe for the OIR to review and approve or disapprove a rate filing for property, casualty, or surety insurance, including motor vehicle insurance, or to review an insurer’s form filing, falls on a weekend or holiday recognized by Florida governmental agencies or branches, then the period shall be extended until the conclusion of the next business day.

Residential Condominium Loss Assessments (Section 12)

Section 12 amends s. 627.714, F.S., to provide that the amount of loss assessment coverage that can be assessed against a unit owner is based upon the coverage limit for loss assessment that was in effect in the unit owner’s policy one day before the date of an occurrence that resulted in a loss for which the unit owner is being assessed. Further, the bill establishes that the coverage in place at that time applies regardless of the date on which the condominium association assesses the unit owner.

Prepayment of Premium on Initial Policy Purchase and Cancellation of Motor Vehicle Insurance Policies (Section 13)

Section 13 amends s. 627.7295, F.S., to reduce the limitation on insurer cancellation from 60 days to 30 days to make the bill consistent with the 2019 law change⁷² that reduced the required collection of initial premium from two month’s premium to one month’s premium.

Travel Insurance (Section 8 and Sections 14 through 22)

Section 8 amends s. 626.321, F.S., to revise current travel insurance agent and agency licensing requirements.

⁷² See *supra* note 12.

Any person licensed in a major line of authority as an insurance producer, including a property and casualty insurance producer who is not appointed by an insurer, may transact travel insurance. A licensed “producer” is a licensed insurance agent.

The bill requires the DFS to issue a travel insurance limited license to each limited lines travel insurance producer (travel insurance producer) that properly files an application with the DFS. The limited license authorizes the travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer. A travel insurance producer is defined in **Section 16** of the bill as:

- A licensed administrator or third-party administrator;
- A licensed insurance producer, including a limited lines producer; or
- A travel administrator.

The section also creates a registration requirement for travel retailers, which are business entities that make, arrange, or offer planned travel. Under the bill, a travel retailer may also offer and disseminate travel insurance to its customers on behalf of and under the license of a travel insurance producer. To do so, the travel retailer must be registered and appointed under a licensed limited lines travel insurance producer to transact travel insurance and must meet the following requirements:

- The travel insurance producer or travel retailer provides to purchasers of travel insurance:
 - The material terms of the insurance coverage or a description thereof;
 - A description of the process for filing a claim;
 - A description of the review or cancellation process for the travel insurance policy; and
 - The identity and contact information of the insurer and the limited lines travel insurance producer.
- The travel insurance producer is required to:
 - Establish and maintain a register on the DFS’s website of each travel retailer offering travel insurance on its behalf;
 - Maintain and update the register, which must include the travel retailer’s federal tax identification number and the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer’s operations;
 - Submit the register to the DFS upon reasonable request.
 - Certify that the travel retailer register complies with 18 U.S.C. s. 1033
- The travel insurance producer must designate one employee, who is a licensed insurance producer, responsible for compliance issues applicable to the licensee and the registered travel retailers appointed under the licensee.
- The travel insurance producer has paid all applicable licensing fees.
- Each employee and each authorized representative of the travel insurance producer must receive instruction or training. Such training or instruction is subject to review and approval by the DFS and must include, at a minimum, adequate instruction on the types of insurance offered, ethical sales practices, and required disclosures to prospective purchasers.

Under this section, the term “offer and disseminate” means to provide general information, including a description of the coverage price, as well as processing the application and collecting premiums.

Travel retailers offering or disseminating travel insurance are required to make available to prospective purchasers written materials approved by the travel insurer. Minimally, the material must:

- Provide the contact information of the travel insurance producer;
- Explain that the purchase of travel insurance is not necessary in order to purchase other products from the travel retailer; and
- Explain a travel retailer is authorized to provide only general information about insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the policy offered or to evaluate the adequacy of the customer's existing insurance coverage.

Travel retailer employees or authorized representatives who are not licensed as an insurance producer may not evaluate or interpret the terms of the travel insurance contract, evaluate or provide advice concerning the prospective purchaser's existing insurance coverage, or hold himself or herself out as an insurance expert. Properly registered travel retailers and their employees may receive compensation from the travel insurance producer.

The travel insurance producer is responsible for the acts of the travel retailer and must use reasonable means to ensure compliance by the travel retailer with this section.

Section 14 directs the Division of Law Revision to create ch. 647, F.S., encompassing ss. 647.01-647.08, F.S., to be entitled "Travel Insurance."⁷³

Section 15 creates s. 647.01, F.S., to provide a purpose statement that promotes the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in Florida. It defines the scope of the chapter as applicable to:

- Travel insurance that covers any resident of this state and that is sold, solicited, negotiated, or offered in this state; and
- Policies and certificates that are delivered or issued for delivery in Florida.

The bill does not apply to cancellation fee waivers or travel assistance services, except as expressly provided.

It specifies that all other applicable provisions of the insurance laws of this state continue to apply to travel insurance, except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

Section 16 creates s. 647.02, F.S., and defines the following terms used in the chapter:

- "Aggregator site" – a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.
- "Blanket travel insurance" – a policy of travel insurance issued to an eligible group providing coverage to all members of the eligible group without a separate charge to individual members of the eligible group.

⁷³ Chapter 647, F.S., incorporates the substance of the NAIC's Travel Insurance Model Act (#635) into the Florida Insurance Code.

- “Cancellation fee waiver” – a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier’s underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.
- “Department” – the Department of Financial Services.
- “Eligible group” – for the purposes of travel insurance, means two or more persons who are engaged in a common enterprise or who have an economic, educational, or social affinity or relationship. The bill provides numerous examples of the types of groups included.
- “Fulfillment materials” – documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan’s coverage and assistance details.
- “Group travel insurance” – travel insurance issued to an eligible group.
- “Limited lines travel insurance producer” means:
 - A licensed or third-party administrator;
 - A licensed insurance producer, including a limited lines producer; or
 - A travel administrator.
- “Travel administrator” – a person who directly or indirectly underwrites policies for; collects charges, collateral, or premiums from; or adjusts or settles claims made by residents of this state in connection with travel insurance, except that a person is not considered a travel administrator if the person is:
 - A person working for a travel administrator, to the extent that the person’s activities are subject to the supervision and control of the travel administrator;
 - An insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer’s license;
 - A travel retailer, as defined s. 626.321(1)(c)2., F.S., offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with s. 626.321(1)(c), F.S.;
 - A person adjusting or settling claims in the normal course of the person’s practice or employment as an attorney at law, without collecting charges or premiums in connection with insurance coverage; or
 - A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of the affiliated insurer.
- “Travel assistance services” – noninsurance services for which the consumer is not indemnified based on a fortuitous event, and the provision of which does not result in the transfer or shifting of risk which would constitute the business of insurance. The term includes, but is not limited to, security advisories, destination information, vaccination and immunization services, travel reservation services, lost luggage assistance, concierge service and many other services. Travel assistance services are not insurance and are not related to insurance.
- “Travel insurance” – insurance coverage for personal risks incidental to planned travel, including:
 - Interruption or cancellation of trip or event;
 - Loss of baggage or personal effects;
 - Damages to accommodations or rental vehicles;
 - Sickness, accident, disability, or death occurring during travel;
 - Emergency evacuation;

- Repatriation of remains; or
- Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as determined by the OIR.

The term does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six months, including major medical plans for those working or residing overseas as expatriates, or any other product that requires a specific insurance producer license.

- “Travel protection plan” – a plan that provides one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

Section 17 creates s. 647.03, F.S., to require that the travel insurer must pay a premium tax, as required under s. 624.509, F.S., on travel insurance premiums paid by the primary policyholder, certificateholder, or blanket travel insurance policyholder under certain conditions, which include state of residence or principal place of business.⁷⁴ The travel insurer is required to document the state of residence or principal place of business for the policyholder or certificateholder, or an affiliate or subsidiary, thereof. The premium paid does not include amounts received for travel assistance services or cancellation waivers.

The bill provides that the premium tax is subject to any apportionment rules that apply to an insurer across multiple taxing jurisdictions or that authorize an insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

The bill defines “primary certificateholder” as an individual who purchases travel insurance under a group policy and “primary policyholder” as an individual who purchases individual travel insurance.

Section 18 creates s. 647.04, F.S., to allow the sale of travel protection plans for one price provided the plan provides to the consumer, at or before the time of purchase:

- Disclosure that the plan includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable and provides information and an opportunity for the consumer to obtain additional information regarding the features and pricing of each.
- Fulfillment materials describing and delineating each of its features and pricing of each constituent feature, all disclosure required by ch. 647, F.S., and the contact information for the persons providing travel assistance services and cancellation fee waivers.

Section 19 creates s. 647.05, F.S., to require that travel insurance documents provided to a consumer before purchase must be consistent with the travel insurance policy. Information on any preexisting condition exclusion must be provided before purchase.

Fulfillment materials, and mandatory disclosures under s. 626.321(1)(c)3.a., F.S., must be sent to the purchaser of a travel protection plan after purchase, confirming the purchase and outlining the details of the plan. Fulfillment materials must include whether the travel insurance is primary or secondary to other applicable coverage and whether the policy has preexisting condition exclusions.

⁷⁴ This does not appear to be a new tax. Travel insurance is already subject to premium tax under the Florida Insurance Code. This provision appears to be included to clarify the applicability of premium tax requirements to the newly created ch. 647, F.S.

A policyholder or certificate holder can cancel a policy or certificate for a full refund up to 15 days after date of delivery, if delivered by postal mail, or ten days after date of delivery, if delivered by means other than postal mail. Under this section, “delivery” means handing fulfillment materials to the policyholder or certificateholder or sending fulfillment materials by postal or electronic means to the policyholder or certificateholder.

A person offering, soliciting, or negotiating travel insurance or protection plans may not do so using an opt-out option that requires a consumer to take an affirmative action when purchasing a trip.

Any person offering travel insurance is subject to the Unfair Insurance Trade Practices Act (UITPA),⁷⁵ unless otherwise specified. If a conflict arises between UITPA and this chapter, the provisions of this chapter will control. If a destination jurisdiction requires travel insurance coverage, it is not an unfair trade practice to require the consumer to purchase the required coverage through the travel retailer or the limited lines insurance producer supplying the trip or package, or to require that the consumer obtain and provide proof of coverage from another source, provided it meets the jurisdiction’s requirements and is purchased prior to departure. It is not an unfair trade practice to market travel insurance directly to a consumer online, as long as the web page provides an accurate summary or short description of the coverage and the consumer has access to the full policy provisions through electronic means. Conversely, a person commits an unfair trade practice under UITPA if he or she offers or sells a policy that could never result in payment of any claims or markets blanket travel insurance coverage as free.

Section 20 creates s. 647.06, F.S., to allow a person to act or represent himself or herself as a travel administrator if he or she is a licensed and appointed property and casualty insurance producer in Florida, is appointed as a managing agent in Florida, or holds a valid third party administrator license. A travel administrator and its employees are exempt from the licensing requirements listed in ch. 626, part VI, F.S. An insurer has the responsibility of ensuring a travel administrator acts in accordance with this chapter and maintains books and records, which must be available to DFS upon request.

Section 21 creates s. 647.07, F.S., to classify travel insurance under the inland marine line of insurance for purposes of rates and forms. Coverage for sickness, accident, disability, death or incidental limited property and casualty benefits, such as baggage or trip cancellation, during travel may be classified and filed under the accident and health or the inland marine line of insurance. Travel insurance may be in the form of an individual, group, or blanket policy. Sections of policies or endorsements for inland marine insurance consisting of travel assistance services or cancellation fee waivers are not subject to s. 627.410, F.S.

Travel insurance programs may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels.

Section 22 creates s. 647.08, F.S., which requires the DFS to adopt rules to administer ch. 647, F.S.

⁷⁵ Chapter 626, Part IX, F.S.

Effective Date

Section 23 provides except as otherwise expressly provided in the bill and except for Section 23, which shall take effect upon this act becoming a law, the bill has an effective date of July 1, 2020.

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:

The bill does not appear to impose or raise a state tax or fee in violation of Art. VII, s. 19 of the Florida Constitution. Travel insurance is currently subject to premium tax under the Florida Insurance Code.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The OIR has indicated the bill has no impact to state revenues or expenditures.⁷⁶ However, the DFS and the OIR may have indeterminate costs associated with implementing the newly created ch. 647, F.S., entitled "Travel Insurance." The DFS has not submitted an analysis of the bill.

⁷⁶ Telephone conversation with Grant Phillips, Office of Legislative Affairs, Office of Insurance Regulation (Feb. 28, 2020).

VI. Technical Deficiencies:

Lines 862 and 865 create two new violations of the Unfair Insurance Trade Practices Act in relation to travel insurance. It may avoid confusion if these provisions were amended into the Act at ch. 626, part IX, F.S., rather than stating them in a separate chapter of statute.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.30, 440.12, 440.20, 624.155, 624.307, 324.315, 624.422, 626.321, 627.062, 627.0651, 627.410, 627.714, and 627.7295.

This bill creates the following sections of the Florida Statutes: 647.01, 647.02, 647.03, 647.04, 647.05, 647.06, 647.07, and 647.08.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Infrastructure and Security on February 17, 2020:**

The committee substitute:

- Deletes the provisions of the bill that required the DHSMV to create an online verification system for motor vehicle insurance, and created a task force to assist, review, and report on the implementation of the system;
- Requires that an electronic signature used to satisfy the signature requirement for a salvage certificate of title must be executed using a system providing a Level 2 authentication level;
- Requires insurers to file with the DFS the name and email address of the person who will receive civil remedy notices;
- Amends the civil remedy notices statute of limitations when an appraisal is invoked from 60 days after it is invoked instead of 65 days after mailing of notice;
- Prohibits OIR from disseminating aggregated information if it contains trade secret information that can be individually extrapolated;
- Provides that when the OIR period for reviewing specified rates and forms end on a weekend or holiday, the period is extended until the conclusion of the next business day;
- Clarifies that the maximum amount that a condominium unit owner's assessment insurance coverage may be assessed is the loss assessment coverage limit in effect 1 day before the date of the occurrence that gave rise to the loss;
- Allows insurers to cancel auto policies for non-payment after 30 days, instead of the current 60 days;
- Allows for an electronic method of workers compensation payments to be used; and

- Establishes the National Association of Insurance Commissioners (NAIC) Model Act for travel insurance.

CS by Banking and Insurance on February 4, 2020:

The committee substitute:

- Retains the bill's provisions requiring the DHSMV to create a motor vehicle insurance online verification system, and requiring the creation of a task force to assist, review, and report on the implementation of the system.
- Amends s. 316.646, F.S., to require law enforcement officers, during a traffic stop or crash investigation, to access the motor vehicle insurance online verification system 18 months after its implementation.
- Authorizes the DHSMV to enter into use agreements with any public or private entity accessing the system to verify insurance coverage.
- Increases the period of time the insurers must maintain policyholder records in order to confirm coverage after the date of any verification request and response, from six months to three years.
- Increases the number of voting Motor Vehicle Insurance Online Verification Task Force members from nine to ten; adds one voting member who must be a member of local law enforcement, appointed by the executive director of the DHSMV.
- Eliminates the bill's provision requiring the Motor Vehicle Insurance Online Verification Task Force to issue a report to the DHSMV, President of the Senate, and Speaker of the House of Representatives no later than six months after the conclusion of the pilot program, evaluating the system's effectiveness in identifying uninsured motorists and making recommendations for system enhancements.
- Predicates the effectiveness of the bill on a specific appropriation.
- Deletes all other sections of the bill.

B. Amendments:

None.

By the Committees on Infrastructure and Security; and Banking
and Insurance; and Senator Perry

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1 A bill to be entitled
2 An act relating to insurance administration; amending
3 s. 319.30, F.S.; revising a certain electronic
4 signature requirement for a motor vehicle salvage
5 certificate of title; amending ss. 440.12 and 440.20,
6 F.S.; authorizing the payment of certain workers'
7 compensation benefits to be transmitted to the
8 employee's account with a licensed money transmitter;
9 amending s. 624.155, F.S.; revising requirements and
10 procedures for the civil remedy notice provided to
11 insurers and the Department of Financial Services;
12 revising the timeframe for an insurer to pay damages
13 or for certain circumstances to be corrected; revising
14 circumstances that toll the applicable statute of
15 limitations and the period the statute of limitations
16 is tolled; amending ss. 624.307 and 624.315, F.S.;
17 providing that certain aggregate information
18 containing trade secret information may be publicly
19 disclosed by the department or the Office of Insurance
20 Regulation, except under certain circumstances;
21 amending s. 624.422, F.S., requiring insurers to file
22 with the department certain contact information for
23 service of process; amending s. 626.321, F.S.;
24 providing that certain travel insurance licenses are
25 subject to review by the department rather than by the
26 office; revising persons who may be licensed to
27 transact in travel insurance; specifying licensure and
28 registration requirements for certain persons;
29 defining the term "travel retailer"; specifying

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30 requirements for, restrictions on, and authorized acts
31 by travel retailers and limited lines travel insurance
32 producers; defining the term "offer and disseminate";
33 authorizing certain persons to sell, solicit, and
34 negotiate travel insurance; amending ss. 627.062,
35 627.0651, and 627.410, F.S.; specifying that certain
36 periods ending on a weekend or on certain holidays are
37 extended until the conclusion of the next business
38 day; amending s. 627.714, F.S.; revising criteria for
39 assessing a residential condominium unit owner's loss
40 assessment coverage; amending s. 627.7295, F.S.;
41 decreasing the timeframe during which an insurer may
42 not cancel a new policy or binder of motor vehicle
43 insurance for nonpayment of premium, except under
44 certain circumstances; creating ch. 647, F.S.,
45 entitled "Travel Insurance"; creating s. 647.01, F.S.;
46 providing legislative purpose; providing
47 applicability; creating s. 647.02, F.S.; defining
48 terms; creating s. 647.03, F.S.; defining the terms
49 "primary certificateholder" and "primary
50 policyholder"; requiring travel insurers to pay the
51 insurance premium tax on specified travel insurance
52 premiums; providing construction; specifying
53 requirements for travel insurers; creating s. 647.04,
54 F.S.; providing that a travel protection plan may be
55 offered for one price if it meets specified
56 requirements; creating s. 647.05, F.S.; specifying
57 sales practice requirements, prohibited sales
58 practices, and authorized sales practices relating to

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59 travel insurance; specifying a policyholder's or
 60 certificateholder's right to cancel a travel
 61 protection plan for a full refund; defining the term
 62 "delivery"; specifying unfair insurance trade
 63 practices; providing construction; creating s. 647.06,
 64 F.S.; specifying qualifications for travel
 65 administrators; providing an exemption from certain
 66 licensure; providing that insurers are responsible for
 67 ensuring certain acts by travel administrators;
 68 creating s. 647.07, F.S.; specifying the
 69 classification for travel insurance for rate filing
 70 purposes; specifying authorized forms of travel
 71 insurance; providing applicability of certain
 72 provisions of the Rating Law; authorizing the
 73 development and provision of travel insurance programs
 74 on certain bases; creating s. 647.08, F.S.; requiring
 75 the department to adopt rules; providing effective
 76 dates.

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

79
 80 Section 1. Effective upon this act becoming a law,
 81 paragraph (d) of subsection (3) of section 319.30, Florida
 82 Statutes, is amended to read:

83 319.30 Definitions; dismantling, destruction, change of
 84 identity of motor vehicle or mobile home; salvage.—

85 (3)

86 (d) An electronic signature that is consistent with chapter
 87 668 satisfies any signature required under this subsection,

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88 except that an electronic signature on an odometer disclosure
 89 submitted through an insurance company must be executed using an
 90 electronic signature, as defined in s. 668.003(4), which that
 91 uses a system providing an Identity Assurance Level,
 92 Authenticator Assurance Level, and Federation Assurance Level,
 93 as described in the National Institute of Standards and
 94 Technology Special Publication 800-63-3, as of December 1, 2017,
 95 which that are equivalent to or greater than+

96 ~~1. Level 2, for each level, for a certificate of~~
 97 ~~destruction or-~~

98 ~~2. Level 3, for each level, for a salvage certificate of~~
 99 ~~title.~~

100 Section 2. Paragraph (a) of subsection (1) of section
 101 440.12, Florida Statutes, is amended to read:

102 440.12 Time for commencement and limits on weekly rate of
 103 compensation.—

104 (1) Compensation is not allowed for the first 7 days of the
 105 disability, except for benefits provided under s. 440.13.
 106 However, if the injury results in more than 21 days of
 107 disability, compensation is allowed from the commencement of the
 108 disability.

109 (a) All weekly compensation payments, except for the first
 110 payment, must be paid by check or, if authorized by the
 111 employee, paid on a prepaid card pursuant to paragraph (b), ~~or~~
 112 deposited directly into the employee's account at a financial
 113 institution as defined in s. 655.005, or transmitted to the
 114 employee's account with a money transmitter licensed under part
 115 II of chapter 560.

116 Section 3. Paragraph (a) of subsection (1) and paragraph

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117 (a) of subsection (6) of section 440.20, Florida Statutes, are
118 amended to read:

119 440.20 Time for payment of compensation and medical bills;
120 penalties for late payment.—

121 (1) (a) Unless the carrier denies compensability or
122 entitlement to benefits, the carrier shall pay compensation
123 directly to the employee as required by ss. 440.14, 440.15, and
124 440.16, in accordance with those sections. Upon receipt of the
125 employee's authorization as provided for in s. 440.12(1) (a), the
126 carrier's obligation to pay compensation directly to the
127 employee is satisfied when the carrier directly deposits, by
128 electronic transfer or other means, compensation into the
129 employee's account at a financial institution as defined in s.
130 655.005 or onto a prepaid card in accordance with s. 440.12(1)
131 or transmits the employee's compensation to the employee's
132 account with a money transmitter licensed under part II of
133 chapter 560. Compensation by direct deposit, ~~or~~ through the use
134 of a prepaid card, or through transmission is considered paid on
135 the date the funds become available for withdrawal by the
136 employee.

137 (6) (a) If any installment of compensation for death or
138 dependency benefits, or compensation for disability benefits
139 payable without an award is not paid within 7 days after it
140 becomes due, as provided in subsection (2), subsection (3), or
141 subsection (4), there shall be added to such unpaid installment
142 a penalty of an amount equal to 20 percent of the unpaid
143 installment, which shall be paid at the same time as, but in
144 addition to, such installment of compensation. This penalty
145 shall not apply for late payments resulting from conditions over

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146 which the employer or carrier had no control. When any
147 installment of compensation payable without an award has not
148 been paid within 7 days after it became due and the claimant
149 concludes the prosecution of the claim before a judge of
150 compensation claims without having specifically claimed
151 additional compensation in the nature of a penalty under this
152 section, the claimant will be deemed to have acknowledged that,
153 owing to conditions over which the employer or carrier had no
154 control, such installment could not be paid within the period
155 prescribed for payment and to have waived the right to claim
156 such penalty. However, during the course of a hearing, the judge
157 of compensation claims shall on her or his own motion raise the
158 question of whether such penalty should be awarded or excused.
159 The department may assess without a hearing the penalty against
160 either the employer or the carrier, depending upon who was at
161 fault in causing the delay. The insurance policy cannot provide
162 that this sum will be paid by the carrier if the department or
163 the judge of compensation claims determines that the penalty
164 should be paid by the employer rather than the carrier. Any
165 additional installment of compensation paid by the carrier
166 pursuant to this section shall be paid directly to the employee
167 by check or, if authorized by the employee, by direct deposit
168 into the employee's account at a financial institution or by
169 transmission to the employee's account with a money transmitter
170 licensed under part II of chapter 560.

171 Section 4. Subsection (3) of section 624.155, Florida
172 Statutes, is amended to read:

173 624.155 Civil remedy.—

174 (3) (a) As a condition precedent to bringing an action under

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175 this section, the department and the authorized insurer must
 176 have been given 60 days' written notice of the violation. Notice
 177 to the authorized insurer must be provided by the department to
 178 the e-mail address designated by the insurer under s. 624.422.

179 (b) The notice shall be on a form provided by the
 180 department and shall state with specificity the following
 181 information, and such other information as the department may
 182 require:

183 1. The statutory provision, including the specific language
 184 of the statute, which the authorized insurer allegedly violated.

185 2. The facts and circumstances giving rise to the
 186 violation.

187 3. The name of any individual involved in the violation.

188 4. Reference to specific policy language that is relevant
 189 to the violation, if any. If the person bringing the civil
 190 action is a third party claimant, she or he shall not be
 191 required to reference the specific policy language if the
 192 authorized insurer has not provided a copy of the policy to the
 193 third party claimant pursuant to written request.

194 5. A statement that the notice is given in order to perfect
 195 the right to pursue the civil remedy authorized by this section.

196 (c) No action shall lie if, within 60 days after the
 197 insurer receives filing notice from the department in accordance
 198 with this subsection, the damages are paid or the circumstances
 199 giving rise to the violation are corrected.

200 (d) The authorized insurer that is the recipient of a
 201 notice filed pursuant to this section shall report to the
 202 department on the disposition of the alleged violation.

203 (e) The applicable statute of limitations for an action

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204 under this section shall be tolled for a period of:

205 1. Sixty ~~65~~ days after the insurer receives from the
 206 department ~~by the mailing of~~ the notice required by this
 207 subsection.

208 2. Sixty days after the date appraisal is invoked pursuant
 209 to paragraph (f) ~~or the mailing of a subsequent notice required~~
 210 by this subsection.

211 (f) A notice required under this subsection may not be
 212 filed within 60 days after appraisal is invoked by any party in
 213 a residential property insurance claim.

214 Section 5. Subsection (4) of section 624.307, Florida
 215 Statutes, is amended to read:

216 624.307 General powers; duties.—

217 (4) The department and office may each collect, propose,
 218 publish, and disseminate information relating to the subject
 219 matter of any duties imposed upon it by law. Aggregate
 220 information may include information asserted as trade secret
 221 information unless the trade secret information can be
 222 individually extrapolated, in which case the trade secret
 223 information remains protected as provided under s. 624.4213.

224 Section 6. Subsection (4) is added to section 624.315,
 225 Florida Statutes, to read:

226 624.315 Department; annual report.—

227 (4) When aggregate information includes information
 228 asserted as trade secret information, the office may include the
 229 trade secret information in the report required under subsection
 230 (1) or may make the trade secret information available under
 231 subsection (2) unless the trade secret information can be
 232 individually extrapolated, in which case the trade secret

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233 information remains protected as provided under s. 624.4213.

234 Section 7. Subsection (2) of section 624.422, Florida
235 Statutes, is amended to read:

236 624.422 Service of process; appointment of Chief Financial
237 Officer as process agent.—

238 (2) Prior to its authorization to transact insurance in
239 this state, each insurer shall file with the department
240 designation of the name and address of the person to whom
241 process against it served upon the Chief Financial Officer is to
242 be forwarded. Each insurer shall also file with the department
243 designation of the name and e-mail address of the person to whom
244 the department shall forward civil remedy notices filed under
245 624.155. The insurer may change a the designation at any time by
246 a new filing.

247 Section 8. Paragraph (c) of subsection (1) of section
248 626.321, Florida Statutes, is amended to read:

249 626.321 Limited licenses and registration.—

250 (1) The department shall issue to a qualified applicant a
251 license as agent authorized to transact a limited class of
252 business in any of the following categories of limited lines
253 insurance:

254 (c) Travel insurance.—License covering only policies and
255 certificates of travel insurance which are subject to review by
256 the office. Policies and certificates of travel insurance may
257 provide coverage for travel insurance, as defined in s. 647.02
258 risks incidental to travel, planned travel, or accommodations
259 while traveling, including, but not limited to, accidental death
260 and dismemberment of a traveler; trip or event cancellation,
261 interruption, or delay; loss of or damage to personal effects or

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262 ~~travel documents; damages to travel accommodations; baggage~~
263 ~~delay; emergency medical travel or evacuation of a traveler; or~~
264 ~~medical, surgical, and hospital expenses related to an illness~~
265 ~~or emergency of a traveler. Such policy or certificate may be~~
266 ~~issued for terms longer than 90 days, but, other than a policy~~
267 ~~or certificate providing coverage for air ambulatory services~~
268 ~~only, each policy or certificate must be limited to coverage for~~
269 ~~travel or use of accommodations of no longer than 90 days. The~~
270 license may be issued only to an individual or business entity
271 that has filed with the department an application for a license
272 in a form and manner prescribed by the department.

273 1. A limited lines travel insurance producer, as defined in
274 s. 647.02, shall be licensed to sell, solicit, or negotiate
275 travel insurance through a licensed insurer.

276 2. A person may not act as a limited lines travel insurance
277 producer or travel retailer unless properly licensed or
278 registered, respectively. As used in this paragraph, the term
279 "travel retailer" means a business entity that:

280 a. Makes, arranges, or offers planned travel.

281 b. May, under subparagraph 3., offer and disseminate travel
282 insurance as a service to its customers on behalf of and under
283 the direction of a limited lines travel insurance producer.

284 3. A travel retailer may offer and disseminate travel
285 insurance under a limited lines travel insurance producer
286 business entity license only if all of the following
287 requirements are met:

288 a. The limited lines travel insurance producer or travel
289 retailer provides to purchasers of travel insurance:

290 (I) A description of the material terms or the actual

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291 material terms of the insurance coverage.
 292 (II) A description of the process for filing a claim.
 293 (III) A description of the review or cancellation process
 294 for the travel insurance policy.
 295 (IV) The identity and contact information of the insurer
 296 and limited lines travel insurance producer.
 297 b. At the time of licensure, the limited lines travel
 298 insurance producer establishes and maintains a register on the
 299 department's website and appoints each travel retailer that
 300 offers travel insurance on behalf of the limited lines travel
 301 insurance producer. The limited lines travel insurance producer
 302 must maintain and update the register, which must include the
 303 travel retailer's federal tax identification number and the
 304 name, address, and contact information of the travel retailer
 305 and an officer or person who directs or controls the travel
 306 retailer's operations. The limited lines travel insurance
 307 producer shall submit the register to the department upon
 308 reasonable request. The limited lines travel insurance producer
 309 shall also certify that the travel retailer register complies
 310 with 18 U.S.C. s. 1033. The grounds for the suspension and
 311 revocation and the penalties applicable to resident insurance
 312 producers under this section apply to the limited lines travel
 313 insurance producers and travel retailers.
 314 c. The limited lines travel insurance producer has
 315 designated one of its employees as the designated responsible
 316 producer. The designated responsible producer, who must be a
 317 licensed insurance producer, is responsible for compliance with
 318 the travel insurance laws and regulations applicable to the
 319 limited lines travel insurance producer and its registrants. The

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320 designated responsible producer and the president, secretary,
 321 treasurer, and any other officer or person who directs or
 322 controls the limited lines travel insurance producer's insurance
 323 operations must comply with the fingerprinting requirements
 324 applicable to insurance producers in the resident state of the
 325 limited lines travel insurance producer.
 326 d. The limited lines travel insurance producer has paid all
 327 applicable licensing and appointment fees, as set forth in
 328 applicable general law.
 329 e. The limited lines travel insurance producer requires
 330 each employee and each authorized representative of the travel
 331 retailer whose duties include offering and disseminating travel
 332 insurance to receive a program of instruction or training, which
 333 is subject, at the discretion of the department, to review and
 334 approval. The training material must, at a minimum, contain
 335 adequate instructions on the types of insurance offered, ethical
 336 sales practices, and required disclosures to prospective
 337 purchasers.
 338
 339 As used in this paragraph, the term "offer and disseminate"
 340 means to provide general information, including a description of
 341 the coverage and price, as well as processing the application
 342 and collecting premiums.
 343 4. A travel retailer offering or disseminating travel
 344 insurance shall make available to prospective purchasers
 345 brochures or other written materials that have been approved by
 346 the travel insurer. Such materials must include information
 347 that, at a minimum:
 348 a. Provides the identity and contact information of the

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349 insurer and the limited lines travel insurance producer.
 350 b. Explains that the purchase of travel insurance is not
 351 required in order to purchase any other product or service from
 352 the travel retailer.
 353 c. Explains that a travel retailer is authorized to provide
 354 only general information about the insurance offered by the
 355 travel retailer, including a description of the coverage and
 356 price, but is not qualified or authorized to answer technical
 357 questions about the terms and conditions of the insurance
 358 offered by the travel retailer or to evaluate the adequacy of
 359 the customer's existing insurance coverage.
 360 5. A travel retailer employee or authorized representative
 361 who is not licensed as an insurance producer may not:
 362 a. Evaluate or interpret the technical terms, benefits, and
 363 conditions of the offered travel insurance coverage;
 364 b. Evaluate or provide advice concerning a prospective
 365 purchaser's existing insurance coverage; or
 366 c. Hold himself or herself or the travel retailer out as a
 367 licensed insurer, licensed producer, or insurance expert.
 368
 369 Notwithstanding any other law, a travel retailer whose
 370 insurance-related activities, and those of its employees and
 371 authorized representatives, are limited to offering and
 372 disseminating travel insurance on behalf of and under the
 373 direction of a limited lines travel insurance producer meeting
 374 the conditions in this section may receive related compensation
 375 upon registration by the limited lines travel insurance producer
 376 as described in paragraph (2) (b).
 377 6. As the insurer's designee, the limited lines travel

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378 insurance producer is responsible for the acts of the travel
 379 retailer and shall use reasonable means to ensure compliance by
 380 the travel retailer with this section.
 381 7. Any person licensed as a general or personal lines agent
 382 may sell, solicit, and negotiate travel insurance.†
 383 1. To a full-time salaried employee of a common carrier or
 384 a full-time salaried employee or owner of a transportation
 385 ticket agency and may authorize the sale of such ticket policies
 386 only in connection with the sale of transportation tickets, or
 387 to the full-time salaried employee of such an agent. Such policy
 388 may not be for more than 48 hours or more than the duration of a
 389 specified one way trip or round trip.
 390 2. To an entity or individual that is:
 391 a. The developer of a timeshare plan that is the subject of
 392 an approved public offering statement under chapter 721;
 393 b. An exchange company operating an exchange program
 394 approved under chapter 721;
 395 c. A managing entity operating a timeshare plan approved
 396 under chapter 721;
 397 d. A seller of travel as defined in chapter 559; or
 398 e. A subsidiary or affiliate of any of the entities
 399 described in sub-subparagraphs a.-d.
 400 3. To a full-time salaried employee of a licensed general
 401 lines agent or a business entity that offers travel planning
 402 services if insurance sales activities authorized by the license
 403 are in connection with, and incidental to, travel.
 404 a. A license issued to a business entity that offers travel
 405 planning services must encompass each office, branch office, or
 406 place of business making use of the entity's business name in

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407 ~~order to offer, solicit, and sell insurance pursuant to this~~
 408 ~~paragraph.~~

409 ~~b. The application for licensure must list the name,~~
 410 ~~address, and phone number for each office, branch office, or~~
 411 ~~place of business that is to be covered by the license. The~~
 412 ~~licensee shall notify the department of the name, address, and~~
 413 ~~phone number of any new location that is to be covered by the~~
 414 ~~license before the new office, branch office, or place of~~
 415 ~~business engages in the sale of insurance pursuant to this~~
 416 ~~paragraph. The licensee shall notify the department within 30~~
 417 ~~days after the closing or terminating of an office, branch~~
 418 ~~office, or place of business. Upon receipt of the notice, the~~
 419 ~~department shall delete the office, branch office, or place of~~
 420 ~~business from the license.~~

421 ~~e. A licensed and appointed entity is directly responsible~~
 422 ~~and accountable for all acts of the licensee's employees and~~
 423 ~~parties with whom the licensee has entered into a contractual~~
 424 ~~agreement to offer travel insurance.~~

425 ~~A licensee shall require each individual who offers policies or~~
 426 ~~certificates under subparagraph 2. or subparagraph 3. to receive~~
 427 ~~initial training from a general lines agent or an insurer~~
 428 ~~authorized under chapter 624 to transact insurance within this~~
 429 ~~state. For an entity applying for a license as a travel~~
 430 ~~insurance agent, the fingerprinting requirement of this section~~
 431 ~~applies only to the president, secretary, and treasurer and to~~
 432 ~~any other officer or person who directs or controls the travel~~
 433 ~~insurance operations of the entity.~~

434 ~~Section 9. Paragraph (a) of subsection (2) of section~~
 435

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436 627.062, Florida Statutes, is amended to read:

437 627.062 Rate standards.—

438 (2) As to all such classes of insurance:

439 (a) Insurers or rating organizations shall establish and
 440 use rates, rating schedules, or rating manuals that allow the
 441 insurer a reasonable rate of return on the classes of insurance
 442 written in this state. A copy of rates, rating schedules, rating
 443 manuals, premium credits or discount schedules, and surcharge
 444 schedules, and changes thereto, must be filed with the office
 445 under one of the following procedures:

446 1. If the filing is made at least 90 days before the
 447 proposed effective date and is not implemented during the
 448 office's review of the filing and any proceeding and judicial
 449 review, such filing is considered a "file and use" filing. In
 450 such case, the office shall finalize its review by issuance of a
 451 notice of intent to approve or a notice of intent to disapprove
 452 within 90 days after receipt of the filing. If the 90-day period
 453 ends on a weekend or a holiday under s. 110.117(1)(a)-(i), it
 454 must be extended until the conclusion of the next business day.

455 The notice of intent to approve and the notice of intent to
 456 disapprove constitute agency action for purposes of the
 457 Administrative Procedure Act. Requests for supporting
 458 information, requests for mathematical or mechanical
 459 corrections, or notification to the insurer by the office of its
 460 preliminary findings does not toll the 90-day period during any
 461 such proceedings and subsequent judicial review. The rate shall
 462 be deemed approved if the office does not issue a notice of
 463 intent to approve or a notice of intent to disapprove within 90
 464 days after receipt of the filing.

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465 2. If the filing is not made in accordance with
 466 subparagraph 1., such filing must be made as soon as
 467 practicable, but within 30 days after the effective date, and is
 468 considered a "use and file" filing. An insurer making a "use and
 469 file" filing is potentially subject to an order by the office to
 470 return to policyholders those portions of rates found to be
 471 excessive, as provided in paragraph (h).

472 3. For all property insurance filings made or submitted
 473 after January 25, 2007, but before May 1, 2012, an insurer
 474 seeking a rate that is greater than the rate most recently
 475 approved by the office shall make a "file and use" filing. For
 476 purposes of this subparagraph, motor vehicle collision and
 477 comprehensive coverages are not considered property coverages.

478
 479 The provisions of this subsection do not apply to workers'
 480 compensation, employer's liability insurance, and motor vehicle
 481 insurance.

482 Section 10. Paragraph (a) of subsection (1) of section
 483 627.0651, Florida Statutes, is amended to read:

484 627.0651 Making and use of rates for motor vehicle
 485 insurance.-

486 (1) Insurers shall establish and use rates, rating
 487 schedules, or rating manuals to allow the insurer a reasonable
 488 rate of return on motor vehicle insurance written in this state.
 489 A copy of rates, rating schedules, and rating manuals, and
 490 changes therein, shall be filed with the office under one of the
 491 following procedures:

492 (a) If the filing is made at least 60 days before the
 493 proposed effective date and the filing is not implemented during

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494 the office's review of the filing and any proceeding and
 495 judicial review, such filing shall be considered a "file and
 496 use" filing. In such case, the office shall initiate proceedings
 497 to disapprove the rate and so notify the insurer or shall
 498 finalize its review within 60 days after receipt of the filing.
 499 If the 60-day period ends on a weekend or a holiday under s.
 500 110.117(1)(a)-(i), it must be extended until the conclusion of
 501 the next business day. Notification to the insurer by the office
 502 of its preliminary findings shall toll the 60-day period during
 503 any such proceedings and subsequent judicial review. The rate
 504 shall be deemed approved if the office does not issue notice to
 505 the insurer of its preliminary findings within 60 days after the
 506 filing.

507 Section 11. Subsection (2) of section 627.410, Florida
 508 Statutes, is amended to read:

509 627.410 Filing, approval of forms.-

510 (2) Every such filing must be made at least 30 days in
 511 advance of any such use or delivery. At the expiration of the 30
 512 days, the form filed will be deemed approved unless prior
 513 thereto it has been affirmatively approved or disapproved by
 514 order of the office. The approval of such form by the office
 515 constitutes a waiver of any unexpired portion of such waiting
 516 period. The office may extend the period within which it may
 517 affirmatively approve or disapprove such form by up to 15 days
 518 by giving notice of such extension before expiration of the
 519 initial 30-day period. If the initial 30-day period or the 15-
 520 day extension period ends on a weekend or a holiday under s.
 521 110.117(1)(a)-(i), the review period must be extended until the
 522 conclusion of the next business day. At the expiration of such

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523 extended period, and in the absence of prior affirmative
524 approval or disapproval, such form shall be deemed approved.

525 Section 12. Subsection (2) of section 627.714, Florida
526 Statutes, is amended to read:

527 627.714 Residential condominium unit owner coverage; loss
528 assessment coverage required.—

529 (2) The maximum amount of any unit owner's loss assessment
530 coverage that can be assessed for any loss shall be an amount
531 equal to that unit owner's loss assessment coverage limit in
532 effect 1 day before the date of the occurrence that gave rise to
533 the loss. Such coverage is applicable to any loss assessment
534 regardless of the date of the assessment by the association. Any
535 changes to the limits of a unit owner's coverage for loss
536 assessments made on or after the day before the date of the
537 occurrence are not applicable to such loss.

538 Section 13. Subsection (4) of section 627.7295, Florida
539 Statutes, is amended to read:

540 627.7295 Motor vehicle insurance contracts.—

541 (4) The insurer may cancel the policy in accordance with
542 this code except that, notwithstanding s. 627.728, an insurer
543 may not cancel a new policy or binder during the first 30 ~~60~~
544 days immediately following the effective date of the policy or
545 binder for nonpayment of premium unless the reason for the
546 cancellation is the issuance of a check for the premium that is
547 dishonored for any reason or any other type of premium payment
548 that was subsequently determined to be rejected or invalid.

549 Section 14. The Division of Law Revision is directed to
550 create chapter 647, Florida Statutes, consisting of ss. 647.01-
551 647.08, Florida Statutes, to be entitled "Travel Insurance."

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552 Section 15. Section 647.01, Florida Statutes, is created to
553 read:

554 647.01 Purpose and scope.—

555 (1) The purpose of this chapter is to promote the public
556 welfare by creating a comprehensive legal framework within which
557 travel insurance may be sold in this state.

558 (2) This chapter applies to:

559 (a) Travel insurance that covers any resident of this state
560 and that is sold, solicited, negotiated, or offered in this
561 state.

562 (b) Policies and certificates that are delivered or issued
563 for delivery in this state.

564
565 This chapter does not apply to cancellation fee waivers or
566 travel assistance services, except as expressly provided in this
567 chapter.

568 (3) All other applicable provisions of the insurance laws
569 of this state continue to apply to travel insurance, except that
570 the specific provisions of this chapter shall supersede any
571 general provisions of law that would otherwise be applicable to
572 travel insurance.

573 Section 16. Section 647.02, Florida Statutes, is created to
574 read:

575 647.02 Definitions.—As used in this chapter, the term:

576 (1) "Aggregator site" means a website that provides access
577 to information regarding insurance products from more than one
578 insurer, including product and insurer information, for use in
579 comparison shopping.

580 (2) "Blanket travel insurance" means a policy of travel

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581 insurance issued to an eligible group providing coverage to all
 582 members of the eligible group without a separate charge to
 583 individual members of the eligible group.

584 (3) "Cancellation fee waiver" means a contractual agreement
 585 between a supplier of travel services and its customer to waive
 586 some or all of the nonrefundable cancellation fee provisions of
 587 the supplier's underlying travel contract with or without regard
 588 to the reason for the cancellation or form of reimbursement. A
 589 cancellation fee waiver is not insurance.

590 (4) "Department" means the Department of Financial
 591 Services.

592 (5) "Eligible group," solely for the purposes of travel
 593 insurance, means two or more persons who are engaged in a common
 594 enterprise or who have an economic, educational, or social
 595 affinity or relationship, including, but not limited to, any of
 596 the following:

597 (a) An entity engaged in the business of providing travel
 598 or travel services, including, but not limited to:

599 1. A tour operator, lodging provider, vacation property
 600 owner, hotel, resort, travel club, travel agency, property
 601 manager, and cultural exchange program.

602 2. An operator, owner, or lessor of a means of
 603 transportation of passengers, including, but not limited to, a
 604 common carrier, airline, cruise line, railroad, steamship
 605 company, and public bus carrier.

606
 607 With regard to any particular travel or type of travel or
 608 travelers, all members or customers of the group must have a
 609 common exposure to risk attendant to such travel.

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610 (b) A university, college, school, or other institution of
 611 learning, covering students, teachers, employees, or volunteers.

612 (c) An employer covering any group of employees,
 613 volunteers, contractors, board of directors, dependents, or
 614 guests.

615 (d) A sports team or camp, or a sponsor thereof, covering
 616 participants, members, campers, employees, officials,
 617 supervisors, or volunteers.

618 (e) A religious, charitable, recreational, educational, or
 619 civic organization, or a branch thereof, covering any group of
 620 members, participants, or volunteers.

621 (f) A financial institution or financial institution
 622 vendor, or a parent holding company, trustee, or agent of or
 623 designated by one or more financial institutions or financial
 624 institution vendors, including account holders, credit card
 625 holders, debtors, guarantors, or purchasers.

626 (g) An incorporated or unincorporated association,
 627 including a labor union, having a common interest and
 628 constitution and bylaws, which is organized and maintained in
 629 good faith for purposes other than obtaining insurance coverage
 630 for its members or participants.

631 (h) A trust or the trustees of a fund that covers its
 632 members, employees, or customers and is established, created, or
 633 maintained for the benefit of its members, employees, or
 634 customers, subject to:

635 1. The department's authorizing the use of a trust.

636 2. The premium tax provisions in s. 647.03 applicable to
 637 incorporated or unincorporated associations that have a common
 638 interest and constitution and bylaws and that are organized and

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639 maintained in good faith for purposes other than obtaining
 640 insurance coverage for their members, employees, or customers.
 641 (i) An entertainment production company covering any group
 642 of participants, volunteers, audience members, contestants, or
 643 workers.
 644 (j) A volunteer fire department, ambulance, rescue, police,
 645 court, first-aid, civil defense, or other such volunteer group.
 646 (k) A preschool, daycare institution for children or
 647 adults, or senior citizen club.
 648 (l) An automobile or truck rental or leasing company
 649 covering a group of individuals who may become renters, lessees,
 650 or passengers as defined by their travel status on the rented or
 651 leased vehicles. The common carrier, the operator, owner, or
 652 lessor of a means of transportation, or the motor vehicle or
 653 truck rental or leasing company is the policyholder under a
 654 policy to which this section applies.
 655 (m) Any other group for which the department has made the
 656 following determinations:
 657 1. The group members are engaged in a common enterprise or
 658 have an economic, educational, or social affinity or
 659 relationship.
 660 2. Issuance of the travel insurance policy is not contrary
 661 to the public interest.
 662 (6) "Fulfillment materials" means documentation sent to the
 663 purchaser of a travel protection plan confirming the purchase
 664 and providing the travel protection plan's coverage and
 665 assistance details.
 666 (7) "Group travel insurance" means travel insurance issued
 667 to an eligible group.

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668 (8) "Limited lines travel insurance producer" means:
 669 (a) A licensed or third-party administrator;
 670 (b) A licensed insurance producer, including a limited
 671 lines producer; or
 672 (c) A travel administrator.
 673 (9) "Travel administrator" means a person who directly or
 674 indirectly underwrites policies for; collects charges,
 675 collateral, or premiums from; or adjusts or settles claims made
 676 by residents of this state in connection with travel insurance,
 677 except that a person is not considered a travel administrator if
 678 the person is:
 679 (a) A person working for a travel administrator, to the
 680 extent that the person's activities are subject to the
 681 supervision and control of the travel administrator;
 682 (b) An insurance producer selling insurance or engaged in
 683 administrative and claims-related activities within the scope of
 684 the producer's license;
 685 (c) A travel retailer, as defined s. 626.321(1)(c)2.,
 686 offering and disseminating travel insurance and registered under
 687 the license of a limited lines travel insurance producer in
 688 accordance with s. 626.321(1)(c);
 689 (d) A person adjusting or settling claims in the normal
 690 course of the person's practice or employment as an attorney at
 691 law, without collecting charges or premiums in connection with
 692 insurance coverage; or
 693 (e) A business entity that is affiliated with a licensed
 694 insurer while acting as a travel administrator for the direct
 695 and assumed insurance business of the affiliated insurer.
 696 (10) "Travel assistance services" means noninsurance

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697 services for which the consumer is not indemnified based on a
 698 fortuitous event, and the provision of which does not result in
 699 the transfer or shifting of risk which would constitute the
 700 business of insurance. The term includes, but is not limited to,
 701 security advisories, destination information, vaccination and
 702 immunization information services, travel reservation services,
 703 entertainment, activity and event planning, translation
 704 assistance, emergency messaging, international legal and medical
 705 referrals, medical case monitoring, coordination of
 706 transportation arrangements, emergency cash transfer assistance,
 707 medical prescription replacement assistance, passport and travel
 708 document replacement assistance, lost luggage assistance,
 709 concierge services, and any other service that is furnished in
 710 connection with planned travel. Travel assistance services are
 711 not insurance and are not related to insurance.

712 (11) "Travel insurance" means insurance coverage for
 713 personal risks incidental to planned travel, including:
 714 (a) Interruption or cancellation of trip or event;
 715 (b) Loss of baggage or personal effects;
 716 (c) Damages to accommodations or rental vehicles;
 717 (d) Sickness, accident, disability, or death occurring
 718 during travel;
 719 (e) Emergency evacuation;
 720 (f) Repatriation of remains; or
 721 (g) Any other contractual obligations to indemnify or pay a
 722 specified amount to the traveler upon determinable contingencies
 723 related to travel, as determined by the office.

724
 725 The term does not include major medical plans that provide

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726 comprehensive medical protection for travelers with trips
 727 lasting longer than 6 months, including major medical plans for
 728 those working or residing overseas as expatriates, or any other
 729 product that requires a specific insurance producer license.

730 (12) "Travel protection plan" means a plan that provides
 731 one or more of the following: travel insurance, travel
 732 assistance services, and cancellation fee waivers.

733 Section 17. Section 647.03, Florida Statutes, is created to
 734 read:

735 647.03 Premium tax.—

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

737 (a) "Primary certificateholder" means an individual who
 738 purchases travel insurance under a group policy.

739 (b) "Primary policyholder" means an individual who
 740 purchases individual travel insurance.

741 (2) A travel insurer shall pay the premium tax, as required
 742 under s. 624.509, on travel insurance premiums paid by any of
 743 the following:

744 (a) A primary policyholder who is a resident of this state.

745 (b) A primary certificateholder who is a resident of this
 746 state.

747 (c) A blanket travel insurance policyholder:

748 1. Who is a resident in this state;

749 2. Who has his or her principal place of business in this
 750 state; or

751 3. Whose affiliate or subsidiary who has purchased blanket
 752 travel insurance for eligible blanket group members has his or
 753 her principal place of business in this state.

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755 The premium tax under this subsection is subject to any
 756 apportionment rules that apply to an insurer across multiple
 757 taxing jurisdictions or that authorize an insurer to allocate
 758 premium on an apportioned basis in a reasonable and equitable
 759 manner in those jurisdictions.

760 (3) A travel insurer shall:

761 (a) Document the state of residence or principal place of
 762 business of the policyholder or certificateholder, or an
 763 affiliate or subsidiary thereof, as required under subsection
 764 (2).

765 (b) Report as premium only the amount allocable to travel
 766 insurance and not any amounts received for travel assistance
 767 services or cancellation fee waivers.

768 Section 18. Section 647.04, Florida Statutes, is created to
 769 read:

770 647.04 Travel protection plans.—A travel protection plan
 771 may be offered for one price for the combined features that the
 772 travel protection plan offers in this state if the travel
 773 protection plan meets all of the following requirements:

774 (1) The travel protection plan clearly discloses to the
 775 consumer, at or before the time of purchase, that it includes
 776 travel insurance, travel assistance services, and cancellation
 777 fee waivers, as applicable, and provides information and an
 778 opportunity, at or before the time of purchase, for the consumer
 779 to obtain additional information regarding the features and
 780 pricing of each.

781 (2) The fulfillment materials:

782 (a) Describe and delineate the travel insurance, travel
 783 assistance services, and cancellation fee waivers in the travel

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784 protection plan.

785 (b) Include the travel insurance disclosures required in
 786 this chapter, the contact information for persons providing
 787 travel assistance services, and cancellation fee waivers, as
 788 applicable.

789 Section 19. Section 647.05, Florida Statutes, is created to
 790 read:

791 647.05 Sales practices.—

792 (1) (a) All documents provided to a consumer before the
 793 purchase of travel insurance, including, but not limited to,
 794 sales materials, advertising materials, and marketing materials,
 795 must be consistent with the travel insurance policy, including,
 796 but not limited to, forms, endorsements, policies, rate filings,
 797 and certificates of insurance.

798 (b) For travel insurance policies or certificates that
 799 contain preexisting condition exclusions, information and an
 800 opportunity to learn more about the preexisting condition
 801 exclusions must be provided any time before the purchase.
 802 Information on the exclusions and the opportunity to learn more
 803 about these exclusions must be included in the coverage's
 804 fulfillment materials.

805 (c) The fulfillment materials and the information described
 806 in s. 626.321(1)(c)3.a. must be provided to a policyholder or
 807 certificateholder as soon as practicable after the purchase of a
 808 travel protection plan. Unless the insured has started a covered
 809 trip or filed a claim under the travel insurance coverage, the
 810 policyholder or certificateholder may cancel a policy or
 811 certificate for a full refund of the travel protection plan
 812 price from the date of purchase of a travel protection plan

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813 until at least:814 1. Fifteen days after the date of delivery of the travel
815 protection plan's fulfillment materials by postal mail; or816 2. Ten days after the date of delivery of the travel
817 protection plan's fulfillment materials by means other than
818 postal mail.819
820 For the purposes of this paragraph, the term "delivery" means
821 handing fulfillment materials to the policyholder or
822 certificateholder or sending fulfillment materials by postal
823 mail or electronic means to the policyholder or
824 certificateholder.825 (d) An insurer shall disclose in the policy documentation
826 and fulfillment materials whether the travel insurance is
827 primary or secondary to other applicable coverage.828 (e) If travel insurance is marketed directly to a consumer
829 through an insurer's website or by others through an aggregator
830 site, it is not an unfair trade practice or other violation of
831 law if the following requirements are met:832 1. The web page provides an accurate summary or short
833 description of the coverage.834 2. The consumer has access to the full provisions of the
835 policy through electronic means.836 (2) A person offering, soliciting, or negotiating travel
837 insurance or travel protection plans on an individual or group
838 basis may not do so by using a negative or opt-out option that
839 would require a consumer to take an affirmative action to
840 deselect coverage, such as unchecking a box on an electronic
841 form, when the consumer purchases a trip.

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842 (3) If a consumer's destination jurisdiction requires
843 insurance coverage, it is not an unfair trade practice to
844 require that the consumer choose between the following options
845 as a condition of purchasing a trip or travel package:846 (a) Purchasing the coverage required by the destination
847 jurisdiction through the travel retailer, as defined s.
848 626.321(1)(c)2., or limited lines travel insurance producer
849 supplying the trip or travel package; or850 (b) Agreeing to obtain and provide proof of coverage that
851 meets the destination jurisdiction's requirements before
852 departure.853 (4) (a) A person offering travel insurance to residents of
854 this state is subject to part IX of chapter 626, the Unfair
855 Insurance Trade Practices Act, except as otherwise provided in
856 this chapter. If a conflict arises between this chapter and the
857 Unfair Insurance Trade Practices Act regarding the sale and
858 marketing of travel insurance and travel protection plans, the
859 provisions of this chapter shall control.860 (b) A person commits an unfair insurance trade practice
861 under the Unfair Insurance Trade Practices Act if the person:862 1. Offers or sells a travel insurance policy that could
863 never result in payment of any claims for any insured under the
864 policy; or865 2. Markets blanket travel insurance coverage as free.866 Section 20. Section 647.06, Florida Statutes, is created to
867 read:868 647.06 Travel administrators.—869 (1) Notwithstanding any other provision of the Florida
870 Insurance Code, a person may not act or represent himself or

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871 herself as a travel administrator in this state unless the
 872 person:
 873 (a) Is a licensed and appointed property and casualty
 874 insurance producer in this state for activities authorized under
 875 that producer license;
 876 (b) Is a licensed insurance agency, appointed as a managing
 877 general agent in this state; or
 878 (c) Holds a valid third-party administrator license in this
 879 state.
 880 (2) A travel administrator and its employees are exempt
 881 from the licensing requirements of part VI of chapter 626 for
 882 the travel insurance it administers.
 883 (3) An insurer is responsible for ensuring that a travel
 884 administrator administering travel insurance underwritten by the
 885 insurer:
 886 (a) Acts in accordance with this chapter.
 887 (b) Maintains all books and records that are relevant to
 888 the insurer and makes these books and records available to the
 889 department upon request.
 890 Section 21. Section 647.07, Florida Statutes, is created to
 891 read:
 892 647.07 Travel insurance policy.-
 893 (1) Notwithstanding any other provision of the Florida
 894 Insurance Code, travel insurance shall be classified and filed
 895 for purposes of rates and forms under the inland marine line of
 896 insurance; however, travel insurance that provides coverage for
 897 sickness, accident, disability, or death occurring during
 898 travel, either exclusively or in conjunction with related
 899 coverages of emergency evacuation or repatriation of remains, or

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900 incidental limited property and casualty benefits, such as
 901 baggage or trip cancellation, may be classified and filed for
 902 purposes of rates and forms under either the accident and health
 903 line of insurance or the inland marine line of insurance.
 904 (2) Travel insurance may be in the form of an individual,
 905 group, or blanket policy. Group or blanket policies are
 906 classified as commercial inland marine insurance under s.
 907 627.021(2)(d). Travel insurance policies not issued to a
 908 commercial entity and primarily used for personal, family, or
 909 household purposes are considered personal inland marine
 910 insurance and shall not be subject to s. 627.062. Sections of
 911 policies or endorsements for travel insurance which are
 912 considered personal inland marine insurance consisting of travel
 913 assistance services or cancellation fee waivers are not subject
 914 to s. 627.410.
 915 (3) Travel insurance programs may be developed and provided
 916 based on travel protection plans designed for individual or
 917 identified marketing or distribution channels.
 918 Section 22. Section 647.08, Florida Statutes, is created to
 919 read:
 920 647.08 Rulemaking authority.-The department shall adopt
 921 rules to administer this chapter.
 922 Section 23. Except as otherwise expressly provided in this
 923 act and except for this section, which shall take effect upon
 924 this act becoming a law, this act shall take effect July 1,
 925 2020.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1624

INTRODUCER: Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Perry

SUBJECT: Economic Self-sufficiency

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Hendon</u> | <u>Hendon</u> | <u>CF</u> | <u>Fav/CS</u> |
| 2. | <u>McVaney</u> | <u>McVaney</u> | <u>GO</u> | <u>Favorable</u> |
| 3. | <u>Shettle</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1624 requires the Auditor General to review certain state economic assistance, health care, and housing programs at least once every three years. The bill requires the Auditor General to submit a report to the Governor and Legislature within 30 days of completing each review.

The bill is expected to have a minimal impact on expenditures by the Auditor General.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Auditor General

Article III, s. 2 of the State Constitution provides for the Legislature to appoint an auditor who shall audit the public records and perform related duties as prescribed by law or concurrent resolution. Section 11.42, F.S., designates the constitutional auditor as the Auditor General, and ss. 11.42 through 11.47, F.S., set forth the Auditor General's authority and duties. Independently, and in accordance with applicable professional standards, the Auditor General:

- Conducts financial audits of the accounts and records of state government, state universities, state colleges, and school districts.

- Conducts operational and performance audits of public programs, activities, and functions and information technology systems.
- Adopts rules, in consultation with the Florida Board of Accountancy, for audits performed by independent certified public accountants of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.
- Conducts reviews of audit reports of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for profit organizations.
- Conducts examinations of school districts' and other entities' records to evaluate compliance with state requirements governing the Florida Education Finance Program student enrollment and student transportation funding allocations.
- Conducts quality assessment reviews of the internal audits performed by state agency offices of inspectors general.

Pursuant to the Federal Single Audit Act, the Office of Management and Budget requires an audit of major state-administered federal awards programs, as described in Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.¹ Accordingly, the Auditor General performs an annual financial and federal awards audit of the State of Florida, which encompasses all state agencies, universities, and colleges, most recently in Report No. 2019-186. With the exception of the Section 8 program, this audit includes the state-administered federal programs listed in the bill. The Section 8 program is administered by local housing authorities rather than the state. As a result, each of the listed programs except Section 8 is audited by the Auditor General at least once every 3 years.²

III. Effect of Proposed Changes:

Section 1 amends 11.45, F.S., to require the Auditor General to conduct, at least every three years, performance audits of each of the following economic assistance and health care programs:

- The Supplemental Nutrition Assistance Program (SNAP) that helps low-income individuals and families buy healthy food.
- The Temporary Cash Assistance Program that provides cash assistance to families with children under the age of 18 that meet the technical, income, and asset requirements.
- The Medicaid Program that provides medical coverage to low-income individuals and families.
- The School Readiness Program that provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.
- The U.S. Department of Housing and Urban Development Section 8 Housing Program that provides housing assistance to low income individuals and families. The U.S. Department of Housing and Urban Development Section 8 Housing Program is operated by the federal

¹ Letter from the Auditor General, dated Jan. 21, 2020. On file with the Senate Committee on Children, Families and Elder Affairs

² *Id.*

government through local organizations in Florida. It is unclear if the Florida Auditor General would have the authority to conduct such reviews or audits.

The bill requires the Auditor General to review eligibility criteria, review how the programs document eligibility, how frequently the programs determine eligibility, how clear the programs communicate requirements to the program beneficiaries, review ways to improve efficiency and effectiveness through data sharing, and the number of families receiving assistance from more than one of the programs.

The bill directs the Auditor General to determine the number of families receiving assistance from these programs that also receive Earned Income Tax credits. It is unclear whether the Internal Revenue Service (IRS) would be able to provide information on Floridians who receive the Earned Income Tax credit. Taxpayers have the right to confidentiality regarding federal income tax information. A taxpayer can expect that any information he or she provides to the IRS will not be disclosed to outside parties, unless authorized by the taxpayer or by law.³ The right to confidentiality requires:

- In general, the IRS may not disclose a taxpayer's tax information to third parties, unless the taxpayer gives the agency permission.
- In general, the IRS cannot contact third parties, such as a taxpayer's employer, neighbor, or bank, to get information about a taxpayer unless it provides the taxpayer with reasonable notice before making the contact.
- When dealing with a federally authorized tax practitioner, a taxpayer can expect the same confidentiality protection that he or she would have with an attorney.

The bill requires the Auditor General to report the results of such audits to the Governor and Legislature within 30 days after the completion of each audit, but no later than December 31, 2020, and every three years thereafter.

Section 2 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

³ U.S. Internal Revenue Service website. See <https://www.irs.gov/newsroom/the-right-to-confidentiality-taxpayer-bill-of-rights-8> (last visited Jan. 30, 2020).

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 proposed changes require the Auditor General to conduct a performance audit every three years on each of various state-administered federal public assistance programs. However, the bill is expected to have a minimal impact on the operations of the Auditor General because many of the issues raised in the bill have been or are currently subject to audit.⁴

VI. Technical Deficiencies:

The U.S. Department of Housing and Urban Development Section 8 Housing Program is operated by the federal government. It is unclear if the Florida Auditor General has the authority to conduct reviews or audits of the program.

The Auditor General is not able to access information on Floridians who receive the Earned Income Tax credit in order to determine if such individuals also participate in the economic assistance and health care programs. Tax information is confidential under federal law and may only be released by the IRS under certain circumstances.

VII. Related Issues:

None.

⁴ Letter from the Auditor General, dated Jan. 21, 2020. On file with the Senate Committee on Children, Families and Elder Affairs

VIII. Statutes Affected:

This bill substantially amends section 11.45 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/CS by Appropriations on March 3, 2020:

The committee substitute removes from the bill amendments to s. 1002.87, F.S., that would have provided a priority for participation in the school readiness program to parents who have an Intensive Service Account or an Individual Training Account. Such accounts are used by the state’s workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

CS by Children, Families, and Elder Affairs on February 4, 2020:

The CS removes from the bill amendments to s. 1002.81, F.S., that would have removed the definitions of “earned income” and “unearned income” from the statutes governing the School Readiness Program.

- B. **Amendments:**

None.



593926

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 55 - 66.

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

And the title is amended as follows:

Delete lines 9 - 11

and insert:

results of such audits;

By the Committee on Children, Families, and Elder Affairs; and
Senator Perry

586-03121-20

20201624c1

1 A bill to be entitled
2 An act relating to economic self-sufficiency; amending
3 s. 11.45, F.S.; requiring the Auditor General to
4 perform audits of specified programs at specified
5 intervals; requiring the audits to review specified
6 elements of such programs; requiring the Auditor
7 General to make a specified determination, if
8 possible; providing reporting requirements for the
9 results of such audits; amending s. 1002.87, F.S.;
10 revising the criteria for a child to be given priority
11 for participation in the school readiness program;
12 providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Paragraph (m) is added to subsection (2) of
17 section 11.45, Florida Statutes, to read:
18 11.45 Definitions; duties; authorities; reports; rules.-
19 (2) DUTIES.-The Auditor General shall:
20 (m) At least every 3 years, conduct performance audits of
21 the Supplemental Nutrition Assistance Program established under
22 7 U.S.C. ss. 2011 et seq., the Temporary Cash Assistance Program
23 provided under s. 414.095, the Medicaid program designated in s.
24 409.963, the School Readiness Program set forth in part VI of
25 chapter 1002, and the Housing Choice Voucher Program established
26 under 42 U.S.C. s. 1437. Such audits shall include a review of
27 eligibility criteria; the manner by which each program
28 establishes and documents eligibility and disbursement policies;
29 the frequency of eligibility determinations; the clarity of both

Page 1 of 3

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

586-03121-20

20201624c1

30 written and verbal communication in which eligibility
31 requirements are conveyed to current and potential program
32 recipients; opportunities for improving service efficiency and
33 efficacy made possible by improved integration of state data
34 system platforms, processes, and procedures related to data
35 collection, analysis, documentation, and interagency sharing;
36 and a review of the number and family size of families receiving
37 multiple program services compared to all eligible families,
38 including whether they are single-parent or two-parent
39 households. If possible, the Auditor General also shall
40 determine the number of families receiving services who are
41 claiming the Earned Income Tax Credit. The Auditor General shall
42 provide the results of the audits in a report to the Governor,
43 the President of the Senate, the Speaker of the House of
44 Representatives, the Chief Financial Officer, and the
45 Legislative Auditing Committee within 30 days after completion
46 of the audit, but no later than December 31, 2020, and every 3
47 years thereafter.
48
49 The Auditor General shall perform his or her duties
50 independently but under the general policies established by the
51 Legislative Auditing Committee. This subsection does not limit
52 the Auditor General's discretionary authority to conduct other
53 audits or engagements of governmental entities as authorized in
54 subsection (3).
55 Section 2. Paragraph (a) of subsection (1) of section
56 1002.87, Florida Statutes, is amended to read:
57 1002.87 School readiness program; eligibility and
58 enrollment.-

Page 2 of 3

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

586-03121-20

20201624c1

59 (1) Each early learning coalition shall give priority for
60 participation in the school readiness program as follows:

61 (a) Priority shall be given first to a child younger than
62 13 years of age from a family that includes a parent who is
63 receiving temporary cash assistance under chapter 414 and
64 subject to the federal work requirements or a parent who
65 receives an Intensive Service Account or an Individual Training
66 Account under s. 445.009.

67 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2020

Meeting Date

1624

Bill Number (if applicable)

Topic Economic Self-Sufficiency

Amendment Barcode (if applicable)

Name Matthew ChoyJob Title Policy DirectorAddress 136 S. Bronough St.Phone 561-386-3451

Street

Tallahassee

FL

32301Email mchoy@flchamber.com

City

State

Zip

Speaking: For Against InformationWaive Speaking: In Support Against
(The Chair will read this information into the record.)Representing Florida Chamber of CommerceAppearing at request of Chair: Yes NoLobbyist 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)

3-3-2020

Meeting Date

1624

Bill Number (if applicable)

Topic Economic Self-sufficiency

Amendment Barcode (if applicable)

Name Matt Guse (Goozie)

Job Title CEO

Address 1126 Lee Ave

Phone 850-577-3199

Street

Tallahassee

FL

32303

Email mguse@floridacsc.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Children's Council

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)

3/3/20

Meeting Date

1624

Bill Number (if applicable)

Topic Economic self-sufficiency

Amendment Barcode (if applicable)

Name Heather Davidson

Job Title Director, Public Policy

Address 1300 S. Andrews Ave.
Street

Phone 954 308-9277

Email _____

City

State

Zip

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-2020

Meeting Date

1624

Bill Number (if applicable)

Topic Economic Self-Sufficiency

Amendment Barcode (if applicable)

Name Rick Owen

Job Title PRESIDENT

Address 307 E. 7th Ave

Phone 850-488-8276

TALLAHASSEE FL 32303

City State Zip

Email R.Owen@owen.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 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 Appropriations

BILL: CS/SB 1662

INTRODUCER: Community Affairs Committee and Senators Albritton and Broxson

SUBJECT: Property Tax Exemption for Disabled Veterans

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------------|-----------------------|-----------|------------------|
| 1. | <u>Paglialonga</u> | <u>Ryon</u> | <u>CA</u> | Fav/CS |
| 2. | <u>Babin</u> | <u>Diez-Arguelles</u> | <u>FT</u> | Favorable |
| 3. | <u>Babin</u> | <u>Diez-Arguelles</u> | <u>AP</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1662 allows a totally and permanently disabled veteran, or his or her surviving spouse, who acquires legal or beneficial title to property between January 1 and November 1, to receive a prorated refund of the ad valorem taxes paid for the newly acquired property as of the date of the property transfer. To receive the refund, the veteran or surviving spouse must have received the homestead exemption for totally and permanently disabled veterans authorized in section 196.081, Florida Statutes, on another homestead property in that tax year.

Although current law provides a full property tax exemption for homestead property owned by veterans who sustained a total and permanent service-connected disability, tax-exempt veterans may incur some tax liabilities when selling their prior homestead property and purchasing a new homestead property. The bill would allow a veteran or surviving spouse to obtain a refund of a portion of the taxes paid.

The Revenue Estimating Conference has determined that the bill will reduce local property taxes by \$2.9 million in Fiscal Year 2020-2021, increasing to \$3.9 million by Fiscal Year 2024-2025.

The bill takes effect July 1, 2020.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due before April 1.⁴

The Florida Constitution prohibits the state from levying ad valorem taxes⁵ and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized by the Constitution.⁶

Homestead Exemptions

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.⁷ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.⁸ This exemption does not apply to ad valorem taxes levied by school districts.⁹

Annual Application

Each person or organization meeting the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.¹⁰ The application for exemption must be filed with the property appraiser on or before March 1, and failure to make an application constitutes a waiver of the exemption for that year.¹¹ The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis unless the property appraiser (subject to approval by a vote of the

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. Art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965).

³ *See* ss. 192.001(2) and (16), F.S.

⁴ Section 197.333, F.S.

⁵ FLA. CONST. art. VII, s. 1(a).

⁶ *See* FLA. CONST. art. VII, s. 4.

⁷ FLA. CONST. art VII, s. 6(a).

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 196.011(1)(a), F.S.

¹¹ Section 196.011(1)(b), F.S.

governing body of the county) has waived the annual application requirement for a property after an initial application is made and the exemption granted.¹²

Veterans with Total and Permanent Service-Connected Disability

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.¹³ To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse, and the spouse is unmarried.¹⁴

The just value and the use of the property on January 1 are used by the property appraiser for purposes of the tax bill issued the following November.¹⁵ Thus, when property is sold mid-year, the new owner's November tax bill is determined by the just value and the prior owner's use of the property on the prior January 1. This treatment also applies when a disabled veteran that receives the full homestead exemption provided in s. 196.081, F.S., purchases a new homestead; the tax bill received in November will not reflect the disabled veteran exemption because the veteran did not use the new property as a homestead on January 1 of that year – he or she purchased the property after that date.

III. Effect of Proposed Changes:

The bill amends ss. 196.011 and 196.081, F.S., to allow a totally and permanently disabled veteran, or his or her surviving spouse, to receive a prorated refund for homestead property taxes paid on the newly acquired property, if legal or beneficial title to the property is acquired between January 1 and November 1. To qualify for the refund, the veteran or the surviving spouse must have received the homestead exemption for totally and permanently disabled veterans authorized in s. 196.081, F.S., on another property in that tax year.

Upon finding an applicant is entitled to the homestead exemption, a property appraiser must immediately make entries on the tax rolls of the county to allow the prorated refund of taxes for the previous tax year.

Veterans and spouses who qualify for the refund will receive the reimbursement in the tax year following the acquisition of a new property.

The bill takes effect on July 1, 2020.

¹² Section 196.011(5) and (9)(a), F.S.

¹³ Section 196.081(1), F.S.

¹⁴ Section 196.081(3), F.S.

¹⁵ See ss. 193.155, 193.1554, 193.1554, and 196.011(1)(a), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,¹⁶ which for the Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.^{17, 18}

The mandate provision may apply because the bill requires counties to issue a prorated refund of ad valorem tax to qualified disabled veterans under certain circumstances. If the bill does qualify as a mandate, the final passage must be approved by two-thirds of the membership of each house of the Legislature.

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.

¹⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 14, 2020).

¹⁷ FLA. CONST. art. VII, s. 18(d).

¹⁸ Based on the Florida Demographic Estimating Conference's July 8, 2019, population forecast for 2020 of 21,555,986. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 14, 2020).

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

The Revenue Estimating Conference has determined the bill will reduce local government ad valorem receipts by \$2.9 million in the Fiscal Year 2020-2021, increasing to \$3.9 million by Fiscal Year 2024-2025.¹⁹

B. Private Sector Impact:

The bill may generate tax savings for qualified disabled veterans by providing these veterans ad valorem tax refunds when moving between homestead properties.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 196.011 and 196.081.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Community Affairs February 10, 2020:

The committee substitute alters the mechanics of the homestead exemption “transfer” concept in the bill to allow a qualified veteran, or a surviving spouse, to receive a prorated refund for homestead taxes paid on newly acquired property.

B. Amendments:

None.

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

¹⁹ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: SB 1662 – Proposed Amendment*, 489-493 (Feb. 14, 2020), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/pdf/page489-493.pdf> (last visited Feb. 14, 2020).

By the Committee on Community Affairs; and Senators Albritton
and Broxson

578-03428-20

20201662c1

1 A bill to be entitled
2 An act relating to a property tax exemption for
3 disabled veterans; amending s. 196.011, F.S.;
4 conforming a provision to changes made by the act;
5 amending s. 196.081, F.S.; providing that certain
6 veterans and their surviving spouses receiving a
7 certain homestead tax exemption may apply for and
8 receive a prorated refund of property taxes paid on
9 new homestead property acquired during a certain
10 timeframe; requiring the property appraiser to
11 immediately make certain entries upon the tax rolls to
12 allow the prorated refund; providing an effective
13 date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Paragraph (a) of subsection (1) of section
18 196.011, Florida Statutes, is amended to read:
19 196.011 Annual application required for exemption.—
20 (1) (a) Except as provided in s. 196.081, every person or
21 organization who, on January 1, has the legal title to real or
22 personal property, except inventory, which is entitled by law to
23 exemption from taxation as a result of its ownership and use
24 shall, on or before March 1 of each year, file an application
25 for exemption with the county property appraiser, listing and
26 describing the property for which exemption is claimed and
27 certifying its ownership and use. The Department of Revenue
28 shall prescribe the forms upon which the application is made.
29 Failure to make application, when required, on or before March 1

Page 1 of 3

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

578-03428-20

20201662c1

30 of any year shall constitute a waiver of the exemption privilege
31 for that year, except as provided in subsection (7) or
32 subsection (8).
33 Section 2. Subsection (1) of section 196.081, Florida
34 Statutes, is amended to read:
35 196.081 Exemption for certain permanently and totally
36 disabled veterans and for surviving spouses of veterans;
37 exemption for surviving spouses of first responders who die in
38 the line of duty.—
39 (1) (a) Any real estate that is owned and used as a
40 homestead by a veteran who was honorably discharged with a
41 service-connected total and permanent disability and for whom a
42 letter from the United States Government or United States
43 Department of Veterans Affairs or its predecessor has been
44 issued certifying that the veteran is totally and permanently
45 disabled is exempt from taxation, if the veteran is a permanent
46 resident of this state on January 1 of the tax year for which
47 exemption is being claimed or was a permanent resident of this
48 state on January 1 of the year the veteran died.
49 (b) If legal or beneficial title to property is acquired
50 between January 1 and November 1 of any year by a veteran or his
51 or her surviving spouse receiving an exemption under this
52 section on another property for that tax year, the veteran or
53 his or her surviving spouse may receive a refund, prorated as of
54 the date of transfer, of the ad valorem taxes paid for the newly
55 acquired property if he or she applies for and receives an
56 exemption under this section for the newly acquired property in
57 the next tax year. If the property appraiser finds that the
58 applicant is entitled to an exemption under this section for the

Page 2 of 3

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

578-03428-20

20201662c1

59 newly acquired property, the property appraiser shall
60 immediately make such entries upon the tax rolls of the county
61 as are necessary to allow the prorated refund of taxes for the
62 previous tax year.

63 Section 3. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 21, 2020

I respectfully request that **Senate Bill #1662**, relating to Property Tax Exemption for Disabled Veterans, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 3 20

Meeting Date

1662

Bill Number (if applicable)

Topic TAX EXEMPTION FOR DISABLED VETERANS

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title vol pres, Tallahassee Veterans Legal Collaborative

Address PO Box 1201

Phone 850/570-1967

Street

Tallahassee

FL

32302

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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)

3-3-20

Meeting Date

1662

Bill Number (if applicable)

Topic TAX EXEMPTION FOR DISABLED VETERANS

Amendment Barcode (if applicable)

Name JOHN HAYNES

Job Title CHAIRMAN EMERITUS

Address CAPITOL RM. 2107

Phone 850-443-3451

Street

Email

City

State

Zip

Speaking: For Against Information

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

Representing FLA. VETERANS FOUNDATION + TVLC

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 Appropriations

BILL: PCS/CS/SB 1676 (281464)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Albritton

SUBJECT: Direct Care Workers

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|--------------------------|
| 1. | Rossitto-Van Winkle | Brown | HP | Fav/CS |
| 2. | McKnight | Kidd | AHS | Recommend: Fav/CS |
| 3. | McKnight | Kynoch | AP | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1676 expands the scope of practice and defines relevant terms for registered nurses (RNs), certified nursing assistants (CNAs), and home health aides (HHAs). The bill:

- Authorizes nursing home facilities to use paid feeding assistants if the assistant has completed a 12 hour program developed by the Agency for Health Care Administration (AHCA). The bill clarifies that paid feeding assistants do not count toward minimum staffing standards.
- Authorizes an RN to delegate any task, including the administration of medications, except controlled substances, to a CNA or HHA for a patient of a home health agency, if the RN determines that the CNA or the HHA is competent to perform the task, the task is delegable under federal law, and certain other requirements are met.
- Requires the AHCA, in consultation with the Board of Nursing, to establish standards and procedures by rule that a CNA and HHA must follow when administering medication to a patient of a home health agency.
- Establishes disciplinary actions for RNs that knowingly delegate responsibilities to a person that is not qualified by training, experience, certification, or licensure to perform them.

- Requires a Direct Care Workforce Survey (survey), created by the AHCA, to be completed and submitted at license renewal (every two years) for over 6,000 providers¹, including: nursing homes, assisted living facilities, home health agencies, and homemaker and companion services providers.
- Requires the ACHA to analyze the results of the survey and publish the information monthly on its website.
- Creates the Excellence in Home Health Program (program) within the AHCA for the purpose of awarding designations to home health agencies and nurse registries that meet specified criteria. The AHCA is required to adopt rules establishing criteria for the program and annually evaluate home health agencies or nurse registries that apply for program designation.
- Establishes a physician student loan repayment program within the Department of Health (DOH).
- Establishes the Patient Access to Primary Care Pilot Program within the DOH to provide primary health care services in “primary care health professional shortage areas” by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.

The bill appropriates three full-time equivalent (FTE) positions with an associated salary rate of 125,887, three other personal services (OPS) positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.

The bill’s requirements to establish a physician student loan repayment program and the Patient Access to Primary Care Pilot Program has a significant negative fiscal impact on the Department of Health. See Section V.

The bill takes effect upon becoming a law, except as otherwise expressly provided in the bill.

II. Present Situation:

The Agency for Health Care Administration

The Agency for Health Care Administration (AHCA) is created in s. 20.42, F.S. The AHCA is the chief health policy and planning entity for the state and its Division of Health Quality Assurance (HQA) is responsible for, among other things, health facility licensure, inspection, and regulatory enforcement. The HQA is funded with more than \$49 million in state and federal funds. It licenses or certifies and regulates 40 different types of health care providers, including hospitals, nursing homes, assisted living facilities (ALFs), and home health agencies. In total, the AHCA licenses, certifies, regulates, or provides exemptions for more than 48,000 providers.²

¹ Agency for Health Care Administration, *CS/SB 1676 Bill Analysis* (Feb. 14, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

² Agency for Health Care Administration, *Division of Health Quality Assurance* <http://ahca.myflorida.com/MCHQ/index.shtml> (last visited Jan. 26, 2020).

Florida Nursing Homes

Nursing homes provide 24-hour-per-day nursing care, case management, health monitoring, personal care, nutritional meals and special diets, physical, occupational, and speech therapy, social activities, and respite care for those who are ill or physically infirm.³ Nursing care is provided by licensed practical nurses (LPNs) and registered nurses (RNs). Personal care is provided by certified nursing assistants (CNAs) and can include help with bathing, dressing, eating, walking, and physical transfer (like moving from a bed to a chair).⁴

A nursing home may also provide services like dietary consultation, laboratory, X-ray, pharmacy services, laundry, and pet therapy visits. Some facilities may provide special services like dialysis, tracheotomy, or ventilator care as well as Alzheimer's or hospice care.

Pursuant to s. 400.141, F.S., every nursing home in Florida must comply with all administrative and care standards set out in the AHCA rules and must:

- Be under the administrative direction and charge of a licensed administrator.⁵
- Appoint a physician medical director.⁶
- Have available the regular, consultative, and emergency services of one or more physicians.
- Provide residents with the use of a community pharmacy of their choice.
- Provide access for residents to dental and other health-related services, recreational services, rehabilitative services, and social work services.
- Be permitted and encouraged by the AHCA to provide other needed services, including, but not limited to, respite, therapeutic spa, and adult day services to nonresidents of the facility.
- Maintain the facility premises and equipment and conduct its operations in a safe and sanitary manner.
- Provide a wholesome and nourishing diet, if the licensee furnishes food services, sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by physicians if the nursing home furnishes food services.
- Keep records of:
 - Resident admissions and discharges;
 - Medical and general health status, including:
 - Medical records;
 - Personal and social history;
 - Identity and address of next of kin or other persons who may have responsibility for the affairs of the resident;
 - Individual resident care plans, including, but not limited to:
 - Prescribed services;
 - Service frequency and duration; and
 - Service goals.

³ Agency for Health Care Administration, Division of Health Quality Assurance, Long Term Care Service Units, *Nursing Homes*, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Index_LTCU.shtml (last visited Jan. 26, 2020).

⁴ Agency for Health Care Administration, FloridaHealthFinder.gov; Consumer Guides, *Nursing Home Care in Florida*, available at <https://www.floridahealthfinder.gov/reports-guides/NursingHomesFL.aspx#> (Last visited Jan. 24, 2020).

⁵ 59A-4.103(4)(b), F.A.C.

⁶ 59A-4.1075, F.A.C.

- Keep fiscal records of its operations and conditions.
- Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information.
- Publicly display a poster provided by the AHCA containing information for the:
 - State's abuse hotline;
 - State Long-Term Care Ombudsman;
 - AHCA consumer hotline;
 - Advocacy Center for Persons with Disabilities;
 - Florida Statewide Advocacy Council; and
 - Medicaid Fraud Control Unit.
- Comply with state minimum-staffing requirements, as set by AHCA rule, including the number and qualifications of all personnel having responsibility for resident care, such as:
 - Management;
 - Medical;
 - Nursing;
 - Other professional personnel;
 - Nursing assistants;
 - Orderlies; and
 - Other support personnel.
- Ensure that any program for dining and use of a hospitality attendant is developed and implemented under the supervision of the facility director of nursing.
- Maintain general and professional liability insurance coverage or proof of financial responsibility as required by statute.
- Require all CNAs to chart in a resident's medical records, by the end of his or her shift, all services provided, including:
 - Assistance with activities of daily living,
 - Eating,
 - Drinking, and
 - All offers to a resident for nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.
- Provide to all consenting residents immunizations against influenza before November 30 each year.
- Assess each resident within five business days after admission for eligibility for pneumococcal vaccination or revaccination.
- Annually encourage all employees to receive immunizations against influenza viruses.⁷

Nursing Home Staffing Standards

Section 400.23(3), F.S., requires the AHCA to adopt rules providing minimum staffing requirements for nursing home facilities. The requirements must include:

- A minimum weekly average of 3.6 hours of direct care per resident per day provided by a combination of CNAs and licensed nursing staff. A week is defined as Sunday through Saturday.

⁷ Section 400.141, F.S.

- A minimum of 2.5 hours of direct care per resident per day provided by CNAs. A facility may not staff at a ratio of less than one CNA per 20 residents.
- A minimum of 1.0 hour of direct care per resident per day provided by licensed nursing staff. A facility may not staff at a ratio of less than one licensed nurse per 40 residents.
- Nursing assistants employed under s. 400.211(2), F.S., may be included in computing the staffing ratio for CNAs if their job responsibilities include only nursing-assistant-related duties.
- Each nursing home facility must document compliance with staffing standards and post daily the names of staff on duty for the benefit of facility residents and the public.
- Licensed nurses may be used to meet staffing requirements for CNAs if the licensed nurses are performing the duties of a CNA and the facility otherwise meets minimum staffing requirements for licensed nurses.
- Non-nursing staff providing eating assistance to residents do not count toward compliance with minimum staffing standards.

Section 400.23(3), F.S., also provides that LPNs who are providing nursing services in nursing home facilities may supervise the activities of other LPNs, CNAs, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing (BON).

Nurse Practice Act

Florida's Nurse Practice Act is found in Part I of ch. 464, F.S. The purpose of the Nurse Practice Act is to ensure that every nurse practicing in this state meets minimum requirements for safe practice. It is the legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public are prohibited from practicing in this state.⁸

Registered Nurses

A registered nurse is any person licensed in this state or holding an active multistate license under the Nurse Practice Act to practice professional nursing. The practice of professional nursing means performing acts requiring substantial specialized knowledge, judgment, and nursing skill based on applied principles of psychological, biological, physical, and social sciences and includes, but is not limited to:

- The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
- The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.
- The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

⁸ Section 464.002, F.S.

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.⁹

Licensed Practical Nurses

A licensed practical nurse is any person licensed in this state or holding an active multistate license under the Nurse Practice Act to practice practical nursing.¹⁰ The practice of practical nursing means performing selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of an RN, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist; and the teaching of general principles of health and wellness to the public and to students other than nursing students. A practical nurse is responsible and accountable for making decisions based on the individual's educational preparation and experience in nursing.¹¹

Certified Nursing Assistants

Florida's statutory governance for CNAs is found in part II of ch. 464, F.S. Section 464.201(5), F.S., defines the practice of a CNA as providing care and assisting persons with tasks relating to the activities of daily living. Activities of daily living include tasks associated with: personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, postmortem care, patient socialization and reality orientation, end-of-life care, cardiopulmonary resuscitation and emergency care, patients' rights, documentation of nursing-assistant services, and other tasks that a CNA may perform after training.¹²

Direct Care Staff

Federal law defines "direct care staff" as those individuals who, through interpersonal contact with nursing home residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Direct care staff does not include individuals whose primary duty is maintaining the physical environment of the long-term care facility (for example, housekeeping).¹³

Direct care staff are the primary providers of paid, hands-on care for more than 13 million elderly and disabled Americans. They assist individuals with a broad range of support, including preparing meals, helping with medications, bathing, dressing, getting about (mobility), and getting to planned activities on a daily basis.¹⁴

⁹ Section 464.003, F.S.

¹⁰ Section 464.003(14), F.S.

¹¹ Section 464.003(17), F.S.

¹² Section 464.201, F.S.

¹³ 42 CFR s. 483.70(q)(1)

¹⁴ Understanding Direct Care Workers: a Snapshot of Two of America's Most Important Jobs, *Certified Nursing Assistants and Home Health Aides*, Khatutsky, et al., (March 2011), available at <https://aspe.hhs.gov/basic-report/understanding-direct-care-workers-snapshot-two-americas-most-important-jobs-certified-nursing-assistants-and-home-health-aides#intro> (last visited on Jan. 27, 2020).

Direct care staff fall into three main categories tracked by the U.S. Bureau of Labor Statistics: Nursing Assistants (usually known as CNAs), home health aides (HHAs), and Personal Care Aides:

- CNAs generally work in nursing homes, although some work in ALFs, other community-based settings, or hospitals. They assist residents with activities of daily living (ADLs) such as eating, dressing, bathing, and toileting. They also perform clinical tasks such as range-of-motion exercises and blood pressure readings.
- HHAs provide essentially the same care and services as nursing assistants, but they assist people in their homes or in community settings under the supervision of a nurse or therapist. They may also perform light housekeeping tasks such as preparing food or changing linens.
- Personal Care Aides work in either private or group homes. They have many titles, including personal care attendant, home care worker, homemaker, and direct support professional. (The latter work with people with intellectual and developmental disabilities). In addition to providing assistance with ADLs, these aides often help with housekeeping chores, meal preparation, and medication management. They also help individuals go to work and remain engaged in their communities. A growing number of these workers are employed and supervised directly by consumers.¹⁵

The federal government requires training only for nursing assistants and HHAs who work in Medicare-certified and Medicaid-certified nursing homes and home health agencies. Such training includes training on residents' rights; abuse, neglect, and exploitation; quality assurance; infection control; and compliance and ethics, and specifies that direct care staff must be trained in effective communications.¹⁶

The Gold Seal Program

The Gold Seal Program (program) is a legislatively created award and recognition program, developed and implemented by the Governor's Panel on Excellence in Long-Term Care (Panel) for nursing facilities that demonstrate excellence in long-term care over a sustained period.¹⁷ Facilities must meet the Panel's criteria for measuring quality of care and the following additional criteria to receive a program designation:

- No class I or class II deficiencies within the 30 months preceding application for the program.
- Evidence of financial soundness and stability according to standards adopted by the AHCA in rule.

¹⁵ See *Who are Direct Care Workers?*, available at <https://phinational.org/wp-content/uploads/legacy/clearinghouse/NCDCW%20Fact%20Sheet-1.pdf> (last visited Jan. 27, 2020)

¹⁶ 42 CFR s. 483.95

¹⁷ Section 400.235, F.S. The panel is composed of three persons appointed by the Governor, to include a consumer advocate for senior citizens and two persons with expertise in the fields of quality management, service delivery excellence, or public sector accountability; three persons appointed by the Secretary of the Department of Elder Affairs, to include an active member of a nursing facility family and resident care council and a member of the University Consortium on Aging; a representative of the State Long-Term Care Ombudsman Program; one person appointed by the Florida Life Care Residents Association; one person appointed by the State Surgeon General; two persons appointed by the Secretary of Health Care Administration; one person appointed by the Florida Association of Homes for the Aging; and one person appointed by the Florida Health Care Association. Vacancies on the panel shall be filled in the same manner as the original appointments.

- Participate in a consumer satisfaction process and demonstrate the facility's efforts to act on the information gathered.
- Evidence of the involvement of families and members of the community in the facility on a regular basis.
- Have a stable workforce as evidenced by a relatively low turnover rate among CNAs and RNs within the 30 months preceding application for the program.
- Evidence that any complaints submitted to the State Long-Term Care Ombudsman Program within the 30 months preceding application for the program did not result in a licensure citation.
- Provide targeted in-service training to meet training needs identified by internal or external quality assurance efforts.

Home Health Agencies and Home Health Aides

Home health agencies deliver health and medical services and medical supplies through visits to private homes, ALFs, and adult family care homes. Some of the services include nursing care, physical therapy, occupational therapy, respiratory therapy, speech therapy, HHA services, and nutritional guidance. Medical supplies are restricted to drugs and biologicals prescribed by a physician. Along with services in the home, a home health agency can also provide staffing services in nursing homes and hospitals. Home health agencies differ in the quality of care and services they provide to patients. Home health agencies are required to be licensed and inspected by the state of Florida.¹⁸

The Home Health Consumer Assessment of Healthcare Providers & Systems (HHCAHPS) star ratings provide a snapshot of the four measures of patient experience of care. In addition, the HHCAHPS summary star rating combines all four HHCAHPS star ratings into a single, comprehensive metric. If a home health agency does not have an HHCAHPS summary star rating, it means that the home health agency did not have enough surveys completed to have star ratings calculated in a meaningful way. In addition to the patient survey results, the HHCAHPS star ratings summarize patient experience, which is one aspect of home health agency quality.¹⁹

Section 400.462(15), F.S., defines a "home health aide" as a person who is trained or qualified, as provided by the AHCA rule, to:

- Provide hands-on personal care;
- Perform simple procedures as an extension of therapy or nursing services;
- Assist in ambulation or exercises; or
- Assist in administering medications for which the person has received training established by the AHCA.

¹⁸ Agency for Health Care Administration, FloridaHealthFinder.gov, Alternative to Nursing Homes, *Home Health Agencies*, available at <https://www.floridahealthfinder.gov/reports-guides/NursingHomesFL.aspx#NHStay> (last visited Jan. 26, 2020).

¹⁹ U.S. Centers for Medicare & Medicaid Services, Medicare.gov, Home Health Compare, *Patient Survey Star Ratings*, available at <https://www.medicare.gov/homehealthcompare/About/Patient-Survey-Star-Ratings.html> (last visited Jan. 26, 2020).

Assistance with Administering Medications

Rule 59A-18.0081, F.A.C., provides that a CNA or HHA referred by a nurse registry may assist with self-administration of medication if they have received a minimum of two hours of training covering the following content:

- State law and rule requirements with respect to the assistance with self-administration of medications in the home;
- Procedures for assisting the resident with self-administration of medication;
- Common types of medication;
- Recognition of side effects and adverse reactions; and
- Procedures to follow when patients appear to be experiencing side effects and adverse reactions.

The training must include verification that, for prescription medications, each CNA and HHA can read the prescription label and any instructions for the prescription. The rule provides that individuals who cannot read are not allowed to assist with prescription medications.

Healthcare Professional Shortage

The U.S. has a current health care provider shortage. As of December 31, 2019, the U.S. Department of Health and Human Services has designated 7,655 Primary Medical Health Professional Shortage Areas (HPSAs) (requiring 14,392 additional primary care physicians to eliminate the shortage), 6,820 Dental HPSAs (requiring 10,258 additional dentists to eliminate the shortage), and 6,117 Mental Health HPSAs (requiring 6,335 additional psychiatrists to eliminate the shortage).²⁰

In Florida, there are 754 HPSAs just for primary care, dental care, and mental health. It would take 1,636 primary care, 1,270 dental care, and 407 mental health practitioners to eliminate these shortage areas.²¹

Florida Advanced Practice Registered Nurses

In Florida, an advanced practice registered nurse (APRN)²² can be licensed as one of the following:²³

- Certified nurse practitioner (CNP);
- Certified nurse midwife (CNM);
- Clinical nurse specialist (CNS); or
- Certified registered nurse anesthetist (CRNA).

²⁰ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Designated Health Professional Shortage Area Statistics, Fourth Quarter of Fiscal Year 2019 Designated HPSA Quarterly Summary*, (Sept. 30, 2019), available at <https://data.hrsa.gov/topics/health-workforce/shortage-areas> (last visited Feb. 18, 2020). Click on “Designated HPSA Quarterly Summary” to access the report.

²¹ *Id.*

²² Section 464.003(3), F.S.

²³ Section 464.012(4), F.S.

APRNs are regulated under part I of ch. 464, F.S., the Nurse Practice Act. The Board of Nursing (Board) provides, by rule, the eligibility criteria for applicants to be licensed as APRNs and the applicable regulatory standards for APRN nursing practices.²⁴ Additionally, the Board is responsible for administratively disciplining an APRN who commits prohibited acts.²⁵

In Florida “advanced or specialized nursing practice” includes, in addition to practices of professional nursing that registered nurses are authorized to perform, advanced-level nursing acts approved by the Board as appropriate for APRNs to perform by virtue of their post-basic specialized education, training, and experience.²⁶ Advanced or specialized nursing acts may only be performed if authorized under a supervising physician’s protocol.²⁷ In addition to advanced or specialized nursing practices, APRNs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician’s protocol.²⁸

To be eligible to be licensed as an APRN, an applicant must be licensed as a registered nurse, have a master’s degree in a nursing clinical specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.²⁹ A nursing specialty board must:³⁰

- Attest to the competency of nurses in a clinical specialty area;
- Require a written examination prior to certification;
- Require nurses to complete a formal program prior to eligibility for examination;
- Maintain program accreditation or review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida; and
- Identify standards or scope of practice statements appropriate for each nursing specialty.

Pursuant to s. 456.048, F.S., all APRNs must carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for licensure must submit proof of coverage or financial responsibility within sixty days of licensure and prior to each biennial licensure renewal.³¹ The APRN must have professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000 and which is payable to the APRN as beneficiary.³²

²⁴ See s. 464.004, F.S., and Rule 64B9-3, F.A.C.

²⁵ See ss. 464.018 and 456.072, F.S.

²⁶ Section 464.003(2), F.S.

²⁷ Section 464.012(3)-(4), F.S.

²⁸ *Id.*

²⁹ Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

³⁰ Rule 64B9-4.002(3), F.A.C.

³¹ Rule 64B9-4.002, F.A.C. The DOH Form DH-MQA 1186, 01/09, “Financial Responsibility,” is incorporated into the rule by reference. Certain licensees, such as those who practice exclusively for federal or state governments, only practice in conjunction with a teaching position, or can demonstrate no malpractice exposure in this state are exempt from the financial responsibility requirements.

³² *Id.*

APRN Autonomy in Florida

Florida is a supervisory state. APRNs may perform only those nursing and medical practices delineated in a written physician protocol.³³ A physician providing primary health care services may supervise APRNs in up to four medical offices, in addition to the physician's primary practice location.

APRN Scope of Practice in Florida

Within the framework of the written protocol with a supervising physician, an APRN may:³⁴

- Prescribe, dispense, administer, or order any drug;
- Initiate appropriate therapies for certain conditions;
- Perform additional functions as may be determined by Board rule;
- Order diagnostic tests and physical and occupational therapy; and
- Perform certain acts within his or her specialty.

Currently, APRNs in Florida are not authorized to sign certain documents such as a certificate to initiate the involuntary examination of a person under the Baker Act, the release of persons in receiving facilities under the Baker Act, or death certificates.³⁵

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 400.141 and 400.23, F.S., to provide that a licensed nursing home facility may use paid feeding assistants as defined in 42 C.F.R. s. 488.301, in accordance with 42 C.F.R. s. 483.60, if the paid feeding assistant has successfully completed a feeding assistant training program developed by the AHCA. The feeding assistant training program must consist of a minimum of 12 hours of education and training and must include all of the topics and lessons specified in the program curriculum. The program curriculum must include training in all of the following content areas:

- Feeding techniques.
- Assistance with feeding and hydration.
- Communication and interpersonal skills.
- Appropriate responses to resident behavior.
- Safety and emergency procedures, including the first aid procedure used to treat upper airway obstructions.
- Infection control.
- Residents' rights.
- Recognizing changes in residents that are inconsistent with their normal behavior, and the importance of reporting those changes to the supervisory nurse.

The AHCA is authorized to adopt rules to implement these provisions.

Section 3 amends s. 400.461, F.S., to make conforming changes.

³³ Section 464.012(3), F.S.

³⁴ Section 464.012(3)-(4), F.S.

³⁵ See ss. 382.008, and 394.463, F.S.

Sections 4 through 9 of the bill amend or create statutes within part III of ch. 400, F.S., relating to home health agencies.

Section 4 amends s. 400.462, F.S., to redefine “home health aide” to provide that, in addition to the definition’s other provisions, a home health aide (HHA) may include a person who performs tasks delegated to him or her pursuant to ch. 464, F.S.

Section 5 amends s. 400.464, F.S., to provide that if a home health agency authorizes an RN to delegate tasks, including medication administration, to a CNA pursuant to ch. 464, F.S., or to a HHA pursuant to s. 400.490, F.S., the home health agency must ensure that such delegation meets the requirements of chs. 400 and 464, F.S., and applicable rules adopted under those chapters.

Section 6 amends s. 400.488, F.S., relating to provisions under which an unlicensed person may assist a patient with the self-administration of medication under certain circumstances, to provide that such medications include intermittent positive pressure breathing treatments and nebulizer treatments. The bill also provides that assistance with self-administered medication includes:

- In the presence of the patient, confirming that the medication is intended for that patient and orally advising the patient of the medication’s name and purpose.
- When applying topical medications, the provision of routine preventative skin care and basic wound care.
- For intermittent positive pressure breathing treatments or for nebulizer treatments, assisting with setting up and cleaning the device in the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing the prescribed amount for a single treatment dose from a properly labeled container, and assisting the patient with placing the dose into the medicine receptacle or mouthpiece.

Section 7 creates s. 400.489, F.S., to provide that a HHA may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications if the HHA:

- Has been delegated such task by an RN licensed under ch. 464, F.S.
- Has satisfactorily completed an initial six-hour training course approved by the AHCA.
- Has been found competent to administer medication to a patient in a safe and sanitary manner.

To remain qualified to administer medications as provided above, the bill requires a HHA to annually and satisfactorily complete a two-hour inservice training course in medication administration and medication error prevention approved by the AHCA. This inservice training course must be in addition to the annual inservice training hours required by the AHCA rules under current law.

The bill requires the AHCA, in consultation with the Board of Nursing (BON), to establish by rule standards and procedures that a HHA must follow when administering medication to a patient.

The training, determination of competency, and initial and annual validations required under this new section of statute must be conducted by an RN or a physician licensed under chs. 458 or 459, F.S.

Section 8 creates s. 400.490, F.S., to authorize a CNA or HHA to perform any task delegated by an RN as authorized in this part and in ch. 464, F.S., including, but not limited to, medication authorization.

Section 9 creates s. 400.52, F.S., to establish the Excellence in Home Health Program (program) for the purpose of awarding designations to home health agencies or nurse registries that meet specified criteria.

The AHCA is directed to adopt rules establishing criteria for the program, which must include, at a minimum, meeting standards relating to:

- Patient satisfaction.
- Patients requiring emergency care for wound infections.
- Patients admitted or readmitted to an acute care hospital.
- Patient improvement in the activities of daily living.
- Employee satisfaction.
- Quality of employee training.
- Employee retention rates.

The AHCA is directed to annually evaluate home health agencies and nurse registries seeking program designation. To receive program designation, a home health agency or nurse registry must:

- Apply on a form and in the manner designated by the AHCA rule;
- Be actively licensed and have been operating for at least 24 months before applying for program designation; and
- Have not had any licensure denials, revocations, or Class I, Class II, or uncorrected Class III deficiencies within the 24 months before the application for program designation.

A designation awarded under the program is not transferrable to another licensee, unless the existing home health agency or nurse registry is being relicensed in the name of an entity related to the current license-holder by common control or ownership, and there will be no change in the management, operation, or programs of the home health agency or nurse registry as a result of the relicensure.

Program designation expires on the same date as the home health agency's or nurse registry's license. A home health agency or nurse registry must reapply and be approved for program designation to continue using the designation in advertising and marketing. A home health agency or nurse registry may not use program designation in any advertising or marketing if the home health agency or nurse registry:

- Has not been awarded the designation;
- Fails to renew the designation upon expiration of the awarded designation;
- Has undergone a change in ownership that does not qualify for a transfer of the designation as described above; or

- Has been notified that it no longer meets the criteria for the award upon reapplication after expiration of the awarded designation.

The bill clarifies that an application for an award designation is not an application for licensure and that an award designation or denial by the AHCA does not constitute final agency action subject to ch. 120, F.S.

Section 10 creates s. 408.822, F.S., to establish a Direct Care Workforce Survey (survey). The bill defines the term “direct care worker” for purposes of the survey to mean a:

- CNA;
- HHA;
- Personal care assistant;
- Companion services or homemaker services provider;
- Paid feeding assistant trained under s. 400.141(1)(v), F.S.; or
- Provider of personal care as defined in s. 400.462(24), F.S., to individuals who are elderly, developmentally disabled, or chronically ill.

Under the bill, beginning January 1, 2021, nursing home facilities, assisted living facilities, home health agencies, companion services providers, and homemaker services providers applying for licensure renewal (every two years), must furnish the following information to the AHCA before the license will be renewed:

- The number of registered nurses and the number of direct care workers by category employed.
- The turnover and vacancy rates of registered nurses and direct care workers and contributing factors to these rates.
- The average employee wage for registered nurses and each category of direct care worker.
- The employment benefits provided for registered nurses and direct care workers and the average cost of such benefits to the employer and the employee.
- The type and availability of training for registered nurses and direct care workers.

An administrator or designee must attest that the information provided in the survey is true and accurate to the best of his or her knowledge. In addition, the AHCA is required to analyze the results of the surveys, and publish the results on its website, as well as update the information monthly.

Sections 11 and 12 of the bill amend or create statutes within part I of ch. 464, F.S., relating to the Nurse Practice Act.

Section 11 creates s. 464.0156, F.S., to authorize RNs to delegate a task to a CNA or a HHA if the registered nurse determines that the CNA or HHA is competent to perform the task, the task is delegable under federal law, and the task meets all of the following criteria:

- Is within the nurse’s scope of practice.
- Frequently recurs in the routine care of a patient or group of patients.
- Is performed according to an established sequence of steps.
- Involves little or no modification from one patient to another.
- May be performed with a predictable outcome.

- Does not inherently involve ongoing assessment, interpretation, or clinical judgment.
- Does not endanger a patient's life or well-being.

If a CNA or HHA satisfies the qualifications and training requirements of the bill's newly created ss. 464.2035 or 400.489, F.S., an RN may also delegate to a CNA or HHA the administration of prescription medications to a patient of a home health agency, except controlled substances,³⁶ by the following routes: oral, transdermal,³⁷ ophthalmic, otic, rectal, inhaled, enteral,³⁸ or topical.

The BON, in consultation with the AHCA, is required to adopt rules to implement this section of the bill.

Section 12 amends s. 464.018, F.S., to add an additional ground for nursing disciplinary action when a nurse knowingly delegates responsibilities to a person that is not qualified by training, experience, certification, or licensure to perform them.

Section 13 creates s. 464.2035, F.S., to provide that a CNA may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medication to a patient of a home health agency if the CNA has:

- Been delegated such task by an RN;
- Satisfactorily completed an initial six-hour training course approved by the BON; and
- Been found competent to administer medication to such a patient in a safe and sanitary manner.

The training, determination of competency, and initial and annual validations must be conducted by a licensed RN or a physician licensed under chapter 458 or 459, F.S.

To remain qualified to administer medications as provided above, a CNA must annually and satisfactorily complete two hours of inservice training in medication administration and medication error prevention approved by the BON, in consultation with the AHCA. The inservice training required under the bill is in addition to other annual inservice training hours required under current law.

The bill requires the BON, in consultation with the AHCA, to establish by rule standards and procedures that a CNA must follow when administering medication to a patient of a home health agency.

Section 14 creates s. 381.40185, F.S., to require the Department of Health (DOH) to establish a physician student loan repayment program for physicians licensed under ch. 458 and 459. The physician must provide primary care services in a public health program, an independent

³⁶ Controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s. 812.

³⁷ See The Farlex Medical Dictionary, Transdermal, available at <https://medical-dictionary.thefreedictionary.com/Transdermal> (last visited Jan. 27, 2020). Transdermal means entering through the dermis, or skin, as in administration of a drug applied to the skin in ointment or patch form.

³⁸ See The Farlex Medical Dictionary, Enteral, available at <https://medical-dictionary.thefreedictionary.com/enteral> (last visited Jan. 27, 2020). Enteral means within, or by way of, the intestine or gastrointestinal tract, especially as distinguished from parenteral.

practice, or a group practice that serves low-income or Medicaid recipients and be located in a primary care health professional shortage area or medically underserved area. Implementation of the loan program is subject to legislative appropriation.

Section 15 amends the Nurse Practice Act to define an “advanced practice registered nurse - independent practitioner” or “APRN-IP” as an advanced practice registered nurse who is registered under s. 464.0123 to provide primary health care services without a protocol agreement or supervision in primary care health professional shortage areas.

The bill defines a “primary care health professional shortage area” as a geographic area, an area having a special population, or a facility with a score of at least 18, as designated and calculated by the Federal Health resources and Services Administration, and which is located in a rural area, as defined by the Federal Office of Rural Health Policy (see section 16).

Section 16 creates s. 464.0123, F.S., to establish the Patient Access to Primary Care Pilot Program (Pilot Program) within the Department of Health (DOH). The Pilot Program will provide primary health care services in “primary care health professional shortage areas” by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.

The bill creates a nine member Council on Advanced Practice Registered Nurse Independent Practice within the DOH and requires the council to make recommendations on the registration of APRN-IPs and develop proposed rules to regulate the practice of APRN-IPs. All recommendations made by the council must be made by a majority of the members present.

Primary Care Certification Examination

The bill requires the DOH to approve at least one third party credentialing entity to develop and administer a primary care certification examination for APRN-IPs.

Registration

The bill requires that APRNs who practice without the supervision of a physician to register with the DOH as an APRN-IP and provide the following:

- Proof of experience as an APRN under the direct or indirect supervision of a physician for at least 10,000 hours within the last 6 years;
- Certifications and designations recognized and approved by the Board of Nursing, Board of Medicine, Board of Osteopathic Medicine, or the DOH;
- APRN education, work, and license history;
- Address in which the application will conduct practice;
- Criminal and regulatory disciplinary history; and
- Proof of professional liability insurance;

An APRN-IP must be renew their registration every 2 years and provide proof of 40 hours of continuing medical education hours.

Scope of Practice

The Board of Medicine and the Board of Osteopathic Medicine must adopt by rule the scope of practice for an APRN-IP. An APRN-IP cannot practice in a hospital licensed under ch. 395, F.S., or a facility licensed under ch. 400, F.S., except under an established written protocol with a supervising physician.

The bill requires APRN-IPs to report all adverse incidents to the DOH. The Board of Medicine or the Board of Nursing is authorized to take disciplinary action under certain circumstances.

The Pilot Program is repealed, unless saved from repeal by the Legislature, on July 1, 2031.

Section 17 amends s. 464.015, F.S., to limit who can use the title “Advanced Practice Registered Nurse Practitioner – Independent Practitioner” and the abbreviation “APRN-IP.”

Section 18 amends s. 464.018, F.S., to authorize the Board of Nursing to take administrative action against an APRN-IP for the following:

- Paying or receiving any commission, bonus, kickback, rebate, or engaging in a slit-fee arrangement with a health care practitioner, organization, agency, or person for patient referrals;
- Exercising influence over a patient for the purpose of engaging in sexual activity;
- Making deceptive, untrue, or fraudulent representation related to advanced or specialized nursing practice;
- Soliciting patients, personally or through an agent, using fraud, intimidation, undue influence, or overreaching or vexatious conduct;
- Failing to keep legible medical records;
- Performing professional services that have not been authorized by the patient or his or her representative, except as provided by the Medical Consent Law and the Good Samaritan Act;
- Performing any procedure or prescribing any medicinal drug that would constitute experimentation on a human subject, without full, informed, and written consent of the patient;
- Delegating professional responsibilities to an unqualified or unlicensed person;
- Conspiring with another person to commit an act or committing an act that would tend to coerce, intimidate, or preclude another APRN from advertising his or her services;
- Advertising or holding oneself out as having a certification in a specialty that the APRN has not received;
- Failing to inform patients about patient rights and how to file a patient complaint; and
- Providing deceptive or fraudulent expert witness testimony related to advanced or specialized nursing practice.

Section 19 amends s. 381.026, F.S., to expand the definition of a “health care provider” to include an APRN-IP.

Section 20 amends s. 382.008, F.S., to allow an APRN-IPs to certify the cause of death and to file death certificates in the absence of a funeral director.

Section 21 makes conforming changes.

Section 22 amends s. 394.463 F.S., the Baker Act, to allow an APRN-IP to initiate an involuntary examination under certain circumstances.

Section 23 amends s. 397.501, F.S., the Marchman Act, to conform to the provisions of the bill.

Section 24 amends s. 456.053, F.S., to expand the definition of a “health care provider” and “sole provider” to include an APRN-IP.

Section 25 amends s. 626.9707, F.S., to conform to the provisions of the bill.

Section 26, 27, and 31 creates ss. 627.64025, 627.6621, and 641.31075 F.S., to prohibit certain health insurers and health maintenance organizations from requiring an insured to receive services from an APRN-IP or an advanced practice registered nurse rather than a primary care physician.

Section 28 amends 627.6699, F.S. to prohibit certain health insurers from requiring an insured to receive services from an APRN-IP or an advanced practice registered nurse rather than a primary care physician.

Section 29 amends s. 627.736, F.S., to conform to the provisions of the bill.

Section 30 amends s. 633.412, F.S., to allow APRN-IPs to conduct certain medical evaluations for firefighters applying for certification as a firefighter.

Section 32 amends s. 641.495, F.S., to allow HMOs to provide certain services through an APRN-IP.

Section 33 amends s. 744.3675, F.S., to allow an APRN-IP to examine and report on a ward’s condition current level of capacity.

Section 34 amends s. 766.118, F.S., to expand the definition of “practitioner” to include an APRN-IP. This section limits noneconomic damages³⁹ for medical negligence of practitioners, including APRN-IPs, under certain circumstances.

Section 35 amends s. 768.135, F.S., to provide immunity from civil liability for APRN-IPs acting in good faith when performing certain medical evaluations.

Section 36 amends s. 960.28, F.S., to conform to the provisions of the bill.

Section 37 requires the Office of Program Policy Analysis and Government Accountability to submit a report to the Governor, the President of the Senate and the Speaker of the House of

³⁹ Section 766.202(8), F.S., defines “noneconomic damages” as nonfinancial losses that would not have occurred but for the injury giving rise to the cause of action, including pain and suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of capacity for enjoyment of life, and other nonfinancial losses to the extent the claimant is entitled to recover such damages under general law, including the Wrongful Death Act.

Representatives by September 1, 2030. The report must include the impact of and recommendations regarding the continuance of the Pilot Program.

Section 38 provides that the Patient Access to Primary Care Pilot Program is repealed on July 1, 2031, unless reviewed and saved from repeal through reenactment by the Legislature. If the Legislature does not reenact the Pilot Program the text of the statutes that are amended in sections 15 and 17 through 36 of this bill will revert back to that in existence on the date this act became law (except that any other amendments to such text enacted other than by this bill must be preserved).

Section 39 appropriates three full-time equivalent (FTE) positions with an associated salary rate of 125,887, three other personal services (OPS) positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.

Section 40 provides that except as otherwise expressly provided in this act, the act shall take effect upon becoming a law.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Home health agencies and nursing facilities may incur costs associated with the requirement to provide medication administration training to CNAs and HHAs. In addition, beginning in 2021, they may experience a workload increase associated with the bill's requirements related to survey reporting.

An APRN who applies for licensure as an APRN-IP to practice without the supervision of a physician will be able to provide primary care services in primary care health professional shortage areas. APRNs who have paid physicians for supervision will see cost savings if they register to practice autonomously.

C. Government Sector Impact:

The AHCA estimates the need for five additional full-time equivalent (FTE) positions, three other personal services (OPS) positions, and funding to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.⁴⁰ The bill appropriates three FTE positions with an associated salary rate of 125,887, three OPS positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.

CS/SB 1676 has a significant negative fiscal impact on the state expenditures. The bill will require the DOH to update information technology systems related to electronic death registrations to accept APRN-IPs as health care providers, and licensing of APRN-IPs. The DOH has estimated that the regulation of APRN-IPs will require an additional four FTE positions at a total cost of \$226,291 (\$202,019 recurring; \$24,272 non-recurring) in the first year.⁴¹

The bill's requirement that the DOH establish a Physician Student Loan Repayment Program has a significant negative fiscal impact on state expenditures. The DOH estimates the additional need of two FTE to administer the loan program at a total cost of \$143,173 (\$131,037 recurring; \$12,136 non-recurring) in the first year.⁴² However, implementation of the loan program is subject to legislative appropriation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁰ *Supra* note 1.

⁴¹ Florida Department of Health, *Senate Bill 1676 Fiscal Analysis* (February 18, 2020) (email on file with the Senate Subcommittee on Health and Human Services).

⁴² *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.026, 382.008, 382.011, 394.463, 397.501, 400.141, 400.23, 400.461, 400.462, 400.464, 400.488, 456.053, 464.003, 464.015, 464.018, 626.9707, 627.6699, 627.736, 633.412, 641.495, 744.3675, 766.118, 768.135, and 960.28

This bill creates the following sections of the Florida Statutes: 381.40185, 400.489, 400.490, 400.52, 408.822, 464.0123, 464.0156, 464.2035, 627.64025, 627.6621, and 641.31075.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 18, 2020:

The committee substitute:

- Makes conforming and technical changes.
- Authorizes nurse registries to be eligible to receive award designations under the Excellence in Home Health Program (program).
- Clarifies that an application for an award designation is not an application for licensure and that an award designation or denial by the AHCA does not constitute final agency action subject to ch. 120, F.S.
- Removes nurse registries from the requirements of the Direct Care Workforce Survey.
- Clarifies that an RN's delegation of prescription medications to a CNA or HHA is specific to patients of a home health agency.
- Authorizes positions and an appropriation to the AHCA.
- Establishes a physician student loan repayment program within the Department of Health (DOH).
- Establishes the Patient Access to Primary Care Pilot Program within the DOH to provide primary health care services in "primary care health professional shortage areas" by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.
- Appropriates three FTE positions with an associated salary rate of 125,887, three OPS positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.
- Amends the effective date to provide that except as otherwise expressly provided in the bill, the bill takes effect upon becoming a law.

CS by Health Policy on February 4, 2020:

The CS:

- Removes from the underlying bill a provision for non-nursing staff providing eating assistance to residents of a nursing home to count toward the nursing home's compliance with minimum staffing standards;
- Authorizes nursing home facilities to use paid feeding assistants as defined under federal law if the assistant has completed a 12-hour program developed by the AHCA;
- Removes from the underlying bill the specific authorization within nursing home statutes for a CNA to perform any task delegated to him or her by an RN, including, medication administration, in a nursing home setting;
- Removes from the underlying bill provisions to establish a Home Care Services Registry; and
- Removes from the underlying bill the specific authorization within CNA statutes for a CNA to administer medications to nursing home residents if delegated such a task by an RN.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
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The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 627 - 1791

and insert:

Section 15. Effective July 1, 2020, present subsections (4) through (21) of section 464.003, Florida Statutes, are redesignated as subsections (5) through (22), respectively, and a new subsection (4) is added to that section, to read:

464.003 Definitions.—As used in this part, the term:

(4) "Advanced practice registered nurse - independent



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11 practitioner” or “APRN-IP” means an advanced practice registered
12 nurse who is registered under s. 464.0123 to provide primary
13 health care services without a protocol agreement or
14 supervision.

15 Section 16. Effective July 1, 2020, section 464.0123,
16 Florida Statutes, is created to read:

17 464.0123 Patient Access to Primary Care Program.—

18 (1) PROGRAM PURPOSE.—The Patient Access to Primary Care
19 Program is created for the purpose of providing primary health
20 care services in primary care health professional shortage
21 areas. The department shall implement this program.

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

23 (a) “Council” means the Council on Advanced Practice
24 Registered Nurse Independent Practice established in subsection
25 (3).

26 (b) “Physician” means a person licensed under chapter 458
27 to practice medicine or a person licensed under chapter 459 to
28 practice osteopathic medicine.

29 (c) “Primary care health professional shortage area” means
30 a geographic area, an area having a special population, or a
31 facility with a score of at least 18, as designated and
32 calculated by the Federal Health Resources and Services
33 Administration or a rural area as defined by the Federal Office
34 of Rural Health Policy.

35 (3) COUNCIL ON ADVANCED PRACTICE REGISTERED NURSE
36 INDEPENDENT PRACTICE.—

37 (a) The Council on Advanced Practice Registered Nurse
38 Independent Practice is created within the department.

39 (b) The council shall consist of the following nine



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40 members:

41 1. Two members appointed by the chair of the Board of
42 Medicine who are physicians and members of the Board of
43 Medicine.

44 2. Two members appointed by the chair of the Board of
45 Osteopathic Medicine who are physicians and members of the Board
46 of Osteopathic Medicine.

47 3. Four members appointed by the chair of the Board of
48 Nursing who are advanced practice registered nurses and who have
49 each completed at least 10,000 hours of supervised practice over
50 a period of at least 5 years under a protocol with a supervising
51 physician.

52 4. The State Surgeon General or his or her designee.

53 (c) The Board of Medicine members, the Board of Osteopathic
54 Medicine members, and the Board of Nursing appointee members
55 shall be appointed for terms of 4 years. The initial
56 appointments shall be staggered so that one member from the
57 Board of Medicine, one member from the Board of Osteopathic
58 Medicine, and one appointee member from the Board of Nursing
59 shall each be appointed for a term of 4 years; one member from
60 the Board of Medicine and one appointee member from the Board of
61 Nursing shall each be appointed for a term of 3 years; and one
62 member from the Board of Osteopathic Medicine and two appointee
63 members from the Board of Nursing shall each be appointed for a
64 term of 2 years. Initial physician members appointed to the
65 council must be physicians who have practiced with advanced
66 practice registered nurses under a protocol in their practice.

67 (d) Council members may not serve more than two consecutive
68 terms. The council shall annually elect a chair from among its



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69 members.

70 (e) All recommendations made by the council must be made by
71 a majority of members present.

72 (f) The council shall:

73 1. Review applications for and recommend to the department
74 the registration of APRN-IPs.

75 2. Develop proposed rules regulating the practice of APRN-
76 IPs. The council shall also develop proposed rules to ensure
77 that the continuity of practice of APRN-IPs is maintained in
78 primary care health professional shortage areas. The language of
79 proposed rules developed by the council must be submitted to the
80 department. Based on the council's proposed rules, the
81 department shall adopt rules regulating the practice of APRN-
82 IPs.

83 3. Make recommendations to the department regarding all
84 matters relating to APRN-IPs.

85 4. Address concerns and problems of APRN-IPs in order to
86 improve safety in the clinical practices of APRN-IPs.

87 (g) When the council finds that an applicant for licensure
88 has failed to meet, to the council's satisfaction, each of the
89 requirements for registration set forth in this section, the
90 council may enter an order to:

91 1. Refuse to register the applicant;

92 2. Approve the applicant for registration with restrictions
93 on the scope of practice or registration; or

94 3. Approve the applicant for limited registration with
95 conditions. Such conditions may include placement of the
96 registrant on probation for a period of time and subject to such
97 conditions as the council may specify, including, but not



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98 limited to, requiring the registrant to undergo treatment, to
99 attend continuing education courses, to work under the direct
100 supervision of a physician licensed in this state, or to take
101 corrective action, as determined by the council.

102 (4) REGISTRATION.—To be registered as an APRN-IP, an
103 advanced practice registered nurse must apply to the department
104 on forms developed by the department. The council shall review
105 the application and recommend to the department the registration
106 of the advanced practice registered nurse with the Board of
107 Medicine as an APRN-IP if the applicant submits proof that he or
108 she holds an unrestricted license issued under s. 464.012 and
109 provides all of the following information:

110 (a) The name of each location at which the applicant has
111 practiced as an advanced practice registered nurse pursuant to
112 an established written protocol under the direct or indirect
113 supervision of a physician for 2,000 hours within the last 4
114 years and the names and addresses of all supervising physicians
115 during that period.

116 (b) Any certification or designation that the applicant has
117 received from a specialty or certification board which is
118 recognized or approved by the Board of Nursing, the Board of
119 Medicine, the Board of Osteopathic Medicine, or the department.

120 (c) The calendar years in which the applicant:

121 1. Received his or her initial advanced practice registered
122 nurse certification, licensure, or registration;

123 2. Began practicing in any jurisdiction; and

124 3. Received initial advanced practice registered nurse
125 licensure in this state.

126 (d) The address at which the applicant will primarily



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127 conduct his or her practice, if known.

128 (e) The name of each school or training program that the
129 applicant has attended, with the months and years of attendance
130 and the month and year of graduation, and a description of all
131 graduate professional education completed by the applicant,
132 excluding any coursework taken to satisfy continuing education
133 requirements.

134 (f) Any appointment to the faculty of a school related to
135 the profession which the applicant currently holds or has held
136 within the past 10 years and an indication as to whether the
137 applicant has been responsible for graduate education within the
138 past 10 years.

139 (g) A description of any criminal offense of which the
140 applicant has been found guilty, regardless of whether
141 adjudication of guilt was withheld, or to which the applicant
142 has pled guilty or nolo contendere. A criminal offense committed
143 in another jurisdiction which would have been a felony or
144 misdemeanor if committed in this state must be reported. If the
145 applicant indicates to the department that a criminal offense is
146 under appeal and submits a copy of the notice for appeal of that
147 criminal offense, the department must state that the criminal
148 offense is under appeal if the criminal offense is reported in
149 the applicant's profile. If the applicant indicates to the
150 department that a criminal offense is under appeal, the
151 applicant must, within 15 days after the disposition of the
152 appeal, submit to the department a copy of the final written
153 order of disposition.

154 (h) A description of any disciplinary action as specified
155 in s. 456.077, s. 458.320, or s. 464.018 or any similar



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156 disciplinary action in any other jurisdiction of the United
157 States by a licensing or regulatory body; by a specialty board
158 that is recognized by the Board of Nursing, the Board of
159 Medicine, the Board of Osteopathic Medicine, or the department;
160 or by a licensed hospital, health maintenance organization,
161 prepaid health clinic, ambulatory surgical center, or nursing
162 home. Disciplinary action includes resignation from or
163 nonrenewal of staff membership or the restriction of privileges
164 at a licensed hospital, health maintenance organization, prepaid
165 health clinic, ambulatory surgical center, or nursing home taken
166 in lieu of or in settlement of a pending disciplinary case
167 related to competence or character. If the applicant indicates
168 to the department that a disciplinary action is under appeal and
169 submits a copy of the document initiating an appeal of the
170 disciplinary action, the department must state that the
171 disciplinary action is under appeal if the disciplinary action
172 is reported in the applicant's profile. If the applicant
173 indicates to the department that a disciplinary action is under
174 appeal, the applicant must, within 15 days after the disposition
175 of the appeal, submit to the department a copy of the final
176 written order of disposition.

177 (i)1. Proof that he or she has obtained or will be
178 obtaining and will maintain professional liability insurance
179 coverage in an amount not less than \$100,000 per claim, with a
180 minimum annual aggregate of not less than \$300,000, from an
181 authorized insurer as defined in s. 624.09, from one of the
182 following:

183 a. An eligible surplus lines insurer as defined in s.
184 626.914(2);



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185 b. A risk retention group as defined in s. 627.942, from
186 the Joint Underwriting Association established under s.
187 627.351(4); or

188 c. A plan of self-insurance as provided in s. 627.357; or
189 2. Proof that he or she has obtained and will be

190 maintaining an unexpired, irrevocable letter of credit,
191 established pursuant to chapter 675, in an amount of not less
192 than \$100,000 per claim, with a minimum aggregate availability
193 of credit of not less than \$300,000. The letter of credit must
194 be payable to the APRN-IP as beneficiary upon presentment of a
195 final judgment indicating liability and awarding damages to be
196 paid by the APRN-IP or upon presentment of a settlement
197 agreement signed by all parties to such agreement when such
198 final judgment or settlement is a result of a claim arising out
199 of the rendering of, or the failure to render, medical or
200 nursing care and services while practicing as an APRN-IP.

201 (j) Documentation of completion within the last 5 years of
202 three graduate-level semester hours, or the equivalent, in
203 differential diagnosis and three graduate-level semester hours,
204 or the equivalent, in pharmacology, and any additional
205 coursework as recommended by the council. Such hours may not be
206 continuing education courses.

207 (k) Any additional information that the council may require
208 from the applicant, as determined by the council.

209 (5) REGISTRATION RENEWAL.—An APRN-IP may seek renewal of
210 his or her registration biennially by applying to the department
211 on forms developed by the department.

212 (a) An APRN-IP seeking registration renewal must provide
213 documentation proving his or her completion of a minimum of 40



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214 continuing medical education hours. The required continuing
215 medical education hours must include 3 hours on the safe and
216 effective prescribing of controlled substances; 2 hours on human
217 trafficking; 2 hours on the prevention of medical errors; 2
218 hours on domestic violence; and 2 hours on suicide prevention,
219 which must address suicide risk assessment, treatment, and
220 management, if such topics are not required for licensure under
221 this part.

222 (b) The continuing medical education hours required under
223 paragraph (a):

224 1. Must be obtained in courses approved by the Board of
225 Medicine or the Board of Osteopathic Medicine and offered by a
226 statewide professional association of physicians or osteopathic
227 physicians in this state which is accredited to provide
228 educational activities designated for the American Medical
229 Association Physician's Recognition Award Category 1 credit or
230 the American Osteopathic Category 1-A continuing medical
231 education credit.

232 2. May be counted toward the required continuing education
233 hours, including required subject area hours, for an APRN-IP's
234 renewal of his or her APRN or RN license, as provided under
235 board rule.

236 (6) PRACTITIONER PROFILE.—Upon issuing a registration or a
237 renewal of registration, the department shall update the
238 practitioner's profile, as described in s. 456.041, to reflect
239 that the advanced practice registered nurse is registered as an
240 APRN-IP.

241 (7) APRN-IP SCOPE OF PRACTICE.—An APRN-IP may provide
242 primary health care services without a protocol agreement or



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243 supervision only in primary care health professional shortage
244 areas during the first 3 years of his or her independent
245 practice without such agreement or supervision. After 3 years of
246 such independent practice in a primary care health professional
247 shortage area, an APRN-IP may practice independently for the
248 provision of primary health care services in any area of the
249 state. For the purposes of this subsection, "3 years of such
250 independent practice" means an APRN-IP has established an
251 independent practice in a primary care health professional
252 shortage area under this section which serves as his or her
253 primary professional practice and has actively provided primary
254 health care services to patients under that practice for 3 full
255 years.

256 (a) An APRN-IP may not practice in a hospital licensed
257 under chapter 395 or in a facility licensed under chapter 400,
258 except under an established written protocol with a supervising
259 physician which is maintained at the hospital or facility.

260 (b) The department shall adopt by rule the scope of
261 practice for an APRN-IP. Such rules must address, but are not
262 limited to, all of the following topics:

263 1. The scope of the medical care, treatment, and services
264 an APRN-IP may provide to patients.

265 2. Medical care, treatment, and services that are outside
266 the scope of the practice of an APRN-IP.

267 3. Patient populations to which an APRN-IP may provide
268 primary care, treatment, and services.

269 4. Patient populations to which an APRN-IP may not provide
270 primary care, treatment, or services.

271 5. Patient populations that the APRN-IP must refer to a



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272 physician.

273 6. Guidelines for prescribing controlled substances for the
274 treatment of chronic nonmalignant pain and acute pain, including
275 evaluation of the patient, creation and maintenance of a
276 treatment plan, obtaining informed consent and agreement for
277 treatment, periodic review of the treatment plan, consultation,
278 medical record review, and compliance with controlled substance
279 laws and regulations.

280 7. Information regarding the credentials of the APRN-IP
281 which must be disclosed to patients in a written informed
282 consent to care and treatment, including, but not limited to,
283 notification to the patient that the APRN-IP is not a physician
284 and may not be referred to as a "doctor" or a "physician" in a
285 medical setting.

286 8. Requirements relating to the APRN-IP practice's
287 recordkeeping, record retention, and availability of records for
288 inspection by the department.

289 9. Advertising restrictions and disclosure requirements for
290 APRN-IPs, including that the APRN-IP may not be referred to as a
291 "doctor" or a "physician" in a medical setting.

292 (8) REPORTS OF ADVERSE INCIDENTS BY APRN-IPs.—

293 (a) Any APRN-IP practicing in this state must notify the
294 department if he or she was involved in an adverse incident.

295 (b) The required notification to the department must be
296 submitted in writing by certified mail and postmarked within 15
297 days after the occurrence of the adverse incident.

298 (c) For purposes of notifying the department under this
299 section, the term "adverse incident" means an event over which
300 the APRN-IP could exercise control and which is associated in



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301 whole or in part with a medical intervention, rather than the
302 condition for which such intervention occurred, and which
303 results in any of the following patient injuries:

304 1. The death of a patient.

305 2. An injury to the patient that is likely to be permanent.

306 3. Any condition that required the transfer of a patient
307 from the APRN-IP's practice location to a hospital licensed
308 under chapter 395.

309 (d) The department shall review each incident and determine
310 whether it potentially involved conduct by the APRN-IP which is
311 grounds for disciplinary action, in which case s. 456.073
312 applies. Disciplinary action, if any, shall be taken by the
313 Board of Medicine or the Board of Nursing, depending on the
314 conduct involved, as determined by the department.

315 (e) The department shall adopt rules to implement this
316 subsection.

317 (9) INACTIVE AND DELINQUENT STATUS.—An APRN-IP registration
318 that is in an inactive or delinquent status may be reactivated
319 only as provided in s. 456.036.

320 (10) CONSTRUCTION.—This section may not be construed to
321 prevent third-party payors from reimbursing an APRN-IP for
322 covered services rendered by the registered APRN-IP.

323 (11) RULEMAKING.—The department shall adopt rules to
324 implement this section.

325 Section 17. Effective July 1, 2020, present subsections (9)
326 and (10) of section 464.015, Florida Statutes, are redesignated
327 as subsections (10) and (11), respectively, a new subsection (9)
328 is added to that section, present subsections (9) of that
329 section is amended, and present subsection (10) of that section



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330 is republished, to read:

331 464.015 Titles and abbreviations; restrictions; penalty.—

332 (9) Only persons who hold valid registrations to practice
333 as APRN-IPs in this state may use the title "Advanced Practice
334 Registered Nurse - Independent Practitioner" and the
335 abbreviation "A.P.R.N.-I.P." A health care practitioner or
336 personnel within a health care facility may not refer to an
337 APRN-IP as a "doctor" or a "physician" in a medical setting.

338 (10)~~(9)~~ A person may not practice or advertise as, or
339 assume the title of, registered nurse, licensed practical nurse,
340 clinical nurse specialist, certified registered nurse
341 anesthetist, certified nurse midwife, certified nurse
342 practitioner, ~~or~~ advanced practice registered nurse, or advanced
343 practice registered nurse - independent practitioner; use the
344 abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.,"
345 "C.N.P.," ~~or~~ "A.P.R.N.," or "A.P.R.N.-I.P."; or take any other
346 action that would lead the public to believe that person was
347 authorized by law to practice as such or is performing nursing
348 services pursuant to the exception set forth in s. 464.022(8)
349 unless that person is licensed, certified, or authorized
350 pursuant to s. 464.0095 to practice as such.

351 (11)~~(10)~~ A violation of this section is a misdemeanor of
352 the first degree, punishable as provided in s. 775.082 or s.
353 775.083.

354 Section 18. Effective July 1, 2020, paragraph (s) is added
355 to subsection (1) of section 464.018, Florida Statutes, as
356 amended by section 12 of this act, to read:

357 464.018 Disciplinary actions.—

358 (1) The following acts constitute grounds for denial of a



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359 license or disciplinary action, as specified in ss. 456.072(2)
360 and 464.0095:

361 (s) For an APRN-IP registered under s. 464.0123, in
362 addition to the grounds for discipline set forth in paragraph
363 (p) and in s. 456.072(1), any of the following are grounds for
364 discipline:

365 1. Paying or receiving any commission, bonus, kickback, or
366 rebate from, or engaging in any split-fee arrangement in any
367 form whatsoever with, a health care practitioner, an
368 organization, an agency, or a person, either directly or
369 implicitly, for referring patients to providers of health care
370 goods or services, including, but not limited to, hospitals,
371 nursing homes, clinical laboratories, ambulatory surgical
372 centers, or pharmacies. This subparagraph may not be construed
373 to prevent an APRN-IP from receiving a fee for professional
374 consultation services.

375 2. Exercising influence within a patient's relationship
376 with an APRN-IP for purposes of engaging a patient in sexual
377 activity. A patient shall be presumed to be incapable of giving
378 free, full, and informed consent to sexual activity with his or
379 her APRN-IP.

380 3. Making deceptive, untrue, or fraudulent representations,
381 or employing a trick or scheme, in or related to advanced
382 practice registered nurse independent practice.

383 4. Soliciting patients, either personally or through an
384 agent, by the use of fraud, intimidation, undue influence, or a
385 form of overreaching or vexatious conduct. As used in this
386 subparagraph, the term "soliciting" means directly or implicitly
387 requesting an immediate oral response from the recipient.



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388 5. Failing to keep legible medical records, as defined by
389 rules of the Board of Medicine and the Board of Osteopathic
390 Medicine, that identify the APRN-IP, by name and professional
391 title, who is responsible for rendering, ordering, supervising,
392 or billing for the patient's medically necessary care,
393 treatment, services, diagnostic tests, or treatment procedures;
394 and the medical justification for the patient's course of care
395 and treatment, including, but not limited to, patient histories,
396 examination results, and test results; drugs prescribed,
397 dispensed, or administered; and reports of consultations or
398 referrals.

399 6. Exercising influence on a patient to exploit the patient
400 for the financial gain of the APRN-IP or a third party,
401 including, but not limited to, the promoting or selling of
402 services, goods, appliances, or drugs.

403 7. Performing professional services that have not been duly
404 authorized by the patient or his or her legal representative,
405 except as provided in s. 766.103 or s. 768.13.

406 8. Performing any procedure or prescribing any medication
407 or therapy that would constitute experimentation on a human
408 subject.

409 9. Delegating professional responsibilities to a person
410 when the APRN-IP knows, or has reason to believe, that such
411 person is not qualified by education, training, experience, or
412 licensure to perform such responsibilities.

413 10. Committing, or conspiring with another to commit, an
414 act that would coerce, intimidate, or preclude another APRN-IP
415 from lawfully advertising his or her services.

416 11. Advertising or holding himself or herself out as having



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417 a certification in a specialty which he or she has not received.

418 12. Failing to comply with the requirements of ss. 381.026
419 and 381.0261 related to providing patients with information
420 about their rights and how to file a complaint.

421 13. Providing deceptive or fraudulent expert witness
422 testimony related to advanced practice registered nurse
423 independent practice.

424 Section 19. Effective July 1, 2020, paragraph (c) of
425 subsection (2) of section 381.026, Florida Statutes, is amended
426 to read:

427 381.026 Florida Patient's Bill of Rights and
428 Responsibilities.-

429 (2) DEFINITIONS.-As used in this section and s. 381.0261,
430 the term:

431 (c) "Health care provider" means a physician licensed under
432 chapter 458, an osteopathic physician licensed under chapter
433 459, ~~or~~ a podiatric physician licensed under chapter 461, or an
434 APRN-IP registered under s. 464.0123.

435 Section 20. Effective July 1, 2020, paragraph (a) of
436 subsection (2) and subsections (3), (4), and (5) of section
437 382.008, Florida Statutes, are amended to read:

438 382.008 Death, fetal death, and nonviable birth
439 registration.-

440 (2) (a) The funeral director who first assumes custody of a
441 dead body or fetus shall file the certificate of death or fetal
442 death. In the absence of the funeral director, the physician,
443 APRN-IP registered under s. 464.0123, or other person in
444 attendance at or after the death or the district medical
445 examiner of the county in which the death occurred or the body



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446 was found shall file the certificate of death or fetal death.
447 The person who files the certificate shall obtain personal data
448 from a legally authorized person as described in s. 497.005 or
449 the best qualified person or source available. The medical
450 certification of cause of death shall be furnished to the
451 funeral director, either in person or via certified mail or
452 electronic transfer, by the physician, APRN-IP registered under
453 s. 464.0123, or medical examiner responsible for furnishing such
454 information. For fetal deaths, the physician, APRN-IP registered
455 under s. 464.0123, midwife, or hospital administrator shall
456 provide any medical or health information to the funeral
457 director within 72 hours after expulsion or extraction.

458 (3) Within 72 hours after receipt of a death or fetal death
459 certificate from the funeral director, the medical certification
460 of cause of death shall be completed and made available to the
461 funeral director by the decedent's primary or attending
462 practitioner ~~physician~~ or, if s. 382.011 applies, the district
463 medical examiner of the county in which the death occurred or
464 the body was found. The primary or attending practitioner
465 ~~physician~~ or the medical examiner shall certify over his or her
466 signature the cause of death to the best of his or her knowledge
467 and belief. As used in this section, the term "primary or
468 attending practitioner ~~physician~~" means a physician or an APRN-
469 IP registered under s. 464.0123 who treated the decedent through
470 examination, medical advice, or medication during the 12 months
471 preceding the date of death.

472 (a) The department may grant the funeral director an
473 extension of time upon a good and sufficient showing of any of
474 the following conditions:



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475 1. An autopsy is pending.
476 2. Toxicology, laboratory, or other diagnostic reports have
477 not been completed.
478 3. The identity of the decedent is unknown and further
479 investigation or identification is required.
480 (b) If the decedent's primary or attending practitioner
481 ~~physician~~ or the district medical examiner of the county in
482 which the death occurred or the body was found indicates that he
483 or she will sign and complete the medical certification of cause
484 of death but will not be available until after the 5-day
485 registration deadline, the local registrar may grant an
486 extension of 5 days. If a further extension is required, the
487 funeral director must provide written justification to the
488 registrar.
489 (4) If the department or local registrar grants an
490 extension of time to provide the medical certification of cause
491 of death, the funeral director shall file a temporary
492 certificate of death or fetal death which shall contain all
493 available information, including the fact that the cause of
494 death is pending. The decedent's primary or attending
495 practitioner ~~physician~~ or the district medical examiner of the
496 county in which the death occurred or the body was found shall
497 provide an estimated date for completion of the permanent
498 certificate.
499 (5) A permanent certificate of death or fetal death,
500 containing the cause of death and any other information that was
501 previously unavailable, shall be registered as a replacement for
502 the temporary certificate. The permanent certificate may also
503 include corrected information if the items being corrected are



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504 noted on the back of the certificate and dated and signed by the
505 funeral director, physician, APRN-IP registered under s.
506 464.0123, or district medical examiner of the county in which
507 the death occurred or the body was found, as appropriate.

508 Section 21. Effective July 1, 2020, subsection (1) of
509 section 382.011, Florida Statutes, is amended to read:

510 382.011 Medical examiner determination of cause of death.—

511 (1) In the case of any death or fetal death due to causes
512 or conditions listed in s. 406.11, any death that occurred more
513 than 12 months after the decedent was last treated by a primary
514 or attending physician or an APRN-IP registered under s.
515 464.0123 ~~as defined in s. 382.008(3)~~, or any death for which
516 there is reason to believe that the death may have been due to
517 an unlawful act or neglect, the funeral director or other person
518 to whose attention the death may come shall refer the case to
519 the district medical examiner of the county in which the death
520 occurred or the body was found for investigation and
521 determination of the cause of death.

522 Section 22. Effective July 1, 2020, paragraphs (a) and (f)
523 of subsection (2) of section 394.463, Florida Statutes, are
524 amended to read:

525 394.463 Involuntary examination.—

526 (2) INVOLUNTARY EXAMINATION.—

527 (a) An involuntary examination may be initiated by any one
528 of the following means:

529 1. A circuit or county court may enter an ex parte order
530 stating that a person appears to meet the criteria for
531 involuntary examination and specifying the findings on which
532 that conclusion is based. The ex parte order for involuntary



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533 examination must be based on written or oral sworn testimony
534 that includes specific facts that support the findings. If other
535 less restrictive means are not available, such as voluntary
536 appearance for outpatient evaluation, a law enforcement officer,
537 or other designated agent of the court, shall take the person
538 into custody and deliver him or her to an appropriate, or the
539 nearest, facility within the designated receiving system
540 pursuant to s. 394.462 for involuntary examination. The order of
541 the court shall be made a part of the patient's clinical record.
542 A fee may not be charged for the filing of an order under this
543 subsection. A facility accepting the patient based on this order
544 must send a copy of the order to the department within 5 working
545 days. The order may be submitted electronically through existing
546 data systems, if available. The order shall be valid only until
547 the person is delivered to the facility or for the period
548 specified in the order itself, whichever comes first. If a ~~no~~
549 time limit is not specified in the order, the order is ~~shall be~~
550 valid for 7 days after the date that the order was signed.

551 2. A law enforcement officer shall take a person who
552 appears to meet the criteria for involuntary examination into
553 custody and deliver the person or have him or her delivered to
554 an appropriate, or the nearest, facility within the designated
555 receiving system pursuant to s. 394.462 for examination. The
556 officer shall execute a written report detailing the
557 circumstances under which the person was taken into custody,
558 which must be made a part of the patient's clinical record. Any
559 facility accepting the patient based on this report must send a
560 copy of the report to the department within 5 working days.

561 3. A physician, a clinical psychologist, a psychiatric



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562 nurse, an APRN-IP registered under s. 464.0123, a mental health
563 counselor, a marriage and family therapist, or a clinical social
564 worker may execute a certificate stating that he or she has
565 examined a person within the preceding 48 hours and finds that
566 the person appears to meet the criteria for involuntary
567 examination and stating the observations upon which that
568 conclusion is based. If other less restrictive means, such as
569 voluntary appearance for outpatient evaluation, are not
570 available, a law enforcement officer shall take into custody the
571 person named in the certificate and deliver him or her to the
572 appropriate, or nearest, facility within the designated
573 receiving system pursuant to s. 394.462 for involuntary
574 examination. The law enforcement officer shall execute a written
575 report detailing the circumstances under which the person was
576 taken into custody. The report and certificate shall be made a
577 part of the patient's clinical record. Any facility accepting
578 the patient based on this certificate must send a copy of the
579 certificate to the department within 5 working days. The
580 document may be submitted electronically through existing data
581 systems, if applicable.

582
583 When sending the order, report, or certificate to the
584 department, a facility shall, at a minimum, provide information
585 about which action was taken regarding the patient under
586 paragraph (g), which information shall also be made a part of
587 the patient's clinical record.

588 (f) A patient shall be examined by a physician, an APRN-IP
589 registered under s. 464.0123, or a clinical psychologist, or by
590 a psychiatric nurse performing within the framework of an



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591 established protocol with a psychiatrist, at a facility without
592 unnecessary delay to determine if the criteria for involuntary
593 services are met. Emergency treatment may be provided upon the
594 order of a physician if the physician determines that such
595 treatment is necessary for the safety of the patient or others.
596 The patient may not be released by the receiving facility or its
597 contractor without the documented approval of a psychiatrist or
598 a clinical psychologist or, if the receiving facility is owned
599 or operated by a hospital or health system, the release may also
600 be approved by a psychiatric nurse performing within the
601 framework of an established protocol with a psychiatrist, or an
602 attending emergency department physician with experience in the
603 diagnosis and treatment of mental illness after completion of an
604 involuntary examination pursuant to this subsection. A
605 psychiatric nurse may not approve the release of a patient if
606 the involuntary examination was initiated by a psychiatrist
607 unless the release is approved by the initiating psychiatrist.

608 Section 23. Effective July 1, 2020, paragraph (a) of
609 subsection (2) of section 397.501, Florida Statutes, is amended
610 to read:

611 397.501 Rights of individuals.—Individuals receiving
612 substance abuse services from any service provider are
613 guaranteed protection of the rights specified in this section,
614 unless otherwise expressly provided, and service providers must
615 ensure the protection of such rights.

616 (2) RIGHT TO NONDISCRIMINATORY SERVICES.—

617 (a) Service providers may not deny an individual access to
618 substance abuse services solely on the basis of race, gender,
619 ethnicity, age, sexual preference, human immunodeficiency virus



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620 status, prior service departures against medical advice,
621 disability, or number of relapse episodes. Service providers may
622 not deny an individual who takes medication prescribed by a
623 physician or an APRN-IP registered under s. 464.0123 access to
624 substance abuse services solely on that basis. Service providers
625 who receive state funds to provide substance abuse services may
626 not, if space and sufficient state resources are available, deny
627 access to services based solely on inability to pay.

628 Section 24. Effective July 1, 2020, paragraphs (i), (o),
629 and (r) of subsection (3) and paragraph (g) of subsection (5) of
630 section 456.053, Florida Statutes, are amended to read:

631 456.053 Financial arrangements between referring health
632 care providers and providers of health care services.—

633 (3) DEFINITIONS.—For the purpose of this section, the word,
634 phrase, or term:

635 (i) "Health care provider" means a ~~any~~ physician licensed
636 under chapter 458, chapter 459, chapter 460, or chapter 461; an
637 APRN-IP registered under s. 464.0123; ~~r~~ or any health care
638 provider licensed under chapter 463 or chapter 466.

639 (o) 1. "Referral" means any referral of a patient by a
640 health care provider for health care services, including,
641 without limitation:

642 a.1. ~~The forwarding of a patient by a health care provider~~
643 ~~to another health care provider or to an entity which provides~~
644 ~~or supplies designated health services or any other health care~~
645 ~~item or service; or~~

646 b.2. ~~The request or establishment of a plan of care by a~~
647 ~~health care provider, which includes the provision of designated~~
648 ~~health services or other health care item or service.~~



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649 ~~2.3.~~ The following orders, recommendations, or plans of
650 care do not ~~shall not~~ constitute a referral by a health care
651 provider:

652 a. By a radiologist for diagnostic-imaging services.

653 b. By a physician specializing in the provision of
654 radiation therapy services for such services.

655 c. By a medical oncologist for drugs and solutions to be
656 prepared and administered intravenously to such oncologist's
657 patient, as well as for the supplies and equipment used in
658 connection therewith to treat such patient for cancer and the
659 complications thereof.

660 d. By a cardiologist for cardiac catheterization services.

661 e. By a pathologist for diagnostic clinical laboratory
662 tests and pathological examination services, if furnished by or
663 under the supervision of such pathologist pursuant to a
664 consultation requested by another physician.

665 f. By a health care provider who is the sole provider or
666 member of a group practice for designated health services or
667 other health care items or services that are prescribed or
668 provided solely for such referring health care provider's or
669 group practice's own patients, and that are provided or
670 performed by or under the direct supervision of such referring
671 health care provider or group practice; provided, however, ~~that~~
672 ~~effective July 1, 1999,~~ a health care provider ~~physician~~
673 ~~licensed pursuant to chapter 458, chapter 459, chapter 460, or~~
674 ~~chapter 461~~ may refer a patient to a sole provider or group
675 practice for diagnostic imaging services, excluding radiation
676 therapy services, for which the sole provider or group practice
677 billed both the technical and the professional fee for or on



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678 behalf of the patient, if the referring health care provider
679 does not have an ~~physician has no~~ investment interest in the
680 practice. The diagnostic imaging service referred to a group
681 practice or sole provider must be a diagnostic imaging service
682 normally provided within the scope of practice to the patients
683 of the group practice or sole provider. The group practice or
684 sole provider may accept no more than 15 percent of their
685 patients receiving diagnostic imaging services from outside
686 referrals, excluding radiation therapy services.

687 g. By a health care provider for services provided by an
688 ambulatory surgical center licensed under chapter 395.

689 h. By a urologist for lithotripsy services.

690 i. By a dentist for dental services performed by an
691 employee of or health care provider who is an independent
692 contractor with the dentist or group practice of which the
693 dentist is a member.

694 j. By a physician for infusion therapy services to a
695 patient of that physician or a member of that physician's group
696 practice.

697 k. By a nephrologist for renal dialysis services and
698 supplies, except laboratory services.

699 l. By a health care provider whose principal professional
700 practice consists of treating patients in their private
701 residences for services to be rendered in such private
702 residences, except for services rendered by a home health agency
703 licensed under chapter 400. For purposes of this sub-
704 subparagraph, the term "private residences" includes patients'
705 private homes, independent living centers, and assisted living
706 facilities, but does not include skilled nursing facilities.



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707 m. By a health care provider for sleep-related testing.

708 (r) "Sole provider" means one health care provider licensed
709 under chapter 458, chapter 459, chapter 460, or chapter 461, or
710 registered under s. 464.0123, who maintains a separate medical
711 office and a medical practice separate from any other health
712 care provider and who bills for his or her services separately
713 from the services provided by any other health care provider. A
714 sole provider may not ~~shall not~~ share overhead expenses or
715 professional income with any other person or group practice.

716 (5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as
717 provided in this section:

718 (g) A violation of this section by a health care provider
719 shall constitute grounds for disciplinary action to be taken by
720 the applicable board pursuant to s. 458.331(2), s. 459.015(2),
721 s. 460.413(2), s. 461.013(2), s. 463.016(2), s. 464.018, or s.
722 466.028(2). Any hospital licensed under chapter 395 found in
723 violation of this section shall be subject to s. 395.0185(2).

724 Section 25. Effective July 1, 2020, subsection (1) of
725 section 626.9707, Florida Statutes, is amended to read:

726 626.9707 Disability insurance; discrimination on basis of
727 sickle-cell trait prohibited.—

728 (1) An ~~No~~ insurer authorized to transact insurance in this
729 state may not ~~shall~~ refuse to issue and deliver in this state
730 any policy of disability insurance, whether such policy is
731 defined as individual, group, blanket, franchise, industrial, or
732 otherwise, which is currently being issued for delivery in this
733 state and which affords benefits and coverage for any medical
734 treatment or service authorized and permitted to be furnished by
735 a hospital, a clinic, a health clinic, a neighborhood health



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736 clinic, a health maintenance organization, a physician, a
737 physician's assistant, an advanced practice registered nurse, an
738 APRN-IP registered under s. 464.0123 practitioner, or a medical
739 service facility or personnel solely because the person to be
740 insured has the sickle-cell trait.

741 Section 26. Effective July 1, 2020, section 627.64025,
742 Florida Statutes, is created to read:

743 627.64025 APRN-IP services.—A health insurance policy that
744 provides major medical coverage and that is delivered, issued,
745 or renewed in this state on or after January 1, 2021, may not
746 require an insured to receive services from an APRN-IP
747 registered under s. 464.0123 in place of a primary care
748 physician; incentivize the insured to do so through cost sharing
749 as defined in s. 627.42391 which is lower for services provided
750 by an APRN-IP than for the same services provided by a primary
751 care physician; or incentivize the insured do so through a
752 program authorized pursuant to s. 627.6387.

753 Section 27. Effective July 1, 2020, section 627.6621,
754 Florida Statutes, is created to read:

755 627.6621 APRN-IP services.—A group, blanket, or franchise
756 health insurance policy that is delivered, issued, or renewed in
757 this state on or after January 1, 2021, may not require an
758 insured to receive services from an APRN-IP registered under s.
759 464.0123 in place of a primary care physician; incentivize the
760 insured to do so through cost sharing as defined in s. 627.42391
761 which is lower for services provided by an APRN-IP than for the
762 same services provided by a primary care physician; or
763 incentivize the insured do so through a program authorized
764 pursuant to s. 627.6387.



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765 Section 28. Effective July 1, 2020, paragraph (g) is added
766 to subsection (5) of section 627.6699, Florida Statutes, to
767 read:

768 627.6699 Employee Health Care Access Act.—

769 (5) AVAILABILITY OF COVERAGE.—

770 (g) A health benefit plan covering small employers which is
771 delivered, issued, or renewed in this state on or after January
772 1, 2021, may not require an insured to receive services from an
773 APRN-IP registered under s. 464.0123 in place of a primary care
774 physician; incentivize the insured to do so through cost sharing
775 as defined in s. 627.42391 which is lower for services provided
776 by an APRN-IP than for the same services provided by a primary
777 care physician; or incentivize the insured do so through a
778 program authorized pursuant to s. 627.6387.

779 Section 29. Effective July 1, 2020, paragraph (a) of
780 subsection (1) of section 627.736, Florida Statutes, is amended
781 to read:

782 627.736 Required personal injury protection benefits;
783 exclusions; priority; claims.—

784 (1) REQUIRED BENEFITS.—An insurance policy complying with
785 the security requirements of s. 627.733 must provide personal
786 injury protection to the named insured, relatives residing in
787 the same household, persons operating the insured motor vehicle,
788 passengers in the motor vehicle, and other persons struck by the
789 motor vehicle and suffering bodily injury while not an occupant
790 of a self-propelled vehicle, subject to subsection (2) and
791 paragraph (4) (e), to a limit of \$10,000 in medical and
792 disability benefits and \$5,000 in death benefits resulting from
793 bodily injury, sickness, disease, or death arising out of the



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794 ownership, maintenance, or use of a motor vehicle as follows:

795 (a) *Medical benefits.*—Eighty percent of all reasonable
796 expenses for medically necessary medical, surgical, X-ray,
797 dental, and rehabilitative services, including prosthetic
798 devices and medically necessary ambulance, hospital, and nursing
799 services if the individual receives initial services and care
800 pursuant to subparagraph 1. within 14 days after the motor
801 vehicle accident. The medical benefits provide reimbursement
802 only for:

803 1. Initial services and care that are lawfully provided,
804 supervised, ordered, or prescribed by a physician licensed under
805 chapter 458 or chapter 459, a dentist licensed under chapter
806 466, ~~or~~ a chiropractic physician licensed under chapter 460, or
807 an APRN-IP registered under s. 464.0123 or that are provided in
808 a hospital or in a facility that owns, or is wholly owned by, a
809 hospital. Initial services and care may also be provided by a
810 person or entity licensed under part III of chapter 401 which
811 provides emergency transportation and treatment.

812 2. Upon referral by a provider described in subparagraph
813 1., followup services and care consistent with the underlying
814 medical diagnosis rendered pursuant to subparagraph 1. which may
815 be provided, supervised, ordered, or prescribed only by a
816 physician licensed under chapter 458 or chapter 459, a
817 chiropractic physician licensed under chapter 460, a dentist
818 licensed under chapter 466, or an APRN-IP registered under s.
819 464.0123 or, to the extent permitted by applicable law and under
820 the supervision of such physician, osteopathic physician,
821 chiropractic physician, or dentist, by a physician assistant
822 licensed under chapter 458 or chapter 459 or an advanced



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823 practice registered nurse licensed under chapter 464. Followup
824 services and care may also be provided by the following persons
825 or entities:

826 a. A hospital or ambulatory surgical center licensed under
827 chapter 395.

828 b. An entity wholly owned by one or more physicians
829 licensed under chapter 458 or chapter 459, chiropractic
830 physicians licensed under chapter 460, APRN-IPs registered under
831 s. 464.0123, or dentists licensed under chapter 466 or by such
832 practitioners and the spouse, parent, child, or sibling of such
833 practitioners.

834 c. An entity that owns or is wholly owned, directly or
835 indirectly, by a hospital or hospitals.

836 d. A physical therapist licensed under chapter 486, based
837 upon a referral by a provider described in this subparagraph.

838 e. A health care clinic licensed under part X of chapter
839 400 which is accredited by an accrediting organization whose
840 standards incorporate comparable regulations required by this
841 state, or

842 (I) Has a medical director licensed under chapter 458,
843 chapter 459, or chapter 460;

844 (II) Has been continuously licensed for more than 3 years
845 or is a publicly traded corporation that issues securities
846 traded on an exchange registered with the United States
847 Securities and Exchange Commission as a national securities
848 exchange; and

849 (III) Provides at least four of the following medical
850 specialties:

851 (A) General medicine.



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852 (B) Radiography.
853 (C) Orthopedic medicine.
854 (D) Physical medicine.
855 (E) Physical therapy.
856 (F) Physical rehabilitation.
857 (G) Prescribing or dispensing outpatient prescription
858 medication.
859 (H) Laboratory services.

860 3. Reimbursement for services and care provided in
861 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
862 licensed under chapter 458 or chapter 459, a dentist licensed
863 under chapter 466, a physician assistant licensed under chapter
864 458 or chapter 459, ~~or~~ an advanced practice registered nurse
865 licensed under chapter 464, or an APRN-IP registered under s.
866 464.0123 has determined that the injured person had an emergency
867 medical condition.

868 4. Reimbursement for services and care provided in
869 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
870 provider listed in subparagraph 1. or subparagraph 2. determines
871 that the injured person did not have an emergency medical
872 condition.

873 5. Medical benefits do not include massage as defined in s.
874 480.033 or acupuncture as defined in s. 457.102, regardless of
875 the person, entity, or licensee providing massage or
876 acupuncture, and a licensed massage therapist or licensed
877 acupuncturist may not be reimbursed for medical benefits under
878 this section.

879 6. The Financial Services Commission shall adopt by rule
880 the form that must be used by an insurer and a health care



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881 provider specified in sub-subparagraph 2.b., sub-subparagraph
882 2.c., or sub-subparagraph 2.e. to document that the health care
883 provider meets the criteria of this paragraph. Such rule must
884 include a requirement for a sworn statement or affidavit.

885

886 Only insurers writing motor vehicle liability insurance in this
887 state may provide the required benefits of this section, and
888 such insurer may not require the purchase of any other motor
889 vehicle coverage other than the purchase of property damage
890 liability coverage as required by s. 627.7275 as a condition for
891 providing such benefits. Insurers may not require that property
892 damage liability insurance in an amount greater than \$10,000 be
893 purchased in conjunction with personal injury protection. Such
894 insurers shall make benefits and required property damage
895 liability insurance coverage available through normal marketing
896 channels. An insurer writing motor vehicle liability insurance
897 in this state who fails to comply with such availability
898 requirement as a general business practice violates part IX of
899 chapter 626, and such violation constitutes an unfair method of
900 competition or an unfair or deceptive act or practice involving
901 the business of insurance. An insurer committing such violation
902 is subject to the penalties provided under that part, as well as
903 those provided elsewhere in the insurance code.

904 Section 30. Effective July 1, 2020, subsection (5) of
905 section 633.412, Florida Statutes, is amended to read:

906 633.412 Firefighters; qualifications for certification.—A
907 person applying for certification as a firefighter must:

908 (5) Be in good physical condition as determined by a
909 medical examination given by a physician, surgeon, or physician



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910 assistant licensed under ~~to practice in the state pursuant to~~
911 chapter 458; an osteopathic physician, a surgeon, or a physician
912 assistant licensed under ~~to practice in the state pursuant to~~
913 chapter 459; ~~or~~ an advanced practice registered nurse licensed
914 under ~~to practice in the state pursuant to~~ chapter 464; or an
915 APRN-IP registered under s. 464.0123. Such examination may
916 include, but need not be limited to, the National Fire
917 Protection Association Standard 1582. A medical examination
918 evidencing good physical condition shall be submitted to the
919 division, on a form as provided by rule, before an individual is
920 eligible for admission into a course under s. 633.408.

921 Section 31. Effective July 1, 2020, section 641.31075,
922 Florida Statutes, is created to read:

923 641.31075 APRN-IP services.-A health maintenance contract
924 that is delivered, issued, or renewed in this state on or after
925 January 1, 2021, may not require a subscriber to receive
926 services from an APRN-IP registered under s. 464.0123 in place
927 of a primary care physician; incentivize the subscriber to do so
928 through cost sharing as defined in s. 641.313 which is lower for
929 services provided by an APRN-IP than for the same services
930 provided by a primary care physician; or incentivize the
931 subscriber do so through a program authorized pursuant to s.
932 641.31076.

933 Section 32. Effective July 1, 2020, subsection (8) of
934 section 641.495, Florida Statutes, is amended to read:

935 641.495 Requirements for issuance and maintenance of
936 certificate.-

937 (8) Each organization's contracts, certificates, and
938 subscriber handbooks shall contain a provision, if applicable,



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939 disclosing that, for certain types of described medical
940 procedures, services may be provided by physician assistants,
941 advanced practice registered nurses, APRN-IPs registered under
942 s. 464.0123 ~~nurse practitioners~~, or other individuals who are
943 not licensed physicians.

944 Section 33. Effective July 1, 2020, paragraph (b) of
945 subsection (1) of section 744.3675, Florida Statutes, is amended
946 to read:

947 744.3675 Annual guardianship plan.—Each guardian of the
948 person must file with the court an annual guardianship plan
949 which updates information about the condition of the ward. The
950 annual plan must specify the current needs of the ward and how
951 those needs are proposed to be met in the coming year.

952 (1) Each plan for an adult ward must, if applicable,
953 include:

954 (b) Information concerning the medical and mental health
955 conditions and treatment and rehabilitation needs of the ward,
956 including:

957 1. A resume of any professional medical treatment given to
958 the ward during the preceding year.

959 2. The report of a physician or an APRN-IP registered under
960 s. 464.0123 who examined the ward no more than 90 days before
961 the beginning of the applicable reporting period. The report
962 must contain an evaluation of the ward's condition and a
963 statement of the current level of capacity of the ward.

964 3. The plan for providing medical, mental health, and
965 rehabilitative services in the coming year.

966 Section 34. Effective July 1, 2020, paragraph (c) of
967 subsection (1) of section 766.118, Florida Statutes, is amended



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968 to read:

969 766.118 Determination of noneconomic damages.—

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

971 (c) "Practitioner" means any person licensed or registered
972 under chapter 458, chapter 459, chapter 460, chapter 461,
973 chapter 462, chapter 463, chapter 466, chapter 467, chapter 486,
974 ~~or~~ s. 464.012, or s. 464.0123. "Practitioner" also means any
975 association, corporation, firm, partnership, or other business
976 entity under which such practitioner practices or any employee
977 of such practitioner or entity acting in the scope of his or her
978 employment. For the purpose of determining the limitations on
979 noneconomic damages set forth in this section, the term
980 "practitioner" includes any person or entity for whom a
981 practitioner is vicariously liable and any person or entity
982 whose liability is based solely on such person or entity being
983 vicariously liable for the actions of a practitioner.

984 Section 35. Effective July 1, 2020, subsection (3) of
985 section 768.135, Florida Statutes, is amended to read:

986 768.135 Volunteer team physicians; immunity.—

987 (3) A practitioner licensed or registered under chapter
988 458, chapter 459, chapter 460, ~~or~~ s. 464.012, or s. 464.0123 who
989 gratuitously and in good faith conducts an evaluation pursuant
990 to s. 1006.20(2)(c) is not liable for any civil damages arising
991 from that evaluation unless the evaluation was conducted in a
992 wrongful manner.

993 Section 36. Effective July 1, 2020, subsection (2) of
994 section 960.28, Florida Statutes, is amended to read:

995 960.28 Payment for victims' initial forensic physical
996 examinations.—



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997 (2) The Crime Victims' Services Office of the department
998 shall pay for medical expenses connected with an initial
999 forensic physical examination of a victim of sexual battery as
1000 defined in chapter 794 or a lewd or lascivious offense as
1001 defined in chapter 800. Such payment shall be made regardless of
1002 whether the victim is covered by health or disability insurance
1003 and whether the victim participates in the criminal justice
1004 system or cooperates with law enforcement. The payment shall be
1005 made only out of moneys allocated to the Crime Victims' Services
1006 Office for the purposes of this section, and the payment may not
1007 exceed \$1,000 with respect to any violation. The department
1008 shall develop and maintain separate protocols for the initial
1009 forensic physical examination of adults and children. Payment
1010 under this section is limited to medical expenses connected with
1011 the initial forensic physical examination, and payment may be
1012 made to a medical provider using an examiner qualified under
1013 part I of chapter 464, excluding s. 464.003(15) ~~s. 464.003(14)~~;
1014 chapter 458; or chapter 459. Payment made to the medical
1015 provider by the department shall be considered by the provider
1016 as payment in full for the initial forensic physical examination
1017 associated with the collection of evidence. The victim may not
1018 be required to pay, directly or indirectly, the cost of an
1019 initial forensic physical examination performed in accordance
1020 with this section.

1021 Section 37. For the 2020-2021 fiscal year, the sums of
1022 \$202,019 in recurring funds and \$24,272 in nonrecurring funds
1023 are appropriated from the Medical Quality Assurance Trust Fund
1024 to the Department of Health, and four full-time equivalent
1025 positions with associated salary rate of 121,246 are authorized,



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1026 for the purpose of implementing section 464.0123, Florida
1027 Statutes, as created by this act.

1028
1029 ===== T I T L E A M E N D M E N T =====

1030 And the title is amended as follows:

1031 Delete lines 112 - 223

1032 and insert:

1033 Patient Access to Primary Care Program for a specified
1034 purpose; requiring the department to implement the
1035 program; defining terms; creating the Council on
1036 Advanced Practice Registered Nurse Independent
1037 Practice within the department; providing council
1038 membership requirements, terms, and duties; requiring
1039 the council to develop certain proposed rules;
1040 providing for the adoption of the proposed rules;
1041 authorizing the council to enter an order to refuse to
1042 register an applicant or to approve an applicant for
1043 restricted registration or conditional registration
1044 under certain circumstances; providing registration
1045 and registration renewal requirements; requiring the
1046 department to update the practitioner's profile to
1047 reflect specified information; providing limitations
1048 on the scope of practice of an APRN-IP; requiring the
1049 department to adopt specified rules related to the
1050 scope of practice for APRN-IPs; requiring APRN-IPs to
1051 report adverse incidents to the department within a
1052 specified timeframe; defining the term "adverse
1053 incident"; requiring the department to review adverse
1054 incidents and make specified determinations; providing



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1055 for disciplinary action; requiring the department to
1056 adopt certain rules; providing for the reactivation of
1057 registration; providing construction; requiring the
1058 department to adopt rules; amending s. 464.015, F.S.;
1059 prohibiting unregistered persons from using the title
1060 or abbreviation of APRN-IP; amending s. 464.018, F.S.;
1061 providing additional grounds for denial of a license
1062 or disciplinary action for APRN-IPs; amending s.
1063 381.026, F.S.; revising the definition of the term
1064 "health care provider"; amending s. 382.008, F.S.;
1065 authorizing an APRN-IP to file a certificate of death
1066 or fetal death under certain circumstances; requiring
1067 an APRN-IP to provide certain information to a funeral
1068 director within a specified timeframe; defining the
1069 term "primary or attending practitioner"; conforming
1070 provisions to changes made by the act; amending s.
1071 382.011, F.S.; conforming a provision to changes made
1072 by the act; amending s. 394.463, F.S.; authorizing
1073 APRN-IPs to examine patients and initiate involuntary
1074 examinations for mental illness under certain
1075 circumstances; amending s. 397.501, F.S.; prohibiting
1076 service providers from denying an individual certain
1077 services under certain circumstances; amending s.
1078 456.053, F.S.; revising definitions; providing
1079 disciplinary action; conforming provisions to changes
1080 made by the act; amending s. 626.9707, F.S.;
1081 prohibiting an insurer from refusing to issue and
1082 deliver certain disability insurance policies that
1083 cover any medical treatment or service furnished by an



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1084 advanced practice registered nurse or an APRN-IP;
1085 creating ss. 627.64025 and 627.6621, F.S.; prohibiting
1086 certain health insurance policies and certain group,
1087 blanket, or franchise health insurance policies,
1088 respectively, from requiring or incentivizing an
1089 insured to receive services from an APRN-IP in place
1090 of a primary care physician; amending s. 627.6699,
1091 F.S.; prohibiting certain health benefit plans from
1092 requiring or incentivizing an insured to receive
1093 services from an APRN-IP in place of a primary care
1094 physician; amending s. 627.736, F.S.; requiring
1095 personal injury protection insurance policies to cover
1096 a certain percentage of medical services and care
1097 provided by an APRN-IP; providing for specified
1098 reimbursement of APRN-IPs; amending s. 633.412, F.S.;
1099 authorizing an APRN-IP to medically examine an
1100 applicant for firefighter certification; creating s.
1101 641.31075, F.S.; prohibiting certain health
1102 maintenance contracts from requiring or incentivizing
1103 a subscriber to receive services from an APRN-IP in
1104 place of a primary care physician; amending s.
1105 641.495, F.S.; requiring certain health maintenance
1106 organization documents to disclose specified
1107 information; amending s. 744.3675, F.S.; authorizing
1108 an APRN-IP to provide the medical report of a ward in
1109 an annual guardianship plan; amending s. 766.118,
1110 F.S.; revising the definition of the term
1111 "practitioner"; amending s. 768.135, F.S.; providing
1112 immunity from liability for an APRN-IP who provides



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1113 volunteer services under certain circumstances;
1114 amending s. 960.28, F.S.; conforming a cross-
1115 reference; providing appropriations; providing
1116 effective dates.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to direct care workers; amending s. 400.141, F.S.; authorizing a nursing home facility to use paid feeding assistants in accordance with specified federal law under certain circumstances; providing training program requirements; authorizing the Agency for Health Care Administration to adopt rules; amending s. 400.23, F.S.; prohibiting paid feeding assistants from counting toward compliance with minimum staffing standards; amending s. 400.461, F.S.; revising a short title; amending s. 400.462, F.S.; revising the definition of the term "home health aide"; amending s. 400.464, F.S.; requiring a licensed home health agency that authorizes a registered nurse to delegate tasks to a certified nursing assistant or a home health aide to ensure that certain requirements are met; amending s. 400.488, F.S.; authorizing an unlicensed person to assist with self-administration of certain treatments; revising the requirements for such assistance; creating s. 400.489, F.S.; authorizing a home health aide to administer certain prescription medications under certain conditions; requiring the home health aide to meet certain training and competency requirements; requiring the training, determination of competency, and annual validation of home health aides to be conducted by a registered nurse or a physician; requiring a home



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health aide to complete annual inservice training in medication administration and medication error prevention, in addition to existing annual inservice training requirements; requiring the Agency for Health Care Administration, in consultation with the Board of Nursing, to establish by rule standards and procedures for medication administration by home health aides; providing requirements for such rules; creating s. 400.490, F.S.; authorizing a certified nursing assistant or home health aide to perform certain tasks delegated by a registered nurse; creating s. 400.52, F.S.; creating the Excellence in Home Health Program within the agency for a specified purpose; requiring the agency to adopt rules establishing program criteria; providing requirements for such criteria requiring the agency to annually evaluate certain home health agencies and nurse registries; providing program designation eligibility requirements; providing that a program designation is not transferable, with an exception; providing for the expiration of awarded designations; requiring home health agencies and nurse registries to biennially renew the awarded program designation; authorizing a program designation award recipient to use the designation in advertising and marketing; specifying circumstances under which a home health agency or nurse registry may not use a program designation in advertising or marketing; providing that an application submitted under the program is not an



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57 application for licensure; providing that certain
58 actions by the agency are not subject to certain
59 provisions; creating s. 408.822, F.S.; defining the
60 term "direct care worker"; requiring certain licensees
61 to provide specified information about their employees
62 in a survey beginning on a specified date; requiring
63 that the survey be completed on a form adopted by the
64 agency by rule and include a specified attestation;
65 requiring a licensee to submit such survey as a
66 contingency of license renewal; requiring the agency
67 to continually analyze the results of such surveys and
68 publish the results on the agency's website; requiring
69 the agency to update such information monthly;
70 creating s. 464.0156, F.S.; authorizing a registered
71 nurse to delegate certain tasks to a certified nursing
72 assistant or a home health aide under certain
73 conditions; providing criteria that a registered nurse
74 must consider in determining if a task may be
75 delegated to a certified nursing assistant or a home
76 health aide; authorizing a registered nurse to
77 delegate prescription medication administration to a
78 certified nursing assistant or a home health aide,
79 subject to certain requirements; providing an
80 exception for certain controlled substances; requiring
81 the Board of Nursing, in consultation with the agency,
82 to adopt rules; amending s. 464.018, F.S.; providing
83 disciplinary action; creating s. 464.2035, F.S.;
84 authorizing certified nursing assistants to administer
85 certain prescription medications under certain



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86 conditions; requiring the certified nursing assistants
87 to meet certain training and competency requirements;
88 requiring the training, determination of competency,
89 and annual validation of certified nursing assistants
90 to be conducted by a registered nurse or a physician;
91 requiring a certified nursing assistant to complete
92 annual inservice training in medication administration
93 and medication error prevention in addition to
94 existing annual inservice training requirements;
95 requiring the board, in consultation with the agency,
96 to adopt by rule standards and procedures for
97 medication administration by certified nursing
98 assistants; creating s. 381.40185, F.S.; establishing
99 the Physician Student Loan Repayment Program for a
100 specified purpose; defining terms; requiring the
101 Department of Health to establish the program;
102 providing program eligibility requirements; providing
103 for the award of funds from the program to repay the
104 student loans of certain physicians; specifying
105 circumstances under which a physician is no longer
106 eligible to receive funds from the program; requiring
107 the department to adopt rules; making implementation
108 of the program subject to a legislative appropriation;
109 amending s. 464.003, F.S.; defining the term "advanced
110 practice registered nurse - independent practitioner"
111 (APRN-IP); creating s. 464.0123, F.S.; creating the
112 Patient Access to Primary Care Pilot Program for a
113 specified purpose; requiring the department to
114 implement the program; defining terms; creating the



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115 Council on Advanced Practice Registered Nurse
116 Independent Practice within the department; providing
117 council membership requirements, terms, and duties;
118 requiring the council to develop certain proposed
119 rules; providing for the adoption of the proposed
120 rules; authorizing the council to enter an order to
121 refuse to register an applicant or to approve an
122 applicant for restricted registration or conditional
123 registration under certain circumstances; requiring
124 the department, in conjunction with one or more third-
125 party credentialing entities, to develop a primary
126 care certification examination for advanced practice
127 registered nurses seeking registration as APRN-IPs;
128 defining the term "third-party credentialing entity";
129 requiring the department to approve one or more third-
130 party credentialing entities to develop and administer
131 the examination; requiring the department to act on
132 requests for approvals from third-party credentialing
133 entities within a specified timeframe; specifying
134 requirements for approved third-party credentialing
135 entities; requiring the Board of Medicine and the
136 Board of Osteopathic Medicine to approve certain core
137 competencies and related preservice curricula for a
138 specified purpose; authorizing the department to
139 contract for the delivery of specified education or
140 training under certain circumstances; authorizing the
141 department to adopt rules; providing registration and
142 registration renewal requirements; requiring the
143 department to update the practitioner's profile to



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144 reflect specified information; providing limitations
145 on the scope of practice of an APRN-IP; requiring the
146 council to recommend rules regarding the scope of
147 practice for an APRN-IP; providing for the adoption of
148 and requirements for such rules; requiring APRN-IPs to
149 report adverse incidents to the department within a
150 specified timeframe; defining the term "adverse
151 incident"; requiring the department to review adverse
152 incidents and make specified determinations; providing
153 for disciplinary action; requiring the Board of
154 Medicine to adopt certain rules; providing for the
155 reactivation of registration; providing construction;
156 requiring the department to adopt rules by a specified
157 date; providing for future repeal; amending s.
158 464.015, F.S.; prohibiting unregistered persons from
159 using the title or abbreviation of APRN-IP; amending
160 s. 464.018, F.S.; providing additional grounds for
161 denial of a license or disciplinary action for APRN-
162 IPs; amending s. 381.026, F.S.; revising the
163 definition of the term "health care provider";
164 amending s. 382.008, F.S.; authorizing an APRN-IP to
165 file a certificate of death or fetal death under
166 certain circumstances; requiring an APRN-IP to provide
167 certain information to a funeral director within a
168 specified timeframe; defining the term "primary or
169 attending practitioner"; conforming provisions to
170 changes made by the act; amending s. 382.011, F.S.;
171 conforming a provision to changes made by the act;
172 amending s. 394.463, F.S.; authorizing APRN-IPs to



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173 examine patients and initiate involuntary examinations
174 for mental illness under certain circumstances;
175 amending s. 397.501, F.S.; prohibiting service
176 providers from denying an individual certain services
177 under certain circumstances; amending s. 456.053,
178 F.S.; revising definitions; providing disciplinary
179 action; conforming provisions to changes made by the
180 act; amending s. 626.9707, F.S.; prohibiting an
181 insurer from refusing to issue and deliver certain
182 disability insurance policies that cover any medical
183 treatment or service furnished by an advanced practice
184 registered nurse or an APRN-IP; creating ss. 627.64025
185 and 627.6621, F.S.; prohibiting certain health
186 insurance policies and certain group, blanket, or
187 franchise health insurance policies, respectively,
188 from requiring an insured to receive services from an
189 APRN-IP or a certain advanced practice registered
190 nurse in place of a primary care physician; amending
191 s. 627.6699, F.S.; prohibiting certain health benefit
192 plans from requiring an insured to receive services
193 from an APRN-IP or a certain advanced practice
194 registered nurse in place of a primary care physician;
195 amending s. 627.736, F.S.; requiring personal injury
196 protection insurance policies to cover a certain
197 percentage of medical services and care provided by an
198 APRN-IP; providing for specified reimbursement of
199 APRN-IPs; amending s. 633.412, F.S.; authorizing an
200 APRN-IP to medically examine an applicant for
201 firefighter certification; creating s. 641.31075,-



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202 F.S.; prohibiting certain health maintenance contracts
203 from requiring a subscriber to receive services from
204 an APRN-IP or a certain advanced practice registered
205 nurse in place of a primary care physician; amending
206 s. 641.495, F.S.; requiring certain health maintenance
207 organization documents to disclose specified
208 information; amending s. 744.3675, F.S.; authorizing
209 an APRN-IP to provide the medical report of a ward in
210 an annual guardianship plan; amending s. 766.118,
211 F.S.; revising the definition of the term
212 "practitioner"; amending s. 768.135, F.S.; providing
213 immunity from liability for an APRN-IP who provides
214 volunteer services under certain circumstances;
215 amending s. 960.28, F.S.; conforming a cross-
216 reference; requiring the Office of Program Policy
217 Analysis and Government Accountability to submit a
218 report to the Governor and the Legislature by a
219 specified date; providing requirements for the report;
220 providing for the reversion of specified statutory
221 sections under certain circumstances; providing an
222 appropriation; providing effective dates, including
223 contingent effective dates.

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

226
227 Section 1. Paragraph (v) is added to subsection (1) of
228 section 400.141, Florida Statutes, to read:
229 400.141 Administration and management of nursing home
230 facilities.-



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231 (1) Every licensed facility shall comply with all
232 applicable standards and rules of the agency and shall:
233 (v) Be allowed to use paid feeding assistants as defined in
234 42 C.F.R. s. 488.301, and in accordance with 42 C.F.R. s.
235 483.60, if the paid feeding assistant has successfully completed
236 a feeding assistant training program developed by the agency.
237 1. The feeding assistant training program must consist of a
238 minimum of 12 hours of education and training and must include
239 all of the topics and lessons specified in the program
240 curriculum.
241 2. The program curriculum must include, but need not be
242 limited to, training in all of the following content areas:
243 a. Feeding techniques.
244 b. Assistance with feeding and hydration.
245 c. Communication and interpersonal skills.
246 d. Appropriate responses to resident behavior.
247 e. Safety and emergency procedures, including the first aid
248 procedure used to treat upper airway obstructions.
249 f. Infection control.
250 g. Residents' rights.
251 h. Recognizing changes in residents which are inconsistent
252 with their normal behavior and the importance of reporting those
253 changes to the supervisory nurse.
254
255 The agency may adopt rules to implement this paragraph.
256 Section 2. Paragraph (b) of subsection (3) of section
257 400.23, Florida Statutes, is amended to read:
258 400.23 Rules; evaluation and deficiencies; licensure
259 status.—



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260 (3)
261 (b) Paid feeding assistants and nonnursing staff providing
262 eating assistance to residents shall not count toward compliance
263 with minimum staffing standards.
264 Section 3. Subsection (1) of section 400.461, Florida
265 Statutes, is amended to read:
266 400.461 Short title; purpose.—
267 (1) This part, consisting of ss. 400.461-400.52 ~~ss.~~
268 ~~400.461-400.518~~, may be cited as the "Home Health Services Act."
269 Section 4. Subsection (15) of section 400.462, Florida
270 Statutes, is amended to read:
271 400.462 Definitions.—As used in this part, the term:
272 (15) "Home health aide" means a person who is trained or
273 qualified, as provided by rule, and who provides hands-on
274 personal care, performs simple procedures as an extension of
275 therapy or nursing services, assists in ambulation or exercises,
276 ~~or~~ assists in administering medications as permitted in rule and
277 for which the person has received training established by the
278 agency under this part, or performs tasks delegated to him or
279 her under chapter 464 s. 400.497(1).
280 Section 5. Present subsections (5) and (6) of section
281 400.464, Florida Statutes, are redesignated as subsections (6)
282 and (7), respectively, a new subsection (5) is added to that
283 section, and present subsection (6) of that section is amended,
284 to read:
285 400.464 Home health agencies to be licensed; expiration of
286 license; exemptions; unlawful acts; penalties.—
287 (5) If a licensed home health agency authorizes a
288 registered nurse to delegate tasks, including medication



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289 administration, to a certified nursing assistant pursuant to
290 chapter 464 or to a home health aide pursuant to s. 400.490, the
291 licensed home health agency must ensure that such delegation
292 meets the requirements of this chapter and chapter 464 and the
293 rules adopted thereunder.

294 ~~(7)(6)~~ Any person, entity, or organization providing home
295 health services which is exempt from licensure under subsection
296 (6) subsection (5) may voluntarily apply for a certificate of
297 exemption from licensure under its exempt status with the agency
298 on a form that specifies its name or names and addresses, a
299 statement of the reasons why it is exempt from licensure as a
300 home health agency, and other information deemed necessary by
301 the agency. A certificate of exemption is valid for a period of
302 not more than 2 years and is not transferable. The agency may
303 charge an applicant \$100 for a certificate of exemption or
304 charge the actual cost of processing the certificate.

305 Section 6. Subsections (2) and (3) of section 400.488,
306 Florida Statutes, are amended to read:

307 400.488 Assistance with self-administration of medication.—

308 (2) Patients who are capable of self-administering their
309 own medications without assistance shall be encouraged and
310 allowed to do so. However, an unlicensed person may, consistent
311 with a dispensed prescription's label or the package directions
312 of an over-the-counter medication, assist a patient whose
313 condition is medically stable with the self-administration of
314 routine, regularly scheduled medications that are intended to be
315 self-administered. Assistance with self-medication by an
316 unlicensed person may occur only upon a documented request by,
317 and the written informed consent of, a patient or the patient's



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318 surrogate, guardian, or attorney in fact. For purposes of this
319 section, self-administered medications include both legend and
320 over-the-counter oral dosage forms, topical dosage forms, and
321 topical ophthalmic, otic, and nasal dosage forms, including
322 solutions, suspensions, sprays, ~~and~~ inhalers, intermittent
323 positive pressure breathing treatments, and nebulizer
324 treatments.

325 (3) Assistance with self-administration of medication
326 includes:

327 (a) Taking the medication, in its previously dispensed,
328 properly labeled container, from where it is stored and bringing
329 it to the patient.

330 (b) In the presence of the patient, confirming that the
331 medication is intended for that patient, orally advising the
332 patient of the medication name and purpose ~~reading the label,~~
333 opening the container, removing a prescribed amount of
334 medication from the container, and closing the container.

335 (c) Placing an oral dosage in the patient's hand or placing
336 the dosage in another container and helping the patient by
337 lifting the container to his or her mouth.

338 (d) Applying topical medications, including providing
339 routine preventive skin care and basic wound care.

340 (e) Returning the medication container to proper storage.

341 (f) For intermittent positive pressure breathing treatments
342 or for nebulizer treatments, assisting with setting up and
343 cleaning the device in the presence of the patient, confirming
344 that the medication is intended for that patient, orally
345 advising the patient of the medication name and purpose, opening
346 the container, removing the prescribed amount for a single



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347 treatment dose from a properly labeled container, and assisting
348 the patient with placing the dose into the medicine receptacle
349 or mouthpiece.

350 (g)(f) Keeping a record of when a patient receives
351 assistance with self-administration under this section.

352 Section 7. Section 400.489, Florida Statutes, is created to
353 read:

354 400.489 Administration of medication by a home health aide;
355 staff training requirements.-

356 (1) A home health aide may administer oral, transdermal,
357 ophthalmic, otic, rectal, inhaled, enteral, or topical
358 prescription medications if the home health aide has been
359 delegated such task by a registered nurse licensed under chapter
360 464; has satisfactorily completed an initial 6-hour training
361 course approved by the agency; and has been found competent to
362 administer medication to a patient in a safe and sanitary
363 manner. The training, determination of competency, and initial
364 and annual validations required in this section shall be
365 conducted by a registered nurse licensed under chapter 464 or a
366 physician licensed under chapter 458 or chapter 459.

367 (2) A home health aide must annually and satisfactorily
368 complete a 2-hour inservice training course approved by the
369 agency in medication administration and medication error
370 prevention. The inservice training course shall be in addition
371 to the annual inservice training hours required by agency rules.

372 (3) The agency, in consultation with the Board of Nursing,
373 shall establish by rule standards and procedures that a home
374 health aide must follow when administering medication to a
375 patient. Such rules must, at a minimum, address qualification



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376 requirements for trainers, requirements for labeling medication,
377 documentation and recordkeeping, the storage and disposal of
378 medication, instructions concerning the safe administration of
379 medication, informed-consent requirements and records, and the
380 training curriculum and validation procedures.

381 Section 8. Section 400.490, Florida Statutes, is created to
382 read:

383 400.490 Nurse-delegated tasks.-A certified nursing
384 assistant or home health aide may perform any task delegated by
385 a registered nurse as authorized in this part and in chapter
386 464, including, but not limited to, medication administration.

387 Section 9. Section 400.52, Florida Statutes, is created to
388 read:

389 400.52 Excellence in Home Health Program.-

390 (1) There is created within the agency the Excellence in
391 Home Health Program for the purpose of awarding program
392 designations to home health agencies or nurse registries that
393 meet the criteria specified in this section.

394 (2) (a) The agency shall adopt rules establishing criteria
395 for the program which must include, at a minimum, meeting
396 standards relating to:

- 397 1. Patient satisfaction.
- 398 2. Patients requiring emergency care for wound infections.
- 399 3. Patients admitted or readmitted to an acute care
400 hospital.
- 401 4. Patient improvement in the activities of daily living.
- 402 5. Employee satisfaction.
- 403 6. Quality of employee training.
- 404 7. Employee retention rates.



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405 (b) The agency shall annually evaluate home health agencies
406 and nurse registries seeking the program designation which apply
407 on a form and in the manner designated by rule.

408 (3) To receive a program designation, the home health
409 agency or nurse registry must:

410 (a) Be actively licensed and have been operating for at
411 least 24 months before applying for the program designation. A
412 designation awarded under the program is not transferable to
413 another licensee, unless the existing home health agency or
414 nurse registry is being relicensed in the name of an entity
415 related to the current licenseholder by common control or
416 ownership and there will be no change in the management,
417 operation, or programs of the home health agency or nurse
418 registry as a result of the relicensure.

419 (b) Have not had any licensure denials, revocations, or
420 class I, class II, or uncorrected class III deficiencies within
421 the 24 months before the application for the program
422 designation.

423 (4) The program designation expires on the same date as the
424 home health agency's or nurse registry's license. A home health
425 agency or nurse registry must reapply and be approved biennially
426 for the program designation to continue using the program
427 designation in the manner authorized under subsection (5).

428 (5) A home health agency or nurse registry that is awarded
429 a designation under the program may use the designation in
430 advertising and marketing, unless the home health agency or
431 nurse registry:

432 (a) Has not been awarded the designation;

433 (b) Fails to renew the designation upon expiration of the



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434 awarded designation;

435 (c) Has undergone a change in ownership that does not
436 qualify for an exception under paragraph (3) (a); or

437 (d) Has been notified that it no longer meets the criteria
438 for the award upon reapplication after expiration of the awarded
439 designation.

440 (6) An application for an award designation under the
441 program is not an application for licensure. A designation award
442 or denial by the agency under this section does not constitute
443 final agency action subject to chapter 120.

444 Section 10. Section 408.822, Florida Statutes, is created
445 to read:

446 408.822 Direct care workforce survey.—

447 (1) For purposes of this section, the term "direct care
448 worker" means a certified nursing assistant, a home health aide,
449 a personal care assistant, a companion services or homemaker
450 services provider, a paid feeding assistant trained under s.
451 400.141(1)(v), or another individual who provides personal care
452 as defined in s. 400.462 to individuals who are elderly,
453 developmentally disabled, or chronically ill.

454 (2) Beginning January 1, 2021, each licensee that applies
455 for licensure renewal as a nursing home facility licensed under
456 part II of chapter 400, an assisted living facility licensed
457 under part I of chapter 429, or a home health agency or
458 companion services or homemaker services provider licensed under
459 part III of chapter 400 shall furnish all of the following
460 information to the agency in a survey on the direct care
461 workforce:

462 (a) The number of registered nurses and the number of



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463 direct care workers by category employed by the licensee.
464 (b) The turnover and vacancy rates of registered nurses and
465 direct care workers and the contributing factors to these rates.
466 (c) The average employee wage for registered nurses and
467 each category of direct care worker.
468 (d) Employment benefits for registered nurses and direct
469 care workers and the average cost of such benefits to the
470 employer and the employee.
471 (e) Type and availability of training for registered nurses
472 and direct care workers.
473 (3) An administrator or designee shall include the
474 information required in subsection (2) on a survey form
475 developed by the agency by rule which must contain an
476 attestation that the information provided is true and accurate
477 to the best of his or her knowledge.
478 (4) The licensee must submit the completed survey before
479 the agency issues the license renewal.
480 (5) The agency shall continually analyze the results of the
481 surveys and publish the results on its website. The agency shall
482 update the information published on its website monthly.
483 Section 11. Section 464.0156, Florida Statutes, is created
484 to read:
485 464.0156 Delegation of duties.—
486 (1) A registered nurse may delegate a task to a certified
487 nursing assistant certified under part II of this chapter or a
488 home health aide as defined in s. 400.462 if the registered
489 nurse determines that the certified nursing assistant or the
490 home health aide is competent to perform the task, the task is
491 delegable under federal law, and the task meets all of the



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492 following criteria:
493 (a) Is within the nurse's scope of practice.
494 (b) Frequently recurs in the routine care of a patient or
495 group of patients.
496 (c) Is performed according to an established sequence of
497 steps.
498 (d) Involves little or no modification from one patient to
499 another.
500 (e) May be performed with a predictable outcome.
501 (f) Does not inherently involve ongoing assessment,
502 interpretation, or clinical judgment.
503 (g) Does not endanger a patient's life or well-being.
504 (2) A registered nurse may delegate to a certified nursing
505 assistant or a home health aide the administration of oral,
506 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
507 topical prescription medications to a patient of a home health
508 agency, if the certified nursing assistant or home health aide
509 meets the requirements of s. 464.2035 or s. 400.489,
510 respectively. A registered nurse may not delegate the
511 administration of any controlled substance listed in Schedule
512 II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s.
513 812.
514 (3) The board, in consultation with the Agency for Health
515 Care Administration, shall adopt rules to implement this
516 section.
517 Section 12. Paragraph (r) is added to subsection (1) of
518 section 464.018, Florida Statutes, to read:
519 464.018 Disciplinary actions.—
520 (1) The following acts constitute grounds for denial of a



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521 license or disciplinary action, as specified in ss. 456.072(2)
522 and 464.0095:

523 (r) Delegating professional responsibilities to a person
524 when the nurse delegating such responsibilities knows or has
525 reason to know that such person is not qualified by training,
526 experience, certification, or licensure to perform them.

527 Section 13. Section 464.2035, Florida Statutes, is created
528 to read:

529 464.2035 Administration of medication.—

530 (1) A certified nursing assistant may administer oral,
531 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
532 topical prescription medication to a patient of a home health
533 agency if the certified nursing assistant has been delegated
534 such task by a registered nurse licensed under part I of this
535 chapter, has satisfactorily completed an initial 6-hour training
536 course approved by the board, and has been found competent to
537 administer medication to a patient in a safe and sanitary
538 manner. The training, determination of competency, and initial
539 and annual validation required under this section must be
540 conducted by a registered nurse licensed under this chapter or a
541 physician licensed under chapter 458 or chapter 459.

542 (2) A certified nursing assistant shall annually and
543 satisfactorily complete 2 hours of inservice training in
544 medication administration and medication error prevention
545 approved by the board, in consultation with the Agency for
546 Health Care Administration. The inservice training is in
547 addition to the other annual inservice training hours required
548 under this part.

549 (3) The board, in consultation with the Agency for Health



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550 Care Administration, shall establish by rule standards and
551 procedures that a certified nursing assistant must follow when
552 administering medication to a patient of a home health agency.
553 Such rules must, at a minimum, address qualification
554 requirements for trainers, requirements for labeling medication,
555 documentation and recordkeeping, the storage and disposal of
556 medication, instructions concerning the safe administration of
557 medication, informed-consent requirements and records, and the
558 training curriculum and validation procedures.

559 Section 14. Effective July 1, 2020, section 381.40185,
560 Florida Statutes, is created to read:

561 381.40185 Physician Student Loan Repayment Program.—The
562 Physician Student Loan Repayment Program is established to
563 promote access to primary care by supporting qualified
564 physicians who treat medically underserved populations in
565 primary care health professional shortage areas or medically
566 underserved areas.

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

568 (a) "Department" means the Department of Health.

569 (b) "Loan program" means the Physician Student Loan
570 Repayment Program.

571 (c) "Medically underserved area" means a geographic area
572 designated as such by the Health Resources and Services
573 Administration of the United States Department of Health and
574 Human Services.

575 (d) "Primary care health professional shortage area" means
576 a geographic area, an area having a special population, or a
577 facility that is designated by the Health Resources and Services
578 Administration of the United States Department of Health and



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579 Human Services as a health professional shortage area as defined
580 by federal regulation and that has a shortage of primary care
581 professionals who serve Medicaid recipients and other low-income
582 patients.

583 (e) "Public health program" means a county health
584 department, the Children's Medical Services program, a federally
585 funded community health center, a federally funded migrant
586 health center, or any other publicly funded or nonprofit health
587 care program designated by the department.

588 (2) The department shall establish a physician student loan
589 repayment program to benefit physicians licensed under chapter
590 458 or chapter 459 who demonstrate, as required by department
591 rule, active employment providing primary care services in a
592 public health program, an independent practice, or a group
593 practice that serves Medicaid recipients and other low-income
594 patients and that is located in a primary care health
595 professional shortage area or in a medically underserved area.

596 (3) The department shall award funds from the loan program
597 to repay the student loans of a physician who meets the
598 requirements of subsection (2).

599 (a) An award may not exceed \$50,000 per year per eligible
600 physician.

601 (b) Only loans to pay the costs of tuition, books, medical
602 equipment and supplies, uniforms, and living expenses may be
603 covered.

604 (c) All repayments are contingent upon continued proof of
605 eligibility and must be made directly to the holder of the loan.
606 The state bears no responsibility for the collection of any
607 interest charges or other remaining balances.



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608 (d) A physician may receive funds under the loan program
609 for at least 1 year, up to a maximum of 5 years.

610 (e) The department may only grant up to 10 new awards per
611 fiscal year and shall limit the total number of physicians
612 participating in the loan program to not more than 50 per fiscal
613 year.

614 (4) A physician is no longer eligible to receive funds
615 under the loan program if the physician:

616 (a) Is no longer employed as required under subsection (2);

617 (b) Ceases to participate in the Florida Medicaid program;

618 or

619 (c) Has disciplinary action taken against his or her
620 license by the Board of Medicine for a violation of s. 458.331
621 or by the Board of Osteopathic Medicine for a violation of s.
622 459.015.

623 (5) The department shall adopt rules to implement the loan
624 program.

625 (6) Implementation of the loan program is subject to
626 legislative appropriation.

627 Section 15. Effective July 1, 2020, contingent upon SB __
628 or similar legislation taking effect on that same date after
629 being adopted in the same legislative session or an extension
630 thereof and becoming a law, present subsections (4) through (21)
631 of section 464.003, Florida Statutes, are redesignated as
632 subsections (5) through (22), respectively, and a new subsection
633 (4) is added to that section, to read:

634 464.003 Definitions.—As used in this part, the term:

635 (4) "Advanced practice registered nurse - independent
636 practitioner" or "APRN-IP" means an advanced practice registered



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637 nurse who is registered under s. 464.0123 to provide primary
638 health care services without a protocol agreement or supervision
639 in primary care health professional shortage areas.

640 Section 16. Effective July 1, 2020, contingent upon SB __
641 or similar legislation taking effect on that same date after
642 being adopted in the same legislative session or an extension
643 thereof and becoming a law, section 464.0123, Florida Statutes,
644 is created to read:

645 464.0123 Patient Access to Primary Care Pilot Program.—

646 (1) PILOT PROGRAM.—The Patient Access to Primary Care Pilot
647 Program is created for the purpose of providing primary health
648 care services in primary care health professional shortage
649 areas. The department shall implement this program.

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

651 (a) “Council” means the Council on Advanced Practice
652 Registered Nurse Independent Practice established in subsection
653 (3).

654 (b) “Physician” means a person licensed under chapter 458
655 to practice medicine or a person licensed under chapter 459 to
656 practice osteopathic medicine.

657 (c) “Primary care health professional shortage area” means
658 a geographic area, an area having a special population, or a
659 facility with a score of at least 18, as designated and
660 calculated by the Federal Health Resources and Services
661 Administration, and which is located in a rural area, as defined
662 by the Federal Office of Rural Health Policy.

663 (3) COUNCIL ON ADVANCED PRACTICE REGISTERED NURSE
664 INDEPENDENT PRACTICE.—

665 (a) The Council on Advanced Practice Registered Nurse



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666 Independent Practice is created within the department.

667 (b) The council shall consist of nine members appointed as
668 follows by the rules of each applicable board:

669 1. The chair of the Board of Medicine shall appoint three
670 members who are physicians and members of the Board of Medicine.

671 2. The chair of the Board of Osteopathic Medicine shall
672 appoint three members who are physicians and members of the
673 Board of Osteopathic Medicine.

674 3. The chair of the Board of Nursing shall appoint three
675 advance practice registered nurses who have each completed at
676 least 10,000 hours of supervised practice over a period of at
677 least 5 years under a protocol with a supervising physician.

678 (c) The Board of Medicine members, the Board of Osteopathic
679 Medicine members, and the Board of Nursing appointee members
680 shall be appointed for terms of 4 years. The initial
681 appointments shall be staggered so that one member from the
682 Board of Medicine, one member from the Board of Osteopathic
683 Medicine, and one appointee member from the Board of Nursing
684 shall each be appointed for a term of 4 years; one member from
685 the Board of Medicine, one member from the Board of Osteopathic
686 Medicine, and one appointee member from the Board of Nursing
687 shall each be appointed for a term of 3 years; and one member
688 from the Board of Medicine, one member from the Board of
689 Osteopathic Medicine, and one appointee member from the Board of
690 Nursing shall each be appointed for a term of 2 years. Initial
691 physician members appointed to the council must be physicians
692 who have practiced with advanced practice registered nurses
693 under a protocol in their practice.

694 (d) Council members may not serve more than two consecutive



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695 terms. The council shall annually elect a chair from among its
696 members.

697 (e) All recommendations made by the council must be made by
698 a majority of members present.

699 (f) The council shall:

700 1. Review applications for and recommend to the department
701 the registration of APRN-IPs.

702 2. Develop proposed rules regulating the practice of APRN-
703 IPs. The council shall also develop rules to ensure that the
704 continuity of practice of APRN-IPs is maintained in primary care
705 health professional shortage areas. The language of all proposed
706 rules submitted by the council must be approved by the boards
707 pursuant to each respective board's guidelines and standards
708 regarding the adoption of proposed rules. If either board
709 rejects the council's proposed rule, that board must specify its
710 objection to the council with particularity and include
711 recommendations for the modification of the proposed rule. The
712 Board of Medicine and the Board of Osteopathic Medicine shall
713 each adopt a proposed rule developed by the council at each
714 board's regularly scheduled meeting immediately following the
715 council's submission of the proposed rule. A proposed rule
716 submitted by the council may not be adopted by the boards unless
717 both boards have accepted and approved the identical language
718 contained in the proposed rule.

719 3. Make recommendations to the Board of Medicine regarding
720 all matters relating to APRN-IPs.

721 4. Address concerns and problems of APRN-IPs in order to
722 improve safety in the clinical practices of APRN-IPs.

723 (g) When the council finds that an applicant for licensure



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724 has failed to meet, to the council's satisfaction, each of the
725 requirements for registration set forth in this section, the
726 council may enter an order to:

727 1. Refuse to register the applicant;

728 2. Approve the applicant for registration with restrictions
729 on the scope of practice or registration; or

730 3. Approve the applicant for limited registration with
731 conditions. Such conditions may include placement of the
732 registrant on probation for a period of time and subject to such
733 conditions as the council may specify, including, but not
734 limited to, requiring the registrant to undergo treatment, to
735 attend continuing education courses, to work under the direct
736 supervision of a physician licensed in this state, or to take
737 corrective action, as determined by the council.

738 (4) PRIMARY CARE CERTIFICATION EXAMINATION.-

739 (a) The department, in conjunction with one or more third-
740 party credentialing entities, shall develop a primary care
741 certification examination for advanced practice registered
742 nurses seeking registration with the Board of Medicine as APRN-
743 IPs. For purposes of this subsection, "third-party credentialing
744 entity" means a department-approved independent organization
745 that has met nationally recognized standards for developing and
746 administering professional certification examinations and
747 psychometric services.

748 (b) The department shall approve at least one third-party
749 credentialing entity for the purpose of developing and
750 administering a primary care competency-based certification
751 examination. A third-party credentialing entity shall request
752 approval in writing from the department on forms developed by



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753 the department. Within 90 days after the deadline that is
754 established for receiving documentation from third-party
755 credentialing entities seeking approval, the department must
756 approve a third-party credentialing entity that demonstrates, to
757 the department's satisfaction, that it is capable of complying
758 with the requirements of this subsection. An approved third-
759 party credentialing entity must:

760 1. Maintain an advisory committee of at least six members,
761 including three representatives from the Board of Medicine and
762 three representatives from the Board of Osteopathic Medicine,
763 who shall each be appointed by the respective board chairs. The
764 third-party credentialing entity may appoint additional members
765 to the advisory committee with approval of the department.

766 2. Use the core competencies approved by the Board of
767 Medicine and the Board of Osteopathic Medicine to establish
768 certification standards, testing instruments, and
769 recertification standards according to national psychometric
770 standards.

771 3. Establish a process to administer the certification
772 application, testing, award, and maintenance processes according
773 to national psychometric standards.

774 4. Demonstrate the ability to administer biennial
775 continuing education and certification renewal requirements for
776 APRN-IPs.

777 5. Demonstrate the ability to administer an education
778 provider program to approve qualified training entities and to
779 provide precertification training to advanced practice
780 registered nurses and continuing education opportunities to
781 APRN-IPs.



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782 (c) The Board of Medicine and the Board of Osteopathic
783 Medicine shall approve the core competencies and related
784 preservice curricula that ensure that each advanced practice
785 registered nurse registered as an APRN-IP who will be providing
786 primary medical care, treatment, and services to persons in
787 primary care health professional shortage areas has obtained the
788 knowledge, skills, and abilities to competently carry out
789 primary medical care, treatment, and services. The department
790 may contract for the delivery of preservice education or
791 training or any additional education or training for APRN-IPs to
792 provide primary medical care, treatment, and services to persons
793 in primary care health professional shortage areas if the
794 curriculum satisfies the boards' approved core competencies.

795 (d) The department may adopt rules necessary to implement
796 this subsection.

797 (5) REGISTRATION.—To be registered as an APRN-IP, an
798 advanced practice registered nurse must apply to the department
799 on forms developed by the department. The council shall review
800 the application and recommend to the department the registration
801 of the advanced practice registered nurse with the Board of
802 Medicine as an APRN-IP if the applicant submits proof that he or
803 she holds an unrestricted license issued under s. 464.012 and
804 provides all of the following information:

805 (a) Documentation of a passing score on the primary care
806 certification examination described in subsection (4).

807 (b) The name of each location at which the applicant has
808 practiced as an advanced practice registered nurse pursuant to
809 an established written protocol under the direct or indirect
810 supervision of a physician for 10,000 hours within the last 6



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811 years and the names and addresses of all supervising physicians
812 during that period.

813 (c) Any certification or designation that the applicant has
814 received from a specialty or certification board which is
815 recognized or approved by the Board of Nursing, the Board of
816 Medicine, the Board of Osteopathic Medicine, or the department.

817 (d) The calendar years in which the applicant:

818 1. Received his or her initial advanced practice registered
819 nurse certification, licensure, or registration;

820 2. Began practicing in any jurisdiction; and

821 3. Received initial advanced practice registered nurse
822 licensure in this state.

823 (e) The address at which the applicant will primarily
824 conduct his or her practice, if known.

825 (f) The name of each school or training program that the
826 applicant has attended, with the months and years of attendance
827 and the month and year of graduation, and a description of all
828 graduate professional education completed by the applicant,
829 excluding any coursework taken to satisfy continuing education
830 requirements.

831 (g) Any appointment to the faculty of a school related to
832 the profession which the applicant currently holds or has held
833 within the past 10 years and an indication as to whether the
834 applicant has been responsible for graduate education within the
835 past 10 years.

836 (h) A description of any criminal offense of which the
837 applicant has been found guilty, regardless of whether
838 adjudication of guilt was withheld, or to which the applicant
839 has pled guilty or nolo contendere. A criminal offense committed



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840 in another jurisdiction which would have been a felony or
841 misdemeanor if committed in this state must be reported. If the
842 applicant indicates to the department that a criminal offense is
843 under appeal and submits a copy of the notice for appeal of that
844 criminal offense, the department must state that the criminal
845 offense is under appeal if the criminal offense is reported in
846 the applicant's profile. If the applicant indicates to the
847 department that a criminal offense is under appeal, the
848 applicant must, within 15 days after the disposition of the
849 appeal, submit to the department a copy of the final written
850 order of disposition.

851 (i) A description of any disciplinary action as specified
852 in s. 456.077, s. 458.320, or s. 464.018 or any similar
853 disciplinary action in any other jurisdiction of the United
854 States by a licensing or regulatory body; by a specialty board
855 that is recognized by the Board of Nursing, the Board of
856 Medicine, the Board of Osteopathic Medicine, or the department;
857 or by a licensed hospital, health maintenance organization,
858 prepaid health clinic, ambulatory surgical center, or nursing
859 home. Disciplinary action includes resignation from or
860 nonrenewal of staff membership or the restriction of privileges
861 at a licensed hospital, health maintenance organization, prepaid
862 health clinic, ambulatory surgical center, or nursing home taken
863 in lieu of or in settlement of a pending disciplinary case
864 related to competence or character. If the applicant indicates
865 to the department that a disciplinary action is under appeal and
866 submits a copy of the document initiating an appeal of the
867 disciplinary action, the department must state that the
868 disciplinary action is under appeal if the disciplinary action



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869 is reported in the applicant's profile. If the applicant
870 indicates to the department that a disciplinary action is under
871 appeal, the applicant must, within 15 days after the disposition
872 of the appeal, submit to the department a copy of the final
873 written order of disposition.

874 (j)1. Proof that he or she has obtained or will be
875 obtaining and will maintain professional liability insurance
876 coverage in an amount not less than \$100,000 per claim, with a
877 minimum annual aggregate of not less than \$300,000, from an
878 authorized insurer as defined in s. 624.09, from one of the
879 following:

880 a. An eligible surplus lines insurer as defined in s.
881 626.914(2);

882 b. A risk retention group as defined in s. 627.942, from
883 the Joint Underwriting Association established under s.
884 627.351(4); or

885 c. A plan of self-insurance as provided in s. 627.357; or

886 2. Proof that he or she has obtained and will be
887 maintaining an unexpired, irrevocable letter of credit,
888 established pursuant to chapter 675, in an amount of not less
889 than \$100,000 per claim, with a minimum aggregate availability
890 of credit of not less than \$300,000. The letter of credit must
891 be payable to the APRN-IP as beneficiary upon presentment of a
892 final judgment indicating liability and awarding damages to be
893 paid by the APRN-IP or upon presentment of a settlement
894 agreement signed by all parties to such agreement when such
895 final judgment or settlement is a result of a claim arising out
896 of the rendering of, or the failure to render, medical or
897 nursing care and services while practicing as an APRN-IP.



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898 (k) Documentation of completion within the last 5 years of
899 three graduate-level semester hours, or the equivalent, in
900 differential diagnosis and three graduate-level semester hours,
901 or the equivalent, in pharmacology, and any additional
902 coursework as recommended by the council. Such hours may not be
903 continuing education courses.

904 (l) Any additional information that the council may require
905 from the applicant, as determined by the council.

906 (6) REGISTRATION RENEWAL.—An APRN-IP registration shall be
907 renewed biennially by applying to the department on forms
908 developed by the department. An APRN-IP seeking registration
909 renewal must provide documentation proving his or her completion
910 of a minimum of 40 continuing medical education hours. The
911 required continuing medical education hours must include 3 hours
912 on the safe and effective prescribing of controlled substances;
913 2 hours on human trafficking; 2 hours on the prevention of
914 medical errors; 2 hours on domestic violence; and 2 hours on
915 suicide prevention, which must address suicide risk assessment,
916 treatment, and management, if such topics are not required for
917 licensure under this part. Such continuing medical education
918 hours must be obtained in courses approved by the Board of
919 Medicine or the Board of Osteopathic Medicine and offered by a
920 statewide professional association of physicians or osteopathic
921 physicians in this state which is accredited to provide
922 educational activities designated for the American Medical
923 Association Physician's Recognition Award Category 1 Credit or
924 the American Osteopathic Category 1-A continuing medical
925 education credit as part of biennial license renewal.

926 (7) PRACTITIONER PROFILE.—Upon issuing a registration or a



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927 renewal of registration, the department shall update the
928 practitioner's profile, as described in s. 456.041, to reflect
929 that the advanced practice registered nurse is registered as an
930 APRN-IP.

931 (8) APRN-IP SCOPE OF PRACTICE.—An APRN-IP may provide
932 primary health care services without a protocol agreement or
933 supervision only in primary care health professional shortage
934 areas.

935 (a) An APRN-IP may not practice in a hospital licensed
936 under chapter 395 or in a facility licensed under chapter 400,
937 except under an established written protocol with a supervising
938 physician which is maintained at the hospital or facility.

939 (b) The council shall make recommendations to the Board of
940 Medicine and the Board of Osteopathic Medicine for rules to
941 establish the scope of practice for an APRN-IP. The first rule
942 recommendations of the council must be submitted to the Board of
943 Medicine and the Board of Osteopathic Medicine by December 1,
944 2020.

945 (c) The Board of Medicine and the Board of Osteopathic
946 Medicine shall adopt by rule the scope of practice for an APRN-
947 IP. Such rules must address, but are not limited to, all of the
948 following topics:

949 1. The scope of the medical care, treatment, and services
950 an APRN-IP may provide to patients.

951 2. Medical care, treatment, and services that are outside
952 the scope of the practice of an APRN-IP.

953 3. Patient populations to which an APRN-IP may provide
954 primary care, treatment, and services.

955 4. Patient populations to which an APRN-IP may not provide



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956 primary care, treatment, or services.

957 5. Patient populations that the APRN-IP must refer to a
958 physician.

959 6. Guidelines for prescribing controlled substances for the
960 treatment of chronic nonmalignant pain and acute pain, including
961 evaluation of the patient, creation and maintenance of a
962 treatment plan, obtaining informed consent and agreement for
963 treatment, periodic review of the treatment plan, consultation,
964 medical record review, and compliance with controlled substance
965 laws and regulations.

966 7. Referral relationships and protocols for the care and
967 treatment of patients during nonbusiness hours with another
968 APRN-IP or a physician who practices within 50 miles of the
969 APRN-IP's primary practice location.

970 8. Referral relationships and protocols with physician
971 specialists to provide care, treatment, and services to patients
972 with medical needs that are outside of the scope of practice for
973 the APRN-IP.

974 9. Referral relationships and protocols for the transfer
975 and admission of a patient to a hospital licensed under chapter
976 395 or a nursing home facility licensed under part II of chapter
977 400.

978 10. Information regarding the credentials of the APRN-IP
979 which must be disclosed to patients in a written informed
980 consent to care and treatment, including, but not limited to,
981 notification to the patient that the APRN-IP is not a physician
982 and may not be referred to as a "doctor" or a "physician" in a
983 medical setting.

984 11. Requirements relating to the APRN-IP practice's



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985 recordkeeping, record retention, and availability of records for
986 inspection by the department.

987 12. Advertising restrictions and disclosure requirements
988 for APRN-IPs, including that the APRN-IP may not be referred to
989 as a "doctor" or a "physician" in a medical setting.

990 (9) REPORTS OF ADVERSE INCIDENTS BY APRN-IPs.-

991 (a) Any APRN-IP practicing in this state must notify the
992 department if he or she was involved in an adverse incident.

993 (b) The required notification to the department must be
994 submitted in writing by certified mail and postmarked within 15
995 days after the occurrence of the adverse incident.

996 (c) For purposes of notifying the department under this
997 section, the term "adverse incident" means an event over which
998 the APRN-IP could exercise control and which is associated in
999 whole or in part with a medical intervention, rather than the
1000 condition for which such intervention occurred, and which
1001 results in any of the following patient injuries:

1002 1. The death of a patient.

1003 2. Brain or spinal damage to a patient.

1004 3. The performance of medical care, treatment, or services
1005 on the wrong patient.

1006 4. The performance of contraindicated medical care,
1007 treatment, or services on a patient.

1008 5. Any condition that required the transfer of a patient
1009 from the APRN-IP's practice location to a hospital licensed
1010 under chapter 395.

1011 (d) The department shall review each incident and determine
1012 whether it potentially involved conduct by the APRN-IP which is
1013 grounds for disciplinary action, in which case s. 456.073



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1014 applies. Disciplinary action, if any, shall be taken by the
1015 Board of Medicine or the Board of Nursing, depending on the
1016 conduct involved, as determined by the department.

1017 (e) The Board of Medicine shall adopt rules to implement
1018 this subsection.

1019 (10) INACTIVE AND DELINQUENT STATUS.-An APRN-IP
1020 registration that is in an inactive or delinquent status may be
1021 reactivated only as provided in s. 456.036.

1022 (11) CONSTRUCTION.-This section may not be construed to
1023 prevent third-party payors from reimbursing an APRN-IP for
1024 covered services rendered by the registered APRN-IP.

1025 (12) RULEMAKING.-By July 1, 2021, the department shall
1026 adopt rules to implement this section.

1027 (13) FUTURE REPEAL.-This section is repealed on July 1,
1028 2031, unless reviewed and saved from repeal through reenactment
1029 by the Legislature.

1030 Section 17. Effective July 1, 2020, contingent upon SB __
1031 or similar legislation taking effect on that same date after
1032 being adopted in the same legislative session or an extension
1033 thereof and becoming a law, present subsections (9) and (10) of
1034 section 464.015, Florida Statutes, are redesignated as
1035 subsections (10) and (11), respectively, a new subsection (9) is
1036 added to that section, and present subsection (9) of that
1037 section is amended, to read:

1038 464.015 Titles and abbreviations; restrictions; penalty.-

1039 (9) Only persons who hold valid registrations to practice
1040 as APRN-IPs in this state may use the title "Advanced Practice
1041 Registered Nurse - Independent Practitioner" and the
1042 abbreviation "A.P.R.N.-I.P." A health care practitioner or



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1043 personnel within a health care facility may not refer to an
1044 APRN-IP as a "doctor" or a "physician" in a medical setting.

1045 (10)(9) A person may not practice or advertise as, or
1046 assume the title of, registered nurse, licensed practical nurse,
1047 clinical nurse specialist, certified registered nurse
1048 anesthetist, certified nurse midwife, certified nurse
1049 practitioner, ~~or~~ advanced practice registered nurse, or advanced
1050 practice registered nurse - independent practitioner; use the
1051 abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.,"
1052 "C.N.P.," ~~or~~ "A.P.R.N.," or "A.P.R.N.-I.P."; or take any other
1053 action that would lead the public to believe that person was
1054 authorized by law to practice as such or is performing nursing
1055 services pursuant to the exception set forth in s. 464.022(8)
1056 unless that person is licensed, certified, or authorized
1057 pursuant to s. 464.0095 to practice as such.

1058 (11)(10) A violation of this section is a misdemeanor of
1059 the first degree, punishable as provided in s. 775.082 or s.
1060 775.083.

1061 Section 18. Effective July 1, 2020, contingent upon SB __
1062 or similar legislation taking effect on that same date after
1063 being adopted in the same legislative session or an extension
1064 thereof and becoming a law, paragraph (r) is added to subsection
1065 (1) of section 464.018, Florida Statutes, to read:

1066 464.018 Disciplinary actions.—

1067 (1) The following acts constitute grounds for denial of a
1068 license or disciplinary action, as specified in ss. 456.072(2)
1069 and 464.0095:

1070 (r) For an APRN-IP registered under s. 464.0123, in
1071 addition to the grounds for discipline set forth in paragraph



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1072 (p) and in s. 456.072(1), any of the following are grounds for
1073 discipline:

1074 1. Paying or receiving any commission, bonus, kickback, or
1075 rebate from, or engaging in any split-fee arrangement in any
1076 form whatsoever with, a health care practitioner, an
1077 organization, an agency, or a person, either directly or
1078 implicitly, for referring patients to providers of health care
1079 goods or services, including, but not limited to, hospitals,
1080 nursing homes, clinical laboratories, ambulatory surgical
1081 centers, or pharmacies. This subparagraph may not be construed
1082 to prevent an APRN-IP from receiving a fee for professional
1083 consultation services.

1084 2. Exercising influence within a patient's relationship
1085 with an APRN-IP for purposes of engaging a patient in sexual
1086 activity. A patient shall be presumed to be incapable of giving
1087 free, full, and informed consent to sexual activity with his or
1088 her APRN-IP.

1089 3. Making deceptive, untrue, or fraudulent representations,
1090 or employing a trick or scheme, in or related to advanced
1091 practice registered nurse independent practice.

1092 4. Soliciting patients, either personally or through an
1093 agent, by the use of fraud, intimidation, undue influence, or a
1094 form of overreaching or vexatious conduct. As used in this
1095 subparagraph, the term "soliciting" means directly or implicitly
1096 requesting an immediate oral response from the recipient.

1097 5. Failing to keep legible medical records, as defined by
1098 rules of the Board of Medicine and the Board of Osteopathic
1099 Medicine, that identify the APRN-IP, by name and professional
1100 title, who is responsible for rendering, ordering, supervising,



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1101 or billing for the patient's medically necessary care,
1102 treatment, services, diagnostic tests, or treatment procedures;
1103 and the medical justification for the patient's course of care
1104 and treatment, including, but not limited to, patient histories,
1105 examination results, and test results; drugs prescribed,
1106 dispensed, or administered; and reports of consultations or
1107 referrals.

1108 6. Exercising influence on a patient to exploit the patient
1109 for the financial gain of the APRN-IP or a third party,
1110 including, but not limited to, the promoting or selling of
1111 services, goods, appliances, or drugs.

1112 7. Performing professional services that have not been duly
1113 authorized by the patient or his or her legal representative,
1114 except as provided in s. 766.103 or s. 768.13.

1115 8. Performing any procedure or prescribing any medication
1116 or therapy that would constitute experimentation on a human
1117 subject.

1118 9. Delegating professional responsibilities to a person
1119 when the APRN-IP knows, or has reason to believe, that such
1120 person is not qualified by education, training, experience, or
1121 licensure to perform such responsibilities.

1122 10. Committing, or conspiring with another to commit, an
1123 act that would coerce, intimidate, or preclude another APRN-IP
1124 from lawfully advertising his or her services.

1125 11. Advertising or holding himself or herself out as having
1126 a certification in a specialty which he or she has not received.

1127 12. Failing to comply with the requirements of ss. 381.026
1128 and 381.0261 related to providing patients with information
1129 about their rights and how to file a complaint.



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1130 13. Providing deceptive or fraudulent expert witness
1131 testimony related to advanced practice registered nurse
1132 independent practice.

1133 Section 19. Effective July 1, 2020, contingent upon SB __
1134 or similar legislation taking effect on that same date after
1135 being adopted in the same legislative session or an extension
1136 thereof and becoming a law, paragraph (c) of subsection (2) of
1137 section 381.026, Florida Statutes, is amended to read:

1138 381.026 Florida Patient's Bill of Rights and
1139 Responsibilities.—

1140 (2) DEFINITIONS.—As used in this section and s. 381.0261,
1141 the term:

1142 (c) "Health care provider" means a physician licensed under
1143 chapter 458, an osteopathic physician licensed under chapter
1144 459, ~~or~~ a podiatric physician licensed under chapter 461, or an
1145 APRN-IP registered under s. 464.0123.

1146 Section 20. Effective July 1, 2020, contingent upon SB __
1147 or similar legislation taking effect on that same date after
1148 being adopted in the same legislative session or an extension
1149 thereof and becoming a law, paragraph (a) of subsection (2) and
1150 subsections (3), (4), and (5) of section 382.008, Florida
1151 Statutes, are amended to read:

1152 382.008 Death, fetal death, and nonviable birth
1153 registration.—

1154 (2) (a) The funeral director who first assumes custody of a
1155 dead body or fetus shall file the certificate of death or fetal
1156 death. In the absence of the funeral director, the physician,
1157 APRN-IP registered under s. 464.0123, or other person in
1158 attendance at or after the death or the district medical



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1159 examiner of the county in which the death occurred or the body
1160 was found shall file the certificate of death or fetal death.
1161 The person who files the certificate shall obtain personal data
1162 from a legally authorized person as described in s. 497.005 or
1163 the best qualified person or source available. The medical
1164 certification of cause of death shall be furnished to the
1165 funeral director, either in person or via certified mail or
1166 electronic transfer, by the physician, APRN-IP registered under
1167 s. 464.0123, or medical examiner responsible for furnishing such
1168 information. For fetal deaths, the physician, APRN-IP registered
1169 under s. 464.0123, midwife, or hospital administrator shall
1170 provide any medical or health information to the funeral
1171 director within 72 hours after expulsion or extraction.

1172 (3) Within 72 hours after receipt of a death or fetal death
1173 certificate from the funeral director, the medical certification
1174 of cause of death shall be completed and made available to the
1175 funeral director by the decedent's primary or attending
1176 practitioner ~~physician~~ or, if s. 382.011 applies, the district
1177 medical examiner of the county in which the death occurred or
1178 the body was found. The primary or attending practitioner
1179 ~~physician~~ or the medical examiner shall certify over his or her
1180 signature the cause of death to the best of his or her knowledge
1181 and belief. As used in this section, the term "primary or
1182 attending practitioner ~~physician~~" means a physician or an APRN-
1183 IP registered under s. 464.0123 who treated the decedent through
1184 examination, medical advice, or medication during the 12 months
1185 preceding the date of death.

1186 (a) The department may grant the funeral director an
1187 extension of time upon a good and sufficient showing of any of



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1188 the following conditions:

1189 1. An autopsy is pending.

1190 2. Toxicology, laboratory, or other diagnostic reports have
1191 not been completed.

1192 3. The identity of the decedent is unknown and further
1193 investigation or identification is required.

1194 (b) If the decedent's primary or attending practitioner
1195 ~~physician~~ or the district medical examiner of the county in
1196 which the death occurred or the body was found indicates that he
1197 or she will sign and complete the medical certification of cause
1198 of death but will not be available until after the 5-day
1199 registration deadline, the local registrar may grant an
1200 extension of 5 days. If a further extension is required, the
1201 funeral director must provide written justification to the
1202 registrar.

1203 (4) If the department or local registrar grants an
1204 extension of time to provide the medical certification of cause
1205 of death, the funeral director shall file a temporary
1206 certificate of death or fetal death which shall contain all
1207 available information, including the fact that the cause of
1208 death is pending. The decedent's primary or attending
1209 practitioner ~~physician~~ or the district medical examiner of the
1210 county in which the death occurred or the body was found shall
1211 provide an estimated date for completion of the permanent
1212 certificate.

1213 (5) A permanent certificate of death or fetal death,
1214 containing the cause of death and any other information that was
1215 previously unavailable, shall be registered as a replacement for
1216 the temporary certificate. The permanent certificate may also



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1217 include corrected information if the items being corrected are
1218 noted on the back of the certificate and dated and signed by the
1219 funeral director, physician, APRN-IP registered under s.
1220 464.0123, or district medical examiner of the county in which
1221 the death occurred or the body was found, as appropriate.

1222 Section 21. Effective July 1, 2020, contingent upon SB __
1223 or similar legislation taking effect on that same date after
1224 being adopted in the same legislative session or an extension
1225 thereof and becoming a law, subsection (1) of section 382.011,
1226 Florida Statutes, is amended to read:

1227 382.011 Medical examiner determination of cause of death.-

1228 (1) In the case of any death or fetal death due to causes
1229 or conditions listed in s. 406.11, any death that occurred more
1230 than 12 months after the decedent was last treated by a primary
1231 or attending physician or an APRN-IP registered under s.
1232 464.0123 ~~as defined in s. 382.008(3)~~, or any death for which
1233 there is reason to believe that the death may have been due to
1234 an unlawful act or neglect, the funeral director or other person
1235 to whose attention the death may come shall refer the case to
1236 the district medical examiner of the county in which the death
1237 occurred or the body was found for investigation and
1238 determination of the cause of death.

1239 Section 22. Effective July 1, 2020, contingent upon SB __
1240 or similar legislation taking effect on that same date after
1241 being adopted in the same legislative session or an extension
1242 thereof and becoming a law, paragraphs (a) and (f) of subsection
1243 (2) of section 394.463, Florida Statutes, are amended to read:

1244 394.463 Involuntary examination.-

1245 (2) INVOLUNTARY EXAMINATION.-



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1246 (a) An involuntary examination may be initiated by any one
1247 of the following means:

1248 1. A circuit or county court may enter an ex parte order
1249 stating that a person appears to meet the criteria for
1250 involuntary examination and specifying the findings on which
1251 that conclusion is based. The ex parte order for involuntary
1252 examination must be based on written or oral sworn testimony
1253 that includes specific facts that support the findings. If other
1254 less restrictive means are not available, such as voluntary
1255 appearance for outpatient evaluation, a law enforcement officer,
1256 or other designated agent of the court, shall take the person
1257 into custody and deliver him or her to an appropriate, or the
1258 nearest, facility within the designated receiving system
1259 pursuant to s. 394.462 for involuntary examination. The order of
1260 the court shall be made a part of the patient's clinical record.
1261 A fee may not be charged for the filing of an order under this
1262 subsection. A facility accepting the patient based on this order
1263 must send a copy of the order to the department within 5 working
1264 days. The order may be submitted electronically through existing
1265 data systems, if available. The order shall be valid only until
1266 the person is delivered to the facility or for the period
1267 specified in the order itself, whichever comes first. If ~~a~~ ~~no~~
1268 time limit is not specified in the order, the order ~~is shall be~~
1269 valid for 7 days after the date that the order was signed.

1270 2. A law enforcement officer shall take a person who
1271 appears to meet the criteria for involuntary examination into
1272 custody and deliver the person or have him or her delivered to
1273 an appropriate, or the nearest, facility within the designated
1274 receiving system pursuant to s. 394.462 for examination. The



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1275 officer shall execute a written report detailing the
1276 circumstances under which the person was taken into custody,
1277 which must be made a part of the patient's clinical record. Any
1278 facility accepting the patient based on this report must send a
1279 copy of the report to the department within 5 working days.
1280 3. A physician, a clinical psychologist, a psychiatric
1281 nurse, an APRN-IP registered under s. 464.0123, a mental health
1282 counselor, a marriage and family therapist, or a clinical social
1283 worker may execute a certificate stating that he or she has
1284 examined a person within the preceding 48 hours and finds that
1285 the person appears to meet the criteria for involuntary
1286 examination and stating the observations upon which that
1287 conclusion is based. If other less restrictive means, such as
1288 voluntary appearance for outpatient evaluation, are not
1289 available, a law enforcement officer shall take into custody the
1290 person named in the certificate and deliver him or her to the
1291 appropriate, or nearest, facility within the designated
1292 receiving system pursuant to s. 394.462 for involuntary
1293 examination. The law enforcement officer shall execute a written
1294 report detailing the circumstances under which the person was
1295 taken into custody. The report and certificate shall be made a
1296 part of the patient's clinical record. Any facility accepting
1297 the patient based on this certificate must send a copy of the
1298 certificate to the department within 5 working days. The
1299 document may be submitted electronically through existing data
1300 systems, if applicable.
1301
1302 When sending the order, report, or certificate to the
1303 department, a facility shall, at a minimum, provide information



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1304 about which action was taken regarding the patient under
1305 paragraph (g), which information shall also be made a part of
1306 the patient's clinical record.
1307 (f) A patient shall be examined by a physician, an APRN-IP
1308 registered under s. 464.0123, or a clinical psychologist, or by
1309 a psychiatric nurse performing within the framework of an
1310 established protocol with a psychiatrist, at a facility without
1311 unnecessary delay to determine if the criteria for involuntary
1312 services are met. Emergency treatment may be provided upon the
1313 order of a physician if the physician determines that such
1314 treatment is necessary for the safety of the patient or others.
1315 The patient may not be released by the receiving facility or its
1316 contractor without the documented approval of a psychiatrist or
1317 a clinical psychologist or, if the receiving facility is owned
1318 or operated by a hospital or health system, the release may also
1319 be approved by a psychiatric nurse performing within the
1320 framework of an established protocol with a psychiatrist, or an
1321 attending emergency department physician with experience in the
1322 diagnosis and treatment of mental illness after completion of an
1323 involuntary examination pursuant to this subsection. A
1324 psychiatric nurse may not approve the release of a patient if
1325 the involuntary examination was initiated by a psychiatrist
1326 unless the release is approved by the initiating psychiatrist.
1327 Section 23. Effective July 1, 2020, contingent upon SB __
1328 or similar legislation taking effect on that same date after
1329 being adopted in the same legislative session or an extension
1330 thereof and becoming a law, paragraph (a) of subsection (2) of
1331 section 397.501, Florida Statutes, is amended to read:
1332 397.501 Rights of individuals.—Individuals receiving



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1333 substance abuse services from any service provider are
1334 guaranteed protection of the rights specified in this section,
1335 unless otherwise expressly provided, and service providers must
1336 ensure the protection of such rights.

1337 (2) RIGHT TO NONDISCRIMINATORY SERVICES.—

1338 (a) Service providers may not deny an individual access to
1339 substance abuse services solely on the basis of race, gender,
1340 ethnicity, age, sexual preference, human immunodeficiency virus
1341 status, prior service departures against medical advice,
1342 disability, or number of relapse episodes. Service providers may
1343 not deny an individual who takes medication prescribed by a
1344 physician or an APRN-IP registered under s. 464.0123 access to
1345 substance abuse services solely on that basis. Service providers
1346 who receive state funds to provide substance abuse services may
1347 not, if space and sufficient state resources are available, deny
1348 access to services based solely on inability to pay.

1349 Section 24. Effective July 1, 2020, contingent upon SB __
1350 or similar legislation taking effect on that same date after
1351 being adopted in the same legislative session or an extension
1352 thereof and becoming a law, paragraphs (i), (o), and (r) of
1353 subsection (3) and paragraph (g) of subsection (5) of section
1354 456.053, Florida Statutes, are amended to read:

1355 456.053 Financial arrangements between referring health
1356 care providers and providers of health care services.—

1357 (3) DEFINITIONS.—For the purpose of this section, the word,
1358 phrase, or term:

1359 (i) "Health care provider" means a ~~any~~ physician licensed
1360 under chapter 458, chapter 459, chapter 460, or chapter 461; an
1361 APRN-IP registered under s. 464.0123; ~~r~~ or any health care



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1362 provider licensed under chapter 463 or chapter 466.

1363 (o) 1. "Referral" means any referral of a patient by a
1364 health care provider for health care services, including,
1365 without limitation:

1366 a.1. The forwarding of a patient by a health care provider
1367 to another health care provider or to an entity which provides
1368 or supplies designated health services or any other health care
1369 item or service; or

1370 b.2. The request or establishment of a plan of care by a
1371 health care provider, which includes the provision of designated
1372 health services or other health care item or service.

1373 2.3. The following orders, recommendations, or plans of
1374 care do not ~~shall not~~ constitute a referral by a health care
1375 provider:

1376 a. By a radiologist for diagnostic-imaging services.

1377 b. By a physician specializing in the provision of
1378 radiation therapy services for such services.

1379 c. By a medical oncologist for drugs and solutions to be
1380 prepared and administered intravenously to such oncologist's
1381 patient, as well as for the supplies and equipment used in
1382 connection therewith to treat such patient for cancer and the
1383 complications thereof.

1384 d. By a cardiologist for cardiac catheterization services.

1385 e. By a pathologist for diagnostic clinical laboratory
1386 tests and pathological examination services, if furnished by or
1387 under the supervision of such pathologist pursuant to a
1388 consultation requested by another physician.

1389 f. By a health care provider who is the sole provider or
1390 member of a group practice for designated health services or



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1391 other health care items or services that are prescribed or
1392 provided solely for such referring health care provider's or
1393 group practice's own patients, and that are provided or
1394 performed by or under the direct supervision of such referring
1395 health care provider or group practice; provided, however, ~~that~~
1396 ~~effective July 1, 1999, a health care provider physician~~
1397 ~~licensed pursuant to chapter 458, chapter 459, chapter 460, or~~
1398 ~~chapter 461~~ may refer a patient to a sole provider or group
1399 practice for diagnostic imaging services, excluding radiation
1400 therapy services, for which the sole provider or group practice
1401 billed both the technical and the professional fee for or on
1402 behalf of the patient, if the referring health care provider
1403 does not have an physician has no investment interest in the
1404 practice. The diagnostic imaging service referred to a group
1405 practice or sole provider must be a diagnostic imaging service
1406 normally provided within the scope of practice to the patients
1407 of the group practice or sole provider. The group practice or
1408 sole provider may accept no more than 15 percent of their
1409 patients receiving diagnostic imaging services from outside
1410 referrals, excluding radiation therapy services.

1411 g. By a health care provider for services provided by an
1412 ambulatory surgical center licensed under chapter 395.

1413 h. By a urologist for lithotripsy services.

1414 i. By a dentist for dental services performed by an
1415 employee of or health care provider who is an independent
1416 contractor with the dentist or group practice of which the
1417 dentist is a member.

1418 j. By a physician for infusion therapy services to a
1419 patient of that physician or a member of that physician's group



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1420 practice.

1421 k. By a nephrologist for renal dialysis services and
1422 supplies, except laboratory services.

1423 l. By a health care provider whose principal professional
1424 practice consists of treating patients in their private
1425 residences for services to be rendered in such private
1426 residences, except for services rendered by a home health agency
1427 licensed under chapter 400. For purposes of this sub-
1428 subparagraph, the term "private residences" includes patients'
1429 private homes, independent living centers, and assisted living
1430 facilities, but does not include skilled nursing facilities.

1431 m. By a health care provider for sleep-related testing.

1432 (r) "Sole provider" means one health care provider licensed
1433 under chapter 458, chapter 459, chapter 460, or chapter 461, or
1434 registered under s. 464.0123, who maintains a separate medical
1435 office and a medical practice separate from any other health
1436 care provider and who bills for his or her services separately
1437 from the services provided by any other health care provider. A
1438 sole provider may not shall not share overhead expenses or
1439 professional income with any other person or group practice.

1440 (5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as
1441 provided in this section:

1442 (g) A violation of this section by a health care provider
1443 shall constitute grounds for disciplinary action to be taken by
1444 the applicable board pursuant to s. 458.331(2), s. 459.015(2),
1445 s. 460.413(2), s. 461.013(2), s. 463.016(2), s. 464.018, or s.
1446 466.028(2). Any hospital licensed under chapter 395 found in
1447 violation of this section shall be subject to s. 395.0185(2).

1448 Section 25. Effective July 1, 2020, contingent upon SB __



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1449 or similar legislation taking effect on that same date after
1450 being adopted in the same legislative session or an extension
1451 thereof and becoming a law, subsection (1) of section 626.9707,
1452 Florida Statutes, is amended to read:

1453 626.9707 Disability insurance; discrimination on basis of
1454 sickle-cell trait prohibited.-

1455 (1) ~~An~~ ~~no~~ insurer authorized to transact insurance in this
1456 state ~~may not shall~~ refuse to issue and deliver in this state
1457 any policy of disability insurance, whether such policy is
1458 defined as individual, group, blanket, franchise, industrial, or
1459 otherwise, which is currently being issued for delivery in this
1460 state and which affords benefits and coverage for any medical
1461 treatment or service authorized and permitted to be furnished by
1462 a hospital, a clinic, a health clinic, a neighborhood health
1463 clinic, a health maintenance organization, a physician, a
1464 physician's assistant, an advanced practice registered nurse, an
1465 APRN-IP registered under s. 464.0123 practitioner, or a medical
1466 service facility or personnel solely because the person to be
1467 insured has the sickle-cell trait.

1468 Section 26. Effective July 1, 2020, contingent upon SB __
1469 or similar legislation taking effect on that same date after
1470 being adopted in the same legislative session or an extension
1471 thereof and becoming a law, section 627.64025, Florida Statutes,
1472 is created to read:

1473 627.64025 APRN-IP services.-A health insurance policy that
1474 provides major medical coverage and that is delivered, issued,
1475 or renewed in this state on or after January 1, 2021, may not
1476 require an insured to receive services from an APRN-IP
1477 registered under s. 464.0123 or an advanced practice registered



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1478 nurse under the supervision of a physician in place of a primary
1479 care physician.

1480 Section 27. Effective July 1, 2020, contingent upon SB __
1481 or similar legislation taking effect on that same date after
1482 being adopted in the same legislative session or an extension
1483 thereof and becoming a law, section 627.6621, Florida Statutes,
1484 is created to read:

1485 627.6621 APRN-IP services.-A group, blanket, or franchise
1486 health insurance policy that is delivered, issued, or renewed in
1487 this state on or after January 1, 2021, may not require an
1488 insured to receive services from an APRN-IP registered under s.
1489 464.0123 or an advanced practice registered nurse under the
1490 supervision of a physician in place of a primary care physician.

1491 Section 28. Effective July 1, 2020, contingent upon SB __
1492 or similar legislation taking effect on that same date after
1493 being adopted in the same legislative session or an extension
1494 thereof and becoming a law, paragraph (g) is added to subsection
1495 (5) of section 627.6699, Florida Statutes, to read:

1496 627.6699 Employee Health Care Access Act.-

1497 (5) AVAILABILITY OF COVERAGE.-

1498 (g) A health benefit plan covering small employers which is
1499 delivered, issued, or renewed in this state on or after January
1500 1, 2021, may not require an insured to receive services from an
1501 APRN-IP registered under s. 464.0123 or an advanced practice
1502 registered nurse under the supervision of a physician in place
1503 of a primary care physician.

1504 Section 29. Effective July 1, 2020, contingent upon SB __
1505 or similar legislation taking effect on that same date after
1506 being adopted in the same legislative session or an extension



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1507 thereof and becoming a law, paragraph (a) of subsection (1) of
1508 section 627.736, Florida Statutes, is amended to read:

1509 627.736 Required personal injury protection benefits;
1510 exclusions; priority; claims.—

1511 (1) REQUIRED BENEFITS.—An insurance policy complying with
1512 the security requirements of s. 627.733 must provide personal
1513 injury protection to the named insured, relatives residing in
1514 the same household, persons operating the insured motor vehicle,
1515 passengers in the motor vehicle, and other persons struck by the
1516 motor vehicle and suffering bodily injury while not an occupant
1517 of a self-propelled vehicle, subject to subsection (2) and
1518 paragraph (4) (e), to a limit of \$10,000 in medical and
1519 disability benefits and \$5,000 in death benefits resulting from
1520 bodily injury, sickness, disease, or death arising out of the
1521 ownership, maintenance, or use of a motor vehicle as follows:

1522 (a) *Medical benefits.*—Eighty percent of all reasonable
1523 expenses for medically necessary medical, surgical, X-ray,
1524 dental, and rehabilitative services, including prosthetic
1525 devices and medically necessary ambulance, hospital, and nursing
1526 services if the individual receives initial services and care
1527 pursuant to subparagraph 1. within 14 days after the motor
1528 vehicle accident. The medical benefits provide reimbursement
1529 only for:

1530 1. Initial services and care that are lawfully provided,
1531 supervised, ordered, or prescribed by a physician licensed under
1532 chapter 458 or chapter 459, a dentist licensed under chapter
1533 466, ~~or~~ a chiropractic physician licensed under chapter 460, or
1534 an APRN-IP registered under s. 464.0123 or that are provided in
1535 a hospital or in a facility that owns, or is wholly owned by, a



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1536 hospital. Initial services and care may also be provided by a
1537 person or entity licensed under part III of chapter 401 which
1538 provides emergency transportation and treatment.

1539 2. Upon referral by a provider described in subparagraph
1540 1., followup services and care consistent with the underlying
1541 medical diagnosis rendered pursuant to subparagraph 1. which may
1542 be provided, supervised, ordered, or prescribed only by a
1543 physician licensed under chapter 458 or chapter 459, a
1544 chiropractic physician licensed under chapter 460, a dentist
1545 licensed under chapter 466, or an APRN-IP registered under s.
1546 464.0123 or, to the extent permitted by applicable law and under
1547 the supervision of such physician, osteopathic physician,
1548 chiropractic physician, or dentist, by a physician assistant
1549 licensed under chapter 458 or chapter 459 or an advanced
1550 practice registered nurse licensed under chapter 464. Followup
1551 services and care may also be provided by the following persons
1552 or entities:

1553 a. A hospital or ambulatory surgical center licensed under
1554 chapter 395.

1555 b. An entity wholly owned by one or more physicians
1556 licensed under chapter 458 or chapter 459, chiropractic
1557 physicians licensed under chapter 460, APRN-IPs registered under
1558 s. 464.0123, or dentists licensed under chapter 466 or by such
1559 practitioners and the spouse, parent, child, or sibling of such
1560 practitioners.

1561 c. An entity that owns or is wholly owned, directly or
1562 indirectly, by a hospital or hospitals.

1563 d. A physical therapist licensed under chapter 486, based
1564 upon a referral by a provider described in this subparagraph.



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1565 e. A health care clinic licensed under part X of chapter
1566 400 which is accredited by an accrediting organization whose
1567 standards incorporate comparable regulations required by this
1568 state, or
1569 (I) Has a medical director licensed under chapter 458,
1570 chapter 459, or chapter 460;
1571 (II) Has been continuously licensed for more than 3 years
1572 or is a publicly traded corporation that issues securities
1573 traded on an exchange registered with the United States
1574 Securities and Exchange Commission as a national securities
1575 exchange; and
1576 (III) Provides at least four of the following medical
1577 specialties:
1578 (A) General medicine.
1579 (B) Radiography.
1580 (C) Orthopedic medicine.
1581 (D) Physical medicine.
1582 (E) Physical therapy.
1583 (F) Physical rehabilitation.
1584 (G) Prescribing or dispensing outpatient prescription
1585 medication.
1586 (H) Laboratory services.
1587 3. Reimbursement for services and care provided in
1588 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
1589 licensed under chapter 458 or chapter 459, a dentist licensed
1590 under chapter 466, a physician assistant licensed under chapter
1591 458 or chapter 459, ~~or~~ an advanced practice registered nurse
1592 licensed under chapter 464, or an APRN-IP registered under s.
1593 464.0123 has determined that the injured person had an emergency



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1594 medical condition.
1595 4. Reimbursement for services and care provided in
1596 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
1597 provider listed in subparagraph 1. or subparagraph 2. determines
1598 that the injured person did not have an emergency medical
1599 condition.
1600 5. Medical benefits do not include massage as defined in s.
1601 480.033 or acupuncture as defined in s. 457.102, regardless of
1602 the person, entity, or licensee providing massage or
1603 acupuncture, and a licensed massage therapist or licensed
1604 acupuncturist may not be reimbursed for medical benefits under
1605 this section.
1606 6. The Financial Services Commission shall adopt by rule
1607 the form that must be used by an insurer and a health care
1608 provider specified in sub-subparagraph 2.b., sub-subparagraph
1609 2.c., or sub-subparagraph 2.e. to document that the health care
1610 provider meets the criteria of this paragraph. Such rule must
1611 include a requirement for a sworn statement or affidavit.
1612
1613 Only insurers writing motor vehicle liability insurance in this
1614 state may provide the required benefits of this section, and
1615 such insurer may not require the purchase of any other motor
1616 vehicle coverage other than the purchase of property damage
1617 liability coverage as required by s. 627.7275 as a condition for
1618 providing such benefits. Insurers may not require that property
1619 damage liability insurance in an amount greater than \$10,000 be
1620 purchased in conjunction with personal injury protection. Such
1621 insurers shall make benefits and required property damage
1622 liability insurance coverage available through normal marketing



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1623 channels. An insurer writing motor vehicle liability insurance
1624 in this state who fails to comply with such availability
1625 requirement as a general business practice violates part IX of
1626 chapter 626, and such violation constitutes an unfair method of
1627 competition or an unfair or deceptive act or practice involving
1628 the business of insurance. An insurer committing such violation
1629 is subject to the penalties provided under that part, as well as
1630 those provided elsewhere in the insurance code.

1631 Section 30. Effective July 1, 2020, contingent upon SB __
1632 or similar legislation taking effect on that same date after
1633 being adopted in the same legislative session or an extension
1634 thereof and becoming a law, subsection (5) of section 633.412,
1635 Florida Statutes, is amended to read:

1636 633.412 Firefighters; qualifications for certification.—A
1637 person applying for certification as a firefighter must:

1638 (5) Be in good physical condition as determined by a
1639 medical examination given by a physician, surgeon, or physician
1640 assistant licensed under to practice in the state pursuant to
1641 chapter 458; an osteopathic physician, a surgeon, or a physician
1642 assistant licensed under to practice in the state pursuant to
1643 chapter 459; or an advanced practice registered nurse licensed
1644 under to practice in the state pursuant to chapter 464; or an
1645 APRN-IP registered under s. 464.0123. Such examination may
1646 include, but need not be limited to, the National Fire
1647 Protection Association Standard 1582. A medical examination
1648 evidencing good physical condition shall be submitted to the
1649 division, on a form as provided by rule, before an individual is
1650 eligible for admission into a course under s. 633.408.

1651 Section 31. Effective July 1, 2020, contingent upon SB __



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1652 or similar legislation taking effect on that same date after
1653 being adopted in the same legislative session or an extension
1654 thereof and becoming a law, section 641.31075, Florida Statutes,
1655 is created to read:

1656 641.31075 APRN-IP services.—A health maintenance contract
1657 that is delivered, issued, or renewed in this state on or after
1658 January 1, 2021, may not require a subscriber to receive
1659 services from an APRN-IP registered under s. 464.0123 in place
1660 of a primary care physician or an advanced practice registered
1661 nurse under the supervision of a physician.

1662 Section 32. Effective July 1, 2020, contingent upon SB __
1663 or similar legislation taking effect on that same date after
1664 being adopted in the same legislative session or an extension
1665 thereof and becoming a law, subsection (8) of section 641.495,
1666 Florida Statutes, is amended to read:

1667 641.495 Requirements for issuance and maintenance of
1668 certificate.—

1669 (8) Each organization's contracts, certificates, and
1670 subscriber handbooks shall contain a provision, if applicable,
1671 disclosing that, for certain types of described medical
1672 procedures, services may be provided by physician assistants,
1673 advanced practice registered nurses, APRN-IPs registered under
1674 s. 464.0123 nurse practitioners, or other individuals who are
1675 not licensed physicians.

1676 Section 33. Effective July 1, 2020, contingent upon SB __
1677 or similar legislation taking effect on that same date after
1678 being adopted in the same legislative session or an extension
1679 thereof and becoming a law, paragraph (b) of subsection (1) of
1680 section 744.3675, Florida Statutes, is amended to read:



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1681 744.3675 Annual guardianship plan.—Each guardian of the
1682 person must file with the court an annual guardianship plan
1683 which updates information about the condition of the ward. The
1684 annual plan must specify the current needs of the ward and how
1685 those needs are proposed to be met in the coming year.

1686 (1) Each plan for an adult ward must, if applicable,
1687 include:

1688 (b) Information concerning the medical and mental health
1689 conditions and treatment and rehabilitation needs of the ward,
1690 including:

1691 1. A resume of any professional medical treatment given to
1692 the ward during the preceding year.

1693 2. The report of a physician or an APRN-IP registered under
1694 s. 464.0123 who examined the ward no more than 90 days before
1695 the beginning of the applicable reporting period. The report
1696 must contain an evaluation of the ward's condition and a
1697 statement of the current level of capacity of the ward.

1698 3. The plan for providing medical, mental health, and
1699 rehabilitative services in the coming year.

1700 Section 34. Effective July 1, 2020, contingent upon SB __
1701 or similar legislation taking effect on that same date after
1702 being adopted in the same legislative session or an extension
1703 thereof and becoming a law, paragraph (c) of subsection (1) of
1704 section 766.118, Florida Statutes, is amended to read:

1705 766.118 Determination of noneconomic damages.—

1706 (1) DEFINITIONS.—As used in this section, the term:

1707 (c) "Practitioner" means any person licensed or registered
1708 under chapter 458, chapter 459, chapter 460, chapter 461,
1709 chapter 462, chapter 463, chapter 466, chapter 467, chapter 486,



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1710 ~~or~~ s. 464.012, or s. 464.0123. "Practitioner" also means any
1711 association, corporation, firm, partnership, or other business
1712 entity under which such practitioner practices or any employee
1713 of such practitioner or entity acting in the scope of his or her
1714 employment. For the purpose of determining the limitations on
1715 noneconomic damages set forth in this section, the term
1716 "practitioner" includes any person or entity for whom a
1717 practitioner is vicariously liable and any person or entity
1718 whose liability is based solely on such person or entity being
1719 vicariously liable for the actions of a practitioner.

1720 Section 35. Effective July 1, 2020, contingent upon SB __
1721 or similar legislation taking effect on that same date after
1722 being adopted in the same legislative session or an extension
1723 thereof and becoming a law, subsection (3) of section 768.135,
1724 Florida Statutes, is amended to read:

1725 768.135 Volunteer team physicians; immunity.—

1726 (3) A practitioner licensed or registered under chapter
1727 458, chapter 459, chapter 460, ~~or~~ s. 464.012, or s. 464.0123 who
1728 gratuitously and in good faith conducts an evaluation pursuant
1729 to s. 1006.20(2)(c) is not liable for any civil damages arising
1730 from that evaluation unless the evaluation was conducted in a
1731 wrongful manner.

1732 Section 36. Effective July 1, 2020, contingent upon SB __
1733 or similar legislation taking effect on that same date after
1734 being adopted in the same legislative session or an extension
1735 thereof and becoming a law, subsection (2) of section 960.28,
1736 Florida Statutes, is amended to read:

1737 960.28 Payment for victims' initial forensic physical
1738 examinations.—



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1739 (2) The Crime Victims' Services Office of the department
1740 shall pay for medical expenses connected with an initial
1741 forensic physical examination of a victim of sexual battery as
1742 defined in chapter 794 or a lewd or lascivious offense as
1743 defined in chapter 800. Such payment shall be made regardless of
1744 whether the victim is covered by health or disability insurance
1745 and whether the victim participates in the criminal justice
1746 system or cooperates with law enforcement. The payment shall be
1747 made only out of moneys allocated to the Crime Victims' Services
1748 Office for the purposes of this section, and the payment may not
1749 exceed \$1,000 with respect to any violation. The department
1750 shall develop and maintain separate protocols for the initial
1751 forensic physical examination of adults and children. Payment
1752 under this section is limited to medical expenses connected with
1753 the initial forensic physical examination, and payment may be
1754 made to a medical provider using an examiner qualified under
1755 part I of chapter 464, excluding s. 464.003(15) ~~s. 464.003(14)~~;
1756 chapter 458; or chapter 459. Payment made to the medical
1757 provider by the department shall be considered by the provider
1758 as payment in full for the initial forensic physical examination
1759 associated with the collection of evidence. The victim may not
1760 be required to pay, directly or indirectly, the cost of an
1761 initial forensic physical examination performed in accordance
1762 with this section.

1763 Section 37. Effective July 1, 2020, contingent upon SB
1764 or similar legislation taking effect on that same date after
1765 being adopted in the same legislative session or an extension
1766 thereof and becoming a law, the Office of Program Policy
1767 Analysis and Government Accountability shall develop a report on



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1768 the impact of and recommendations regarding the continuance of
1769 the Patient Access to Primary Care Pilot Program established in
1770 this act. The report shall include, but need not be limited to,
1771 improvements in access to primary care, the number of advanced
1772 practice registered nurse - independent practitioners
1773 participating in the program, cost savings or increases in
1774 services provided, the number of referrals to physicians by
1775 advanced practice registered nurse - independent practitioners
1776 participating in the program, any increase or decrease in the
1777 number of prescriptions written, and any increase or decrease in
1778 the cost of medications. In conducting such research and
1779 analysis, the office may consult with the Council on Advanced
1780 Practice Registered Nurse Independent Practice. The office shall
1781 submit the report and recommendations to the Governor, the
1782 President of the Senate, and the Speaker of the House of
1783 Representatives by September 1, 2030.

1784 Section 38. If s. 464.0123, Florida Statutes, is not saved
1785 from repeal through reenactment by the Legislature, the text of
1786 the statutes amended in sections 15 and 17 through 36 of this
1787 bill shall revert to that in existence on the date this act
1788 became a law, except that any amendments to such text enacted
1789 other than by this act shall be preserved and continue to
1790 operate to the extent that such amendments are not dependent
1791 upon the portions of text which expire pursuant to this section.

1792 Section 39. For the 2020-2021 fiscal year, three full-time
1793 equivalent positions with associated salary rate of 125,887 and
1794 three other personal services positions are authorized, and the
1795 sums of \$400,764 in recurring funds and \$408,731 in nonrecurring
1796 funds from the Health Care Trust Fund are appropriated to the



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1797 Agency for Health Care Administration for the purpose of
1798 implementing sections 400.52 and 408.822, Florida Statutes, as
1799 created by this act.

1800 Section 40. Except as otherwise expressly provided in this
1801 act, this act shall take effect upon becoming a law.

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 Appropriations

BILL: CS/CS/SB 1676

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Albritton

SUBJECT: Direct Care Workers

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|--------------------------|
| 1. | Rossitto-Van Winkle | Brown | HP | Fav/CS |
| 2. | McKnight | Kidd | AHS | Recommend: Fav/CS |
| 3. | McKnight | Kynoch | AP | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1676 expands the scope of practice and defines relevant terms for registered nurses (RNs), certified nursing assistants (CNAs), home health aides (HHAs), and advanced practice registered nurses (APRNs). The bill:

- Authorizes nursing home facilities to use paid feeding assistants if the assistant has completed a 12 hour program developed by the Agency for Health Care Administration (AHCA). The bill clarifies that paid feeding assistants do not count toward minimum staffing standards.
- Authorizes an RN to delegate any task, including the administration of medications, except controlled substances, to a CNA or HHA for a patient of a home health agency, if the RN determines that the CNA or the HHA is competent to perform the task, the task is delegable under federal law, and certain other requirements are met.
- Requires the AHCA, in consultation with the Board of Nursing, to establish standards and procedures by rule that a CNA and HHA must follow when administering medication to a patient of a home health agency.
- Establishes disciplinary actions for RNs that knowingly delegate responsibilities to a person that is not qualified by training, experience, certification, or licensure to perform them.

- Requires a Direct Care Workforce Survey (survey), created by the AHCA, to be completed and submitted at license renewal (every two years) for over 6,000 providers¹, including: nursing homes, assisted living facilities, home health agencies, and homemaker and companion services providers.
- Requires the ACHA to analyze the results of the survey and publish the information monthly on its website.
- Creates the Excellence in Home Health Program (program) within the AHCA for the purpose of awarding designations to home health agencies and nurse registries that meet specified criteria. The AHCA is required to adopt rules establishing criteria for the program and annually evaluate home health agencies or nurse registries that apply for program designation.
- Establishes a physician student loan repayment program within the Department of Health (DOH).
- Establishes the Patient Access to Primary Care t Program within the DOH to provide primary health care services by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.

The bill appropriates three full-time equivalent (FTE) positions with an associated salary rate of 125,887, three other personal services (OPS) positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.

The bill appropriates four FTE positions with associated salary rate of 121,246, and \$202,019 of recurring funds and \$24,272 of non-recurring funds from the Medical Quality Trust Fund for Fiscal Year 2020-2021 to the DOH to implement the Patient Access to Primary Care Program.

The bill's requirements to establish a physician student loan repayment program and the Patient Access to Primary Care Pilot Program has a significant negative fiscal impact on the Department of Health. See Section V.

The bill takes effect upon becoming a law, except as otherwise expressly provided in the bill.

II. Present Situation:

The Agency for Health Care Administration

The Agency for Health Care Administration (AHCA) is created in s. 20.42, F.S. The AHCA is the chief health policy and planning entity for the state and its Division of Health Quality Assurance (HQA) is responsible for, among other things, health facility licensure, inspection, and regulatory enforcement. The HQA is funded with more than \$49 million in state and federal funds. It licenses or certifies and regulates 40 different types of health care providers, including

¹ Agency for Health Care Administration, *CS/SB 1676 Bill Analysis* (Feb. 14, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

hospitals, nursing homes, assisted living facilities (ALFs), and home health agencies. In total, the AHCA licenses, certifies, regulates, or provides exemptions for more than 48,000 providers.²

Florida Nursing Homes

Nursing homes provide 24-hour-per-day nursing care, case management, health monitoring, personal care, nutritional meals and special diets, physical, occupational, and speech therapy, social activities, and respite care for those who are ill or physically infirm.³ Nursing care is provided by licensed practical nurses (LPNs) and registered nurses (RNs). Personal care is provided by certified nursing assistants (CNAs) and can include help with bathing, dressing, eating, walking, and physical transfer (like moving from a bed to a chair).⁴

A nursing home may also provide services like dietary consultation, laboratory, X-ray, pharmacy services, laundry, and pet therapy visits. Some facilities may provide special services like dialysis, tracheotomy, or ventilator care as well as Alzheimer's or hospice care.

Pursuant to s. 400.141, F.S., every nursing home in Florida must comply with all administrative and care standards set out in the AHCA rules and must:

- Be under the administrative direction and charge of a licensed administrator.⁵
- Appoint a physician medical director.⁶
- Have available the regular, consultative, and emergency services of one or more physicians.
- Provide residents with the use of a community pharmacy of their choice.
- Provide access for residents to dental and other health-related services, recreational services, rehabilitative services, and social work services.
- Be permitted and encouraged by the AHCA to provide other needed services, including, but not limited to, respite, therapeutic spa, and adult day services to nonresidents of the facility.
- Maintain the facility premises and equipment and conduct its operations in a safe and sanitary manner.
- Provide a wholesome and nourishing diet, if the licensee furnishes food services, sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by physicians if the nursing home furnishes food services.
- Keep records of:
 - Resident admissions and discharges;
 - Medical and general health status, including:
 - Medical records;
 - Personal and social history;

² Agency for Health Care Administration, *Division of Health Quality Assurance*
<http://ahca.myflorida.com/MCHQ/index.shtml> (last visited Jan. 26, 2020).

³ Agency for Health Care Administration, Division of Health Quality Assurance, Long Term Care Service Units, *Nursing Homes*, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Index_LTCU.shtml (last visited Jan. 26, 2020).

⁴ Agency for Health Care Administration, FloridaHealthFinder.gov; Consumer Guides, *Nursing Home Care in Florida*, available at <https://www.floridahealthfinder.gov/reports-guides/NursingHomesFL.aspx#> (Last visited Jan. 24, 2020).

⁵ 59A-4.103(4)(b), F.A.C.

⁶ 59A-4.1075, F.A.C.

- Identity and address of next of kin or other persons who may have responsibility for the affairs of the resident;
- Individual resident care plans, including, but not limited to:
 - Prescribed services;
 - Service frequency and duration; and
 - Service goals.
- Keep fiscal records of its operations and conditions.
- Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information.
- Publicly display a poster provided by the AHCA containing information for the:
 - State’s abuse hotline;
 - State Long-Term Care Ombudsman;
 - AHCA consumer hotline;
 - Advocacy Center for Persons with Disabilities;
 - Florida Statewide Advocacy Council; and
 - Medicaid Fraud Control Unit.
- Comply with state minimum-staffing requirements, as set by AHCA rule, including the number and qualifications of all personnel having responsibility for resident care, such as:
 - Management;
 - Medical;
 - Nursing;
 - Other professional personnel;
 - Nursing assistants;
 - Orderlies; and
 - Other support personnel.
- Ensure that any program for dining and use of a hospitality attendant is developed and implemented under the supervision of the facility director of nursing.
- Maintain general and professional liability insurance coverage or proof of financial responsibility as required by statute.
- Require all CNAs to chart in a resident’s medical records, by the end of his or her shift, all services provided, including:
 - Assistance with activities of daily living,
 - Eating,
 - Drinking, and
 - All offers to a resident for nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.
- Provide to all consenting residents immunizations against influenza before November 30 each year.
- Assess each resident within five business days after admission for eligibility for pneumococcal vaccination or revaccination.
- Annually encourage all employees to receive immunizations against influenza viruses.⁷

⁷ Section 400.141, F.S.

Nursing Home Staffing Standards

Section 400.23(3), F.S., requires the AHCA to adopt rules providing minimum staffing requirements for nursing home facilities. The requirements must include:

- A minimum weekly average of 3.6 hours of direct care per resident per day provided by a combination of CNAs and licensed nursing staff. A week is defined as Sunday through Saturday.
- A minimum of 2.5 hours of direct care per resident per day provided by CNAs. A facility may not staff at a ratio of less than one CNA per 20 residents.
- A minimum of 1.0 hour of direct care per resident per day provided by licensed nursing staff. A facility may not staff at a ratio of less than one licensed nurse per 40 residents.
- Nursing assistants employed under s. 400.211(2), F.S., may be included in computing the staffing ratio for CNAs if their job responsibilities include only nursing-assistant-related duties.
- Each nursing home facility must document compliance with staffing standards and post daily the names of staff on duty for the benefit of facility residents and the public.
- Licensed nurses may be used to meet staffing requirements for CNAs if the licensed nurses are performing the duties of a CNA and the facility otherwise meets minimum staffing requirements for licensed nurses.
- Non-nursing staff providing eating assistance to residents do not count toward compliance with minimum staffing standards.

Section 400.23(3), F.S., also provides that LPNs who are providing nursing services in nursing home facilities may supervise the activities of other LPNs, CNAs, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing (BON).

Nurse Practice Act

Florida's Nurse Practice Act is found in Part I of ch. 464, F.S. The purpose of the Nurse Practice Act is to ensure that every nurse practicing in this state meets minimum requirements for safe practice. It is the legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public are prohibited from practicing in this state.⁸

Registered Nurses

A registered nurse is any person licensed in this state or holding an active multistate license under the Nurse Practice Act to practice professional nursing. The practice of professional nursing means performing acts requiring substantial specialized knowledge, judgment, and nursing skill based on applied principles of psychological, biological, physical, and social sciences and includes, but is not limited to:

- The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

⁸ Section 464.002, F.S.

- The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.
- The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.⁹

Licensed Practical Nurses

A licensed practical nurse is any person licensed in this state or holding an active multistate license under the Nurse Practice Act to practice practical nursing.¹⁰ The practice of practical nursing means performing selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of an RN, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist; and the teaching of general principles of health and wellness to the public and to students other than nursing students. A practical nurse is responsible and accountable for making decisions based on the individual's educational preparation and experience in nursing.¹¹

Certified Nursing Assistants

Florida's statutory governance for CNAs is found in part II of ch. 464, F.S. Section 464.201(5), F.S., defines the practice of a CNA as providing care and assisting persons with tasks relating to the activities of daily living. Activities of daily living include tasks associated with: personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, postmortem care, patient socialization and reality orientation, end-of-life care, cardiopulmonary resuscitation and emergency care, patients' rights, documentation of nursing-assistant services, and other tasks that a CNA may perform after training.¹²

Direct Care Staff

Federal law defines "direct care staff" as those individuals who, through interpersonal contact with nursing home residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Direct care staff does not include individuals whose primary duty is maintaining the physical environment of the long-term care facility (for example, housekeeping).¹³

Direct care staff are the primary providers of paid, hands-on care for more than 13 million elderly and disabled Americans. They assist individuals with a broad range of support, including

⁹ Section 464.003, F.S.

¹⁰ Section 464.003(14), F.S.

¹¹ Section 464.003(17), F.S.

¹² Section 464.201, F.S.

¹³ 42 CFR s. 483.70(q)(1)

preparing meals, helping with medications, bathing, dressing, getting about (mobility), and getting to planned activities on a daily basis.¹⁴

Direct care staff fall into three main categories tracked by the U.S. Bureau of Labor Statistics: Nursing Assistants (usually known as CNAs), home health aides (HHAs), and Personal Care Aides:

- CNAs generally work in nursing homes, although some work in ALFs, other community-based settings, or hospitals. They assist residents with activities of daily living (ADLs) such as eating, dressing, bathing, and toileting. They also perform clinical tasks such as range-of-motion exercises and blood pressure readings.
- HHAs provide essentially the same care and services as nursing assistants, but they assist people in their homes or in community settings under the supervision of a nurse or therapist. They may also perform light housekeeping tasks such as preparing food or changing linens.
- Personal Care Aides work in either private or group homes. They have many titles, including personal care attendant, home care worker, homemaker, and direct support professional. (The latter work with people with intellectual and developmental disabilities). In addition to providing assistance with ADLs, these aides often help with housekeeping chores, meal preparation, and medication management. They also help individuals go to work and remain engaged in their communities. A growing number of these workers are employed and supervised directly by consumers.¹⁵

The federal government requires training only for nursing assistants and HHAs who work in Medicare-certified and Medicaid-certified nursing homes and home health agencies. Such training includes training on residents' rights; abuse, neglect, and exploitation; quality assurance; infection control; and compliance and ethics, and specifies that direct care staff must be trained in effective communications.¹⁶

The Gold Seal Program

The Gold Seal Program (program) is a legislatively created award and recognition program, developed and implemented by the Governor's Panel on Excellence in Long-Term Care (Panel) for nursing facilities that demonstrate excellence in long-term care over a sustained period.¹⁷

¹⁴ Understanding Direct Care Workers: a Snapshot of Two of America's Most Important Jobs, *Certified Nursing Assistants and Home Health Aides*, Khatutsky, et al., (March 2011), available at <https://aspe.hhs.gov/basic-report/understanding-direct-care-workers-snapshot-two-americas-most-important-jobs-certified-nursing-assistants-and-home-health-aides#intro> (last visited on Jan. 27, 2020).

¹⁵ See *Who are Direct Care Workers?*, available at <https://phinational.org/wp-content/uploads/legacy/clearinghouse/NCDCW%20Fact%20Sheet-1.pdf> (last visited Jan. 27, 2020)

¹⁶ 42 CFR s. 483.95

¹⁷ Section 400.235, F.S. The panel is composed of three persons appointed by the Governor, to include a consumer advocate for senior citizens and two persons with expertise in the fields of quality management, service delivery excellence, or public sector accountability; three persons appointed by the Secretary of the Department of Elder Affairs, to include an active member of a nursing facility family and resident care council and a member of the University Consortium on Aging; a representative of the State Long-Term Care Ombudsman Program; one person appointed by the Florida Life Care Residents Association; one person appointed by the State Surgeon General; two persons appointed by the Secretary of Health Care Administration; one person appointed by the Florida Association of Homes for the Aging; and one person appointed by the Florida Health Care Association. Vacancies on the panel shall be filled in the same manner as the original appointments.

Facilities must meet the Panel's criteria for measuring quality of care and the following additional criteria to receive a program designation:

- No class I or class II deficiencies within the 30 months preceding application for the program.
- Evidence of financial soundness and stability according to standards adopted by the AHCA in rule.
- Participate in a consumer satisfaction process and demonstrate the facility's efforts to act on the information gathered.
- Evidence of the involvement of families and members of the community in the facility on a regular basis.
- Have a stable workforce as evidenced by a relatively low turnover rate among CNAs and RNs within the 30 months preceding application for the program.
- Evidence that any complaints submitted to the State Long-Term Care Ombudsman Program within the 30 months preceding application for the program did not result in a licensure citation.
- Provide targeted in-service training to meet training needs identified by internal or external quality assurance efforts.

Home Health Agencies and Home Health Aides

Home health agencies deliver health and medical services and medical supplies through visits to private homes, ALFs, and adult family care homes. Some of the services include nursing care, physical therapy, occupational therapy, respiratory therapy, speech therapy, HHA services, and nutritional guidance. Medical supplies are restricted to drugs and biologicals prescribed by a physician. Along with services in the home, a home health agency can also provide staffing services in nursing homes and hospitals. Home health agencies differ in the quality of care and services they provide to patients. Home health agencies are required to be licensed and inspected by the state of Florida.¹⁸

The Home Health Consumer Assessment of Healthcare Providers & Systems (HHCAHPS) star ratings provide a snapshot of the four measures of patient experience of care. In addition, the HHCAHPS summary star rating combines all four HHCAHPS star ratings into a single, comprehensive metric. If a home health agency does not have an HHCAHPS summary star rating, it means that the home health agency did not have enough surveys completed to have star ratings calculated in a meaningful way. In addition to the patient survey results, the HHCAHPS star ratings summarize patient experience, which is one aspect of home health agency quality.¹⁹

Section 400.462(15), F.S., defines a "home health aide" as a person who is trained or qualified, as provided by the AHCA rule, to:

- Provide hands-on personal care;
- Perform simple procedures as an extension of therapy or nursing services;

¹⁸ Agency for Health Care Administration, FloridaHealthFinder.gov, Alternative to Nursing Homes, *Home Health Agencies*, available at <https://www.floridahealthfinder.gov/reports-guides/NursingHomesFL.aspx#NHStay> (last visited Jan. 26, 2020).

¹⁹ U.S. Centers for Medicare & Medicaid Services, Medicare.gov, Home Health Compare, *Patient Survey Star Ratings*, available at <https://www.medicare.gov/homehealthcompare/About/Patient-Survey-Star-Ratings.html> (last visited Jan. 26, 2020).

- Assist in ambulation or exercises; or
- Assist in administering medications for which the person has received training established by the AHCA.

Assistance with Administering Medications

Rule 59A-18.0081, F.A.C., provides that a CNA or HHA referred by a nurse registry may assist with self-administration of medication if they have received a minimum of two hours of training covering the following content:

- State law and rule requirements with respect to the assistance with self-administration of medications in the home;
- Procedures for assisting the resident with self-administration of medication;
- Common types of medication;
- Recognition of side effects and adverse reactions; and
- Procedures to follow when patients appear to be experiencing side effects and adverse reactions.

The training must include verification that, for prescription medications, each CNA and HHA can read the prescription label and any instructions for the prescription. The rule provides that individuals who cannot read are not allowed to assist with prescription medications.

Healthcare Professional Shortage

The U.S. has a current health care provider shortage. As of December 31, 2019, the U.S. Department of Health and Human Services has designated 7,655 Primary Medical Health Professional Shortage Areas (HPSAs) (requiring 14,392 additional primary care physicians to eliminate the shortage), 6,820 Dental HPSAs (requiring 10,258 additional dentists to eliminate the shortage), and 6,117 Mental Health HPSAs (requiring 6,335 additional psychiatrists to eliminate the shortage).²⁰ A health care professional shortage area is a federal designation that indicates a health care provider shortage in primary care, dental health, or mental health.²¹

In Florida, there are 754 HPSAs just for primary care, dental care, and mental health. It would take 1,636 primary care, 1,270 dental care, and 407 mental health practitioners to eliminate these shortage areas.²²

²⁰ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Designated Health Professional Shortage Area Statistics, Fourth Quarter of Fiscal Year 2019 Designated HPSA Quarterly Summary*, (Sept. 30, 2019), available at <https://data.hrsa.gov/topics/health-workforce/shortage-areas> (last visited Feb. 18, 2020). Click on “Designated HPSA Quarterly Summary” to access the report.

²¹ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Designated Health Professional Shortage Areas (HPSAs)*, available at: <https://bhw.hrsa.gov/shortage-designation/hpsas> (last visited March 4, 2020).

²² *Id.*

Florida Advanced Practice Registered Nurses

In Florida, an advanced practice registered nurse (APRN)²³ can be licensed as one of the following:²⁴

- Certified nurse practitioner (CNP);
- Certified nurse midwife (CNM);
- Clinical nurse specialist (CNS); or
- Certified registered nurse anesthetist (CRNA).

APRNs are regulated under part I of ch. 464, F.S., the Nurse Practice Act. The Board of Nursing (Board) provides, by rule, the eligibility criteria for applicants to be licensed as APRNs and the applicable regulatory standards for APRN nursing practices.²⁵ Additionally, the Board is responsible for administratively disciplining an APRN who commits prohibited acts.²⁶

In Florida “advanced or specialized nursing practice” includes, in addition to practices of professional nursing that registered nurses are authorized to perform, advanced-level nursing acts approved by the Board as appropriate for APRNs to perform by virtue of their post-basic specialized education, training, and experience.²⁷ Advanced or specialized nursing acts may only be performed if authorized under a supervising physician’s protocol.²⁸ In addition to advanced or specialized nursing practices, APRNs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician’s protocol.²⁹

To be eligible to be licensed as an APRN, an applicant must be licensed as a registered nurse, have a master’s degree in a nursing clinical specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.³⁰ A nursing specialty board must:³¹

- Attest to the competency of nurses in a clinical specialty area;
- Require a written examination prior to certification;
- Require nurses to complete a formal program prior to eligibility for examination;
- Maintain program accreditation or review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida; and
- Identify standards or scope of practice statements appropriate for each nursing specialty.

Pursuant to s. 456.048, F.S., all APRNs must carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for licensure must submit proof of coverage or financial responsibility within sixty days of licensure and prior to each biennial licensure

²³ Section 464.003(3), F.S.

²⁴ Section 464.012(4), F.S.

²⁵ See s. 464.004, F.S., and Rule 64B9-3, F.A.C.

²⁶ See ss. 464.018 and 456.072, F.S.

²⁷ Section 464.003(2), F.S.

²⁸ Section 464.012(3)-(4), F.S.

²⁹ *Id.*

³⁰ Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

³¹ Rule 64B9-4.002(3), F.A.C.

renewal.³² The APRN must have professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000 and which is payable to the APRN as beneficiary.³³

APRN Autonomy in Florida

Florida is a supervisory state. APRNs may perform only those nursing and medical practices delineated in a written physician protocol.³⁴ A physician providing primary health care services may supervise APRNs in up to four medical offices, in addition to the physician's primary practice location.

APRN Scope of Practice in Florida

Within the framework of the written protocol with a supervising physician, an APRN may:³⁵

- Prescribe, dispense, administer, or order any drug;
- Initiate appropriate therapies for certain conditions;
- Perform additional functions as may be determined by Board rule;
- Order diagnostic tests and physical and occupational therapy; and
- Perform certain acts within his or her specialty.

Currently, APRNs in Florida are not authorized to sign certain documents such as a certificate to initiate the involuntary examination of a person under the Baker Act, the release of persons in receiving facilities under the Baker Act, or death certificates.³⁶

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 400.141 and 400.23, F.S., to provide that a licensed nursing home facility may use paid feeding assistants as defined in 42 C.F.R. s. 488.301, in accordance with 42 C.F.R. s. 483.60, if the paid feeding assistant has successfully completed a feeding assistant training program developed by the AHCA. The feeding assistant training program must consist of a minimum of 12 hours of education and training and must include all of the topics and lessons specified in the program curriculum. The program curriculum must include training in all of the following content areas:

- Feeding techniques.
- Assistance with feeding and hydration.
- Communication and interpersonal skills.
- Appropriate responses to resident behavior.
- Safety and emergency procedures, including the first aid procedure used to treat upper airway obstructions.

³² Rule 64B9-4.002, F.A.C. The DOH Form DH-MQA 1186, 01/09, "Financial Responsibility," is incorporated into the rule by reference. Certain licensees, such as those who practice exclusively for federal or state governments, only practice in conjunction with a teaching position, or can demonstrate no malpractice exposure in this state are exempt from the financial responsibility requirements.

³³ *Id.*

³⁴ Section 464.012(3), F.S.

³⁵ Section 464.012(3)-(4), F.S.

³⁶ *See* ss. 382.008, and 394.463, F.S.

- Infection control.
- Residents' rights.
- Recognizing changes in residents that are inconsistent with their normal behavior, and the importance of reporting those changes to the supervisory nurse.

The AHCA is authorized to adopt rules to implement these provisions.

Section 3 amends s. 400.461, F.S., to make conforming changes.

Sections 4 through 9 of the bill amend or create statutes within part III of ch. 400, F.S., relating to home health agencies.

Section 4 amends s. 400.462, F.S., to redefine "home health aide" to provide that, in addition to the definition's other provisions, a home health aide (HHA) may include a person who performs tasks delegated to him or her pursuant to ch. 464, F.S.

Section 5 amends s. 400.464, F.S., to provide that if a home health agency authorizes an RN to delegate tasks, including medication administration, to a CNA pursuant to ch. 464, F.S., or to a HHA pursuant to s. 400.490, F.S., the home health agency must ensure that such delegation meets the requirements of chs. 400 and 464, F.S., and applicable rules adopted under those chapters.

Section 6 amends s. 400.488, F.S., relating to provisions under which an unlicensed person may assist a patient with the self-administration of medication under certain circumstances, to provide that such medications include intermittent positive pressure breathing treatments and nebulizer treatments. The bill also provides that assistance with self-administered medication includes:

- In the presence of the patient, confirming that the medication is intended for that patient and orally advising the patient of the medication's name and purpose.
- When applying topical medications, the provision of routine preventative skin care and basic wound care.
- For intermittent positive pressure breathing treatments or for nebulizer treatments, assisting with setting up and cleaning the device in the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing the prescribed amount for a single treatment dose from a properly labeled container, and assisting the patient with placing the dose into the medicine receptacle or mouthpiece.

Section 7 creates s. 400.489, F.S., to provide that a HHA may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications if the HHA:

- Has been delegated such task by an RN licensed under ch. 464, F.S.
- Has satisfactorily completed an initial six-hour training course approved by the AHCA.
- Has been found competent to administer medication to a patient in a safe and sanitary manner.

To remain qualified to administer medications as provided above, the bill requires a HHA to annually and satisfactorily complete a two-hour inservice training course in medication

administration and medication error prevention approved by the AHCA. This inservice training course must be in addition to the annual inservice training hours required by the AHCA rules under current law.

The bill requires the AHCA, in consultation with the Board of Nursing (BON), to establish by rule standards and procedures that a HHA must follow when administering medication to a patient.

The training, determination of competency, and initial and annual validations required under this new section of statute must be conducted by an RN or a physician licensed under chs. 458 or 459, F.S.

Section 8 creates s. 400.490, F.S., to authorize a CNA or HHA to perform any task delegated by an RN as authorized in this part and in ch. 464, F.S., including, but not limited to, medication authorization.

Section 9 creates s. 400.52, F.S., to establish the Excellence in Home Health Program (program) for the purpose of awarding designations to home health agencies or nurse registries that meet specified criteria.

The AHCA is directed to adopt rules establishing criteria for the program, which must include, at a minimum, meeting standards relating to:

- Patient satisfaction.
- Patients requiring emergency care for wound infections.
- Patients admitted or readmitted to an acute care hospital.
- Patient improvement in the activities of daily living.
- Employee satisfaction.
- Quality of employee training.
- Employee retention rates.

The AHCA is directed to annually evaluate home health agencies and nurse registries seeking program designation. To receive program designation, a home health agency or nurse registry must:

- Apply on a form and in the manner designated by the AHCA rule;
- Be actively licensed and have been operating for at least 24 months before applying for program designation; and
- Have not had any licensure denials, revocations, or Class I, Class II, or uncorrected Class III deficiencies within the 24 months before the application for program designation.

A designation awarded under the program is not transferrable to another licensee, unless the existing home health agency or nurse registry is being relicensed in the name of an entity related to the current license-holder by common control or ownership, and there will be no change in the management, operation, or programs of the home health agency or nurse registry as a result of the relicensure.

Program designation expires on the same date as the home health agency's or nurse registry's license. A home health agency or nurse registry must reapply and be approved for program designation to continue using the designation in advertising and marketing. A home health agency or nurse registry may not use program designation in any advertising or marketing if the home health agency or nurse registry:

- Has not been awarded the designation;
- Fails to renew the designation upon expiration of the awarded designation;
- Has undergone a change in ownership that does not qualify for a transfer of the designation as described above; or
- Has been notified that it no longer meets the criteria for the award upon reapplication after expiration of the awarded designation.

The bill clarifies that an application for an award designation is not an application for licensure and that an award designation or denial by the AHCA does not constitute final agency action subject to ch. 120, F.S.

Section 10 creates s. 408.822, F.S., to establish a Direct Care Workforce Survey (survey). The bill defines the term "direct care worker" for purposes of the survey to mean a:

- CNA;
- HHA;
- Personal care assistant;
- Companion services or homemaker services provider;
- Paid feeding assistant trained under s. 400.141(1)(v), F.S.; or
- Provider of personal care as defined in s. 400.462(24), F.S., to individuals who are elderly, developmentally disabled, or chronically ill.

Under the bill, beginning January 1, 2021, nursing home facilities, assisted living facilities, home health agencies, companion services providers, and homemaker services providers applying for licensure renewal (every two years), must furnish the following information to the AHCA before the license will be renewed:

- The number of registered nurses and the number of direct care workers by category employed.
- The turnover and vacancy rates of registered nurses and direct care workers and contributing factors to these rates.
- The average employee wage for registered nurses and each category of direct care worker.
- The employment benefits provided for registered nurses and direct care workers and the average cost of such benefits to the employer and the employee.
- The type and availability of training for registered nurses and direct care workers.

An administrator or designee must attest that the information provided in the survey is true and accurate to the best of his or her knowledge. In addition, the AHCA is required to analyze the results of the surveys, and publish the results on its website, as well as update the information monthly.

Sections 11 and 12 of the bill amend or create statutes within part I of ch. 464, F.S., relating to the Nurse Practice Act.

Section 11 creates s. 464.0156, F.S., to authorize RNs to delegate a task to a CNA or a HHA if the registered nurse determines that the CNA or HHA is competent to perform the task, the task is delegable under federal law, and the task meets all of the following criteria:

- Is within the nurse's scope of practice.
- Frequently recurs in the routine care of a patient or group of patients.
- Is performed according to an established sequence of steps.
- Involves little or no modification from one patient to another.
- May be performed with a predictable outcome.
- Does not inherently involve ongoing assessment, interpretation, or clinical judgment.
- Does not endanger a patient's life or well-being.

If a CNA or HHA satisfies the qualifications and training requirements of the bill's newly created ss. 464.2035 or 400.489, F.S., an RN may also delegate to a CNA or HHA the administration of prescription medications to a patient of a home health agency, except controlled substances,³⁷ by the following routes: oral, transdermal,³⁸ ophthalmic, otic, rectal, inhaled, enteral,³⁹ or topical.

The BON, in consultation with the AHCA, is required to adopt rules to implement this section of the bill.

Section 12 amends s. 464.018, F.S., to add an additional ground for nursing disciplinary action when a nurse knowingly delegates responsibilities to a person that is not qualified by training, experience, certification, or licensure to perform them.

Section 13 creates s. 464.2035, F.S., to provide that a CNA may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medication to a patient of a home health agency if the CNA has:

- Been delegated such task by an RN;
- Satisfactorily completed an initial six-hour training course approved by the BON; and
- Been found competent to administer medication to such a patient in a safe and sanitary manner.

The training, determination of competency, and initial and annual validations must be conducted by a licensed RN or a physician licensed under chapter 458 or 459, F.S.

To remain qualified to administer medications as provided above, a CNA must annually and satisfactorily complete two hours of inservice training in medication administration and medication error prevention approved by the BON, in consultation with the AHCA. The

³⁷ Controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s. 812.

³⁸ See The Farlex Medical Dictionary, Transdermal, available at <https://medical-dictionary.thefreedictionary.com/Transdermal> (last visited Jan. 27, 2020). Transdermal means entering through the dermis, or skin, as in administration of a drug applied to the skin in ointment or patch form.

³⁹ See The Farlex Medical Dictionary, Enteral, available at <https://medical-dictionary.thefreedictionary.com/enteral> (last visited Jan. 27, 2020). Enteral means within, or by way of, the intestine or gastrointestinal tract, especially as distinguished from parenteral.

inservice training required under the bill is in addition to other annual inservice training hours required under current law.

The bill requires the BON, in consultation with the AHCA, to establish by rule standards and procedures that a CNA must follow when administering medication to a patient of a home health agency.

Section 14 creates s. 381.40185, F.S., to require the Department of Health (DOH) to establish a physician student loan repayment program for physicians licensed under ch. 458 and 459. The physician must provide primary care services in a public health program, an independent practice, or a group practice that serves low-income or Medicaid recipients and be located in a primary care health professional shortage area or medically underserved area. Implementation of the loan program is subject to legislative appropriation.

Section 15 amends the Nurse Practice Act to define an “advanced practice registered nurse - independent practitioner” or “APRN-IP” as an advanced practice registered nurse who is registered under s. 464.0123 to provide primary health care services without a protocol agreement or supervision.

The bill defines a “primary care health professional shortage area” as a geographic area, an area having a special population, or a facility with a score of at least 18, as designated and calculated by the Federal Health Resources and Services Administration or a rural area, as defined by the Federal Office of Rural Health Policy (see section 16).

Section 16 creates s. 464.0123, F.S., to establish the Patient Access to Primary Care Program (Program) within the Department of Health (DOH). The Program will provide primary health care services in by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.

The bill creates a nine member Council on Advanced Practice Registered Nurse Independent Practice within the DOH and requires the council to make recommendations on the registration of APRN-IPs and develop proposed rules to regulate the practice of APRN-IPs. All recommendations made by the council must be made by a majority of the members present.

Registration

The bill requires that APRNs who practice without the supervision of a physician to register with the DOH as an APRN-IP and provide the following:

- Proof of experience as an APRN under the direct or indirect supervision of a physician for at least 2,000 hours within the last four years;
- Certifications and designations recognized and approved by the Board of Nursing, Board of Medicine, Board of Osteopathic Medicine, or the DOH;
- APRN education, work, and license history;
- Address in which the application will conduct practice;
- Criminal and regulatory disciplinary history; and
- Proof of professional liability insurance;

An APRN-IP must be renew their registration every 2 years and provide proof of 40 hours of continuing medical education hours. The continuing education hours may be counted toward the continuing education hours required for the renewal of an APRN or RN license.

The bill requires APRN-IPs to practice primary care in “primary care health professional shortage areas” for the first three years of independent practice, and thereafter, authorizes an APRN-IP to practice primary care statewide.

Scope of Practice

The DOH must adopt by rule the scope of practice for an APRN-IP. An APRN-IP cannot practice in a hospital licensed under ch. 395, F.S., or a facility licensed under ch. 400, F.S., except under an established written protocol with a supervising physician.

The bill requires APRN-IPs to report all adverse incidents to the DOH. An adverse incident is defined as an event over which the APRN-IP exercises control and is associated with a medical intervention, rather than the condition for which such intervention occurred, and which results in any of the following patient injuries:

- Death;
- Permanent injury; or
- Any condition the requires the transfer of a patient from the APRN-IP’s practice to a hospital.

The Board of Medicine or the Board of Nursing is authorized to take disciplinary action under certain circumstances.

Section 17 amends s. 464.015, F.S., to limit who can use the title “Advanced Practice Registered Nurse Practitioner – Independent Practitioner” and the abbreviation “APRN-IP.”

Section 18 amends s. 464.018, F.S., to authorize the Board of Nursing to take administrative action against an APRN-IP for the following:

- Paying or receiving any commission, bonus, kickback, rebate, or engaging in a slit-fee arrangement with a health care practitioner, organization, agency, or person for patient referrals;
- Exercising influence over a patient for the purpose of engaging in sexual activity;
- Making deceptive, untrue, or fraudulent representation related to advanced or specialized nursing practice;
- Soliciting patients, personally or through an agent, using fraud, intimidation, undue influence, or overreaching or vexatious conduct;
- Failing to keep legible medical records;
- Performing professional services that have not been authorized by the patient or his or her representative, except as provided by the Medical Consent Law and the Good Samaritan Act;
- Performing any procedure or prescribing any medicinal drug that would constitute experimentation on a human subject, without full, informed, and written consent of the patient;

- Delegating professional responsibilities to an unqualified or unlicensed person;
- Conspiring with another person to commit an act or committing an act that would tend to coerce, intimidate, or preclude another APRN from advertising his or her services;
- Advertising or holding oneself out as having a certification in a specialty that the APRN has not received;
- Failing to inform patients about patient rights and how to file a patient complaint; and
- Providing deceptive or fraudulent expert witness testimony related to advanced or specialized nursing practice.

Section 19 amends s. 381.026, F.S., to expand the definition of a “health care provider” to include an APRN-IP.

Section 20 amends s. 382.008, F.S., to allow an APRN-IPs to certify the cause of death and to file death certificates in the absence of a funeral director.

Section 21 makes conforming changes.

Section 22 amends s. 394.463 F.S., the Baker Act, to allow an APRN-IP to initiate an involuntary examination under certain circumstances.

Section 23 amends s. 397.501, F.S., the Marchman Act, to conform to the provisions of the bill.

Section 24 amends s. 456.053, F.S., to expand the definition of a “health care provider” and “sole provider” to include an APRN-IP.

Section 25 amends s. 626.9707, F.S., to conform to the provisions of the bill.

Section 26, 27, and 31 creates ss. 627.64025, 627.6621, and 641.31075 F.S., to prohibit certain health insurers and health maintenance organizations from requiring or offering financial incentives to an insured to receive services from an APRN-IP or an advanced practice registered nurse rather than a primary care physician.

Section 28 amends 627.6699, F.S. to prohibit certain health insurers from requiring or offering financial incentives to an insured to receive services from an APRN-IP or an advanced practice registered nurse rather than a primary care physician.

Section 29 amends s. 627.736, F.S., to conform to the provisions of the bill.

Section 30 amends s. 633.412, F.S., to allow APRN-IPs to conduct certain medical evaluations for firefighters applying for certification as a firefighter.

Section 32 amends s. 641.495, F.S., to allow HMOs to provide certain services though an APRN-IP.

Section 33 amends s. 744.3675, F.S., to allow an APRN-IP to examine and report on a ward’s condition current level of capacity.

Section 34 amends s. 766.118, F.S., to expand the definition of “practitioner” to include an APRN-IP. This section limits noneconomic damages⁴⁰ for medical negligence of practitioners, including APRN-IPs, under certain circumstances.

Section 35 amends s. 768.135, F.S., to provide immunity from civil liability for APRN-IPs acting in good faith when performing certain medical evaluations.

Section 36 amends s. 960.28, F.S., to conform to the provisions of the bill.

Section 37 appropriates three full-time equivalent (FTE) positions with an associated salary rate of 125,887, three other personal services (OPS) positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.

Section 38 appropriates \$202,019 in recurring funds and \$24,272 in nonrecurring funds from the Medical Quality Trust Fund, and four full-time equivalent positions with associated salary rate of 121,246, to the DOH to implement the Patient Access to Primary Care Program.

Section 39 provides that except as otherwise expressly provided in this act, the act shall take effect upon becoming a law.

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.

⁴⁰ Section 766.202(8), F.S., defines “noneconomic damages” as nonfinancial losses that would not have occurred but for the injury giving rise to the cause of action, including pain and suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of capacity for enjoyment of life, and other nonfinancial losses to the extent the claimant is entitled to recover such damages under general law, including the Wrongful Death Act.

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

None.

B. Private Sector Impact:

Home health agencies and nursing facilities may incur costs associated with the requirement to provide medication administration training to CNAs and HHAs. In addition, beginning in 2021, they may experience a workload increase associated with the bill's requirements related to survey reporting.

An APRN who applies for licensure as an APRN-IP to practice without the supervision of a physician will be able to provide primary care services in primary care health professional shortage areas. APRNs who have paid physicians for supervision will see cost savings if they register to practice autonomously.

C. Government Sector Impact:

The AHCA estimates the need for five additional full-time equivalent (FTE) positions, three other personal services (OPS) positions, and funding to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.⁴¹ The bill appropriates three FTE positions with an associated salary rate of 125,887, three OPS positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.

The bill has a significant negative fiscal impact on state expenditures. The bill will require the DOH to update information technology systems related to electronic death registrations to accept APRN-IPs as health care providers, and licensing of APRN-IPs. The bill appropriates \$202,019 in recurring funds and \$24,272 in nonrecurring funds from the Medical Quality Trust Fund, and four full-time equivalent positions with associated salary rate of 121,246, to the DOH to implement the Patient Access to Primary Care Program.⁴²

The bill's requirement that the DOH establish a Physician Student Loan Repayment Program has a significant negative fiscal impact on state expenditures. The DOH estimates the additional need of two FTE to administer the loan program at a total cost of \$143,173 (\$131,037 recurring; \$12,136 non-recurring) in the first year.⁴³ However, implementation of the loan program is subject to legislative appropriation.

⁴¹ *Supra* note 1.

⁴² Florida Department of Health, *Senate Bill 1676 Fiscal Analysis* (February 18, 2020) (email on file with the Senate Subcommittee on Health and Human Services).

⁴³ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.026, 382.008, 382.011, 394.463, 397.501, 400.141, 400.23, 400.461, 400.462, 400.464, 400.488, 456.053, 464.003, 464.015, 464.018, 626.9707, 627.6699, 627.736, 633.412, 641.495, 744.3675, 766.118, 768.135, and 960.28

This bill creates the following sections of the Florida Statutes: 381.40185, 400.489, 400.490, 400.52, 408.822, 464.0123, 464.0156, 464.2035, 627.64025, 627.6621, and 641.31075.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute:

- Makes conforming and technical changes.
- Authorizes nurse registries to be eligible to receive award designations under the Excellence in Home Health Program (program).
- Clarifies that an application for an award designation is not an application for licensure and that an award designation or denial by the AHCA does not constitute final agency action subject to ch. 120, F.S.
- Removes nurse registries from the requirements of the Direct Care Workforce Survey.
- Clarifies that an RN's delegation of prescription medications to a CNA or HHA is specific to patients of a home health agency.
- Authorizes positions and an appropriation to the AHCA.
- Establishes a physician student loan repayment program within the Department of Health (DOH).
- Establishes the Patient Access to Primary Care Program (Program) within the DOH to provide primary health care services in by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.
 - Removes the sunset date of July 1, 2031 and the requirement that the Program is a pilot program.
 - Requires APRN-IPs to practice primary care in primary care shortage areas for the first three years of independent practice, and thereafter, the amendment authorizes an APRN-IP to practice primary care statewide.

- Expands the definition of primary care shortage area to a geographic area, an area having a special population, or a facility with a score of at least 18, as designated and calculated by the Federal Health Resources and Services Administration or (instead of located in) a rural area as defined by the Federal Office of Rural Health Policy.
- Revises the composition of the Council on APRN-IP and adds more APRNs to the Council. Under the amendment, the Council will be composed of four physicians, four APRNs, and the Surgeon General or his or her designee.
- Authorizes the DOH, rather than the Board of Medicine (BOM) and Board of Osteopathic (BOOM) Medicine to adopt rules proposed by the Council regulating the practice of APRN-IPs.
- Authorizes the DOH, rather than the BOM or the BOOM, to adopt by rule APRN-IP scope of practice.
- Removes the requirement for third party credentialing and primary care certification examination of APRN-IPs.
- Requires 2,000 hours of clinical practice, instead of 10,000, within the last four years, instead of the last six years, in order to qualify as an APRN-IP.
- Removes the requirement for APRN-IPs to establish referral relationships and protocols for the transfer of patients to a hospital or nursing home, as well as the requirement to establish referral relationships and protocols with other physicians and specialists.
- Clarifies that the continuing education hours (40 hours) for an APRN-IP are inclusive of hours required for APRN and RN licenses (typically 30 hours).
- Modifies provisions for adverse incidents to include an injury that is likely to be permanent.
- Prohibits a health insurer from offering financial incentives to an insured for seeing an APRN-IP rather than a primary care physician.
- Requires DOH to adopt rules to implement the Program.
- Removes the OPPAGA study.
- Appropriates three FTE positions with an associated salary rate of 125,887, three OPS positions, and \$400,764 in recurring funds and \$408,731 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to manage stakeholder input and develop rules related to expansion of HHA and CNA duties, and create and implement the survey and program.
- Appropriates \$226,291 from the Medical Quality Trust Fund and four full-time equivalent positions to the DOH to implement the Patient Access to Primary Care Program.
- Amends the effective date to provide that except as otherwise expressly provided in the bill, the bill takes effect upon becoming a law.

CS by Health Policy on February 4, 2020:

The CS:

- Removes from the underlying bill a provision for non-nursing staff providing eating assistance to residents of a nursing home to count toward the nursing home's compliance with minimum staffing standards;

- Authorizes nursing home facilities to use paid feeding assistants as defined under federal law if the assistant has completed a 12-hour program developed by the AHCA;
- Removes from the underlying bill the specific authorization within nursing home statutes for a CNA to perform any task delegated to him or her by an RN, including, medication administration, in a nursing home setting;
- Removes from the underlying bill provisions to establish a Home Care Services Registry; and
- Removes from the underlying bill the specific authorization within CNA statutes for a CNA to administer medications to nursing home residents if delegated such a task by an RN.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Albritton

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1 A bill to be entitled
 2 An act relating to direct care workers; amending s.
 3 400.141, F.S.; authorizing a nursing home facility to
 4 use paid feeding assistants in accordance with
 5 specified federal law under certain circumstances;
 6 providing training program requirements; authorizing
 7 the Agency for Health Care Administration to adopt
 8 rules; amending s. 400.23, F.S.; prohibiting paid
 9 feeding assistants from counting toward compliance
 10 with minimum staffing standards; amending s. 400.462,
 11 F.S.; revising the definition of the term "home health
 12 aide"; amending s. 400.464, F.S.; requiring a licensed
 13 home health agency that authorizes a registered nurse
 14 to delegate tasks to a certified nursing assistant to
 15 ensure that certain requirements are met; amending s.
 16 400.488, F.S.; authorizing an unlicensed person to
 17 assist with self-administration of certain treatments;
 18 revising the requirements for such assistance;
 19 creating s. 400.489, F.S.; authorizing a home health
 20 aide to administer certain prescription medications
 21 under certain conditions; requiring the home health
 22 aide to meet certain training and competency
 23 requirements; requiring the training, determination of
 24 competency, and annual validations of home health
 25 aides to be conducted by a registered nurse or a
 26 physician; requiring a home health aide to complete
 27 annual inservice training in medication administration
 28 and medication error prevention, in addition to
 29 existing annual inservice training requirements;

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30 requiring the Agency for Health Care Administration,
 31 in consultation with the Board of Nursing, to
 32 establish by rule standards and procedures for
 33 medication administration by home health aides;
 34 creating s. 400.490, F.S.; authorizing a certified
 35 nursing assistant or home health aide to perform tasks
 36 delegated by a registered nurse; creating s. 400.52,
 37 F.S.; creating the Excellence in Home Health Program
 38 within the agency; requiring the agency to adopt rules
 39 establishing program criteria; requiring the agency to
 40 annually evaluate certain home health agencies that
 41 apply for a program designation; providing program
 42 designation eligibility requirements; providing that a
 43 program designation is not transferrable, with an
 44 exception; providing for the expiration of awarded
 45 designations; requiring home health agencies to
 46 reapply biennially to renew the awarded program
 47 designation; authorizing a program designation award
 48 recipient to use the designation in advertising and
 49 marketing; prohibiting a home health agency from using
 50 a program designation in advertising or marketing
 51 under certain circumstances; creating s. 408.822,
 52 F.S.; defining the term "direct care worker";
 53 requiring certain licensees to provide specified
 54 information about their employees in a survey
 55 beginning on a specified date; requiring that the
 56 survey be completed on a form adopted by the agency by
 57 rule and include a specified attestation; requiring
 58 licensees to submit such survey before the agency

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59 renews their licenses; requiring the agency to
 60 continually analyze the results of such surveys and
 61 publish the results on the agency's website; requiring
 62 the agency to update such information monthly;
 63 creating s. 464.0156, F.S.; authorizing a registered
 64 nurse to delegate certain tasks to a certified nursing
 65 assistant or home health aide under certain
 66 conditions; providing the criteria that a registered
 67 nurse must consider in determining if a task may be
 68 delegated to a certified nursing assistant or a home
 69 health aide; authorizing a registered nurse to
 70 delegate prescription medication administration to a
 71 certified nursing assistant or home health aide,
 72 subject to certain requirements; providing an
 73 exception for certain controlled substances; requiring
 74 the Board of Nursing, in consultation with the agency,
 75 to adopt rules; amending s. 464.018, F.S.; subjecting
 76 a registered nurse to disciplinary action for
 77 delegating certain tasks to a person the registered
 78 nurse knows or has reason to know is unqualified to
 79 perform such tasks; creating s. 464.2035, F.S.;
 80 authorizing certified nursing assistants to administer
 81 certain prescription medications under certain
 82 conditions; requiring the certified nursing assistants
 83 to meet certain training and competency requirements;
 84 requiring the training, determination of competency,
 85 and annual validations of certified nursing assistants
 86 to be conducted by a registered nurse or a physician;
 87 requiring a certified nursing assistant to complete

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88 annual inservice training in medication administration
 89 and medication error prevention in addition to
 90 existing annual inservice training requirements;
 91 requiring the board, in consultation with the agency,
 92 to adopt rules for medication administration by
 93 certified nursing assistants; providing an effective
 94 date.
 95

96 Be It Enacted by the Legislature of the State of Florida:
 97

98 Section 1. Paragraph (v) is added to subsection (1) of
 99 section 400.141, Florida Statutes, to read:

100 400.141 Administration and management of nursing home
 101 facilities.—

102 (1) Every licensed facility shall comply with all
 103 applicable standards and rules of the agency and shall:

104 (v) Be allowed to use paid feeding assistants as defined in
 105 42 C.F.R. s. 488.301, and in accordance with 42 C.F.R. s.
 106 483.60, if the paid feeding assistant has successfully completed
 107 a feeding assistant training program developed by the agency.

108 1. The feeding assistant training program must consist of a
 109 minimum of 12 hours of education and training and must include
 110 all of the topics and lessons specified in the program
 111 curriculum.

112 2. The program curriculum must include, but need not be
 113 limited to, training in all of the following content areas:

114 a. Feeding techniques.

115 b. Assistance with feeding and hydration.

116 c. Communication and interpersonal skills.

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- 117 d. Appropriate responses to resident behavior.
 118 e. Safety and emergency procedures, including the first aid
 119 procedure used to treat upper airway obstructions.
 120 f. Infection control.
 121 g. Residents' rights.
 122 h. Recognizing changes in residents which are inconsistent
 123 with their normal behavior, and the importance of reporting
 124 those changes to the supervisory nurse.

125
 126 The agency may adopt rules to implement this paragraph.

127 Section 2. Paragraph (b) of subsection (3) of section
 128 400.23, Florida Statutes, is amended to read:

129 400.23 Rules; evaluation and deficiencies; licensure
 130 status.—

131 (3)

132 (b) Paid feeding assistants and nonnursing staff providing
 133 eating assistance to residents shall not count toward compliance
 134 with minimum staffing standards.

135 Section 3. Subsection (15) of section 400.462, Florida
 136 Statutes, is amended to read:

137 400.462 Definitions.—As used in this part, the term:

138 (15) "Home health aide" means a person who is trained or
 139 qualified, as provided by rule, and who provides hands-on
 140 personal care, performs simple procedures as an extension of
 141 therapy or nursing services, assists in ambulation or exercises,
 142 ~~or~~ assists in administering medications as permitted in rule and
 143 for which the person has received training established by the
 144 agency under this part, or performs tasks delegated to him or
 145 her under chapter 464 s. 400.497(1).

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146 Section 4. Present subsections (5) and (6) of section
 147 400.464, Florida Statutes, are redesignated as subsections (6)
 148 and (7), respectively, a new subsection (5) is added to that
 149 section, and present subsection (6) of that section is amended,
 150 to read:

151 400.464 Home health agencies to be licensed; expiration of
 152 license; exemptions; unlawful acts; penalties.—

153 (5) If a licensed home health agency authorizes a
 154 registered nurse to delegate tasks, including medication
 155 administration, to a certified nursing assistant pursuant to
 156 chapter 464 or to a home health aide pursuant to s. 400.490, the
 157 licensed home health agency must ensure that such delegation
 158 meets the requirements of this chapter and chapter 464 and the
 159 rules adopted thereunder.

160 (7)(6) Any person, entity, or organization providing home
 161 health services which is exempt from licensure under subsection
 162 (6) subsection (5) may voluntarily apply for a certificate of
 163 exemption from licensure under its exempt status with the agency
 164 on a form that specifies its name or names and addresses, a
 165 statement of the reasons why it is exempt from licensure as a
 166 home health agency, and other information deemed necessary by
 167 the agency. A certificate of exemption is valid for a period of
 168 not more than 2 years and is not transferable. The agency may
 169 charge an applicant \$100 for a certificate of exemption or
 170 charge the actual cost of processing the certificate.

171 Section 5. Subsections (2) and (3) of section 400.488,
 172 Florida Statutes, are amended to read:

173 400.488 Assistance with self-administration of medication.—

174 (2) Patients who are capable of self-administering their

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175 own medications without assistance shall be encouraged and
 176 allowed to do so. However, an unlicensed person may, consistent
 177 with a dispensed prescription's label or the package directions
 178 of an over-the-counter medication, assist a patient whose
 179 condition is medically stable with the self-administration of
 180 routine, regularly scheduled medications that are intended to be
 181 self-administered. Assistance with self-medication by an
 182 unlicensed person may occur only upon a documented request by,
 183 and the written informed consent of, a patient or the patient's
 184 surrogate, guardian, or attorney in fact. For purposes of this
 185 section, self-administered medications include both legend and
 186 over-the-counter oral dosage forms, topical dosage forms, and
 187 topical ophthalmic, otic, and nasal dosage forms, including
 188 solutions, suspensions, sprays, ~~and~~ inhalers, intermittent
 189 positive pressure breathing treatments, and nebulizer
 190 treatments.

191 (3) Assistance with self-administration of medication
 192 includes:

193 (a) Taking the medication, in its previously dispensed,
 194 properly labeled container, from where it is stored and bringing
 195 it to the patient.

196 (b) In the presence of the patient, confirming that the
 197 medication is intended for that patient, orally advising the
 198 patient of the medication name and purpose ~~reading the label,~~
 199 opening the container, removing a prescribed amount of
 200 medication from the container, and closing the container.

201 (c) Placing an oral dosage in the patient's hand or placing
 202 the dosage in another container and helping the patient by
 203 lifting the container to his or her mouth.

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204 (d) Applying topical medications, including providing
 205 routine preventative skin care and basic wound care.

206 (e) Returning the medication container to proper storage.

207 (f) For intermittent positive pressure breathing treatments
 208 or for nebulizer treatments, assisting with setting up and
 209 cleaning the device in the presence of the patient, confirming
 210 that the medication is intended for that patient, orally
 211 advising the patient of the medication name and purpose, opening
 212 the container, removing the prescribed amount for a single
 213 treatment dose from a properly labeled container, and assisting
 214 the patient with placing the dose into the medicine receptacle
 215 or mouthpiece.

216 (g) ~~(f)~~ Keeping a record of when a patient receives
 217 assistance with self-administration under this section.

218 Section 6. Section 400.489, Florida Statutes, is created to
 219 read:

220 400.489 Administration of medication by a home health aide;
 221 staff training requirements.-

222 (1) A home health aide may administer oral, transdermal,
 223 ophthalmic, otic, rectal, inhaled, enteral, or topical
 224 prescription medications if the home health aide has been
 225 delegated such task by a registered nurse licensed under chapter
 226 464; has satisfactorily completed an initial 6-hour training
 227 course approved by the agency; and has been found competent to
 228 administer medication to a patient in a safe and sanitary
 229 manner. The training, determination of competency, and initial
 230 and annual validations required in this section shall be
 231 conducted by a registered nurse licensed under chapter 464 or a
 232 physician licensed under chapter 458 or chapter 459.

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233 (2) A home health aide must annually and satisfactorily
 234 complete a 2-hour inservice training course approved by the
 235 agency in medication administration and medication error
 236 prevention. The inservice training course shall be in addition
 237 to the annual inservice training hours required by agency rules.

238 (3) The agency, in consultation with the Board of Nursing,
 239 shall establish by rule standards and procedures that a home
 240 health aide must follow when administering medication to a
 241 patient. Such rules must, at a minimum, address qualification
 242 requirements for trainers, requirements for labeling medication,
 243 documentation and recordkeeping, the storage and disposal of
 244 medication, instructions concerning the safe administration of
 245 medication, informed-consent requirements and records, and the
 246 training curriculum and validation procedures.

247 Section 7. Section 400.490, Florida Statutes, is created to
 248 read:

249 400.490 Nurse-delegated tasks.—A certified nursing
 250 assistant or home health aide may perform any task delegated by
 251 a registered nurse as authorized in chapter 464, including, but
 252 not limited to, medication administration.

253 Section 8. Section 400.52, Florida Statutes, is created to
 254 read:

255 400.52 Excellence in Home Health Program.—

256 (1) There is created within the agency the Excellence in
 257 Home Health Program for the purpose of awarding program
 258 designations to home health agencies that meet the criteria
 259 specified in this section.

260 (2) (a) The agency shall adopt rules establishing criteria
 261 for the program which must include, at a minimum, meeting

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262 standards relating to:

263 1. Patient satisfaction.

264 2. Patients requiring emergency care for wound infections.

265 3. Patients admitted or readmitted to an acute care
 266 hospital.

267 4. Patient improvement in the activities of daily living.

268 5. Employee satisfaction.

269 6. Quality of employee training.

270 7. Employee retention rates.

271 (b) The agency shall annually evaluate home health agencies
 272 seeking the program designation which apply on a form and in the
 273 manner designated by rule.

274 (3) To receive a program designation, the home health
 275 agency must:

276 (a) Be actively licensed and have been operating for at
 277 least 24 months before applying for the program designation. A
 278 designation awarded under the program is not transferrable to
 279 another licensee, unless the existing home health agency is
 280 being relicensed in the name of an entity related to the current
 281 licenseholder by common control or ownership and there will be
 282 no change in the management, operation, or programs of the home
 283 health agency as a result of the relicensure.

284 (b) Have not had any licensure denials, revocations, or
 285 Class I, Class II, or uncorrected Class III deficiencies within
 286 the 24 months before the application for the program
 287 designation.

288 (4) The program designation expires on the same date as the
 289 home health agency's license. A home health agency must reapply
 290 and be approved biennially for the program designation to

588-03099-20

20201676c1

291 continue using the program designation in the manner authorized
 292 under subsection (5).

293 (5) A home health agency that is awarded a designation
 294 under the program may use the designation in advertising and
 295 marketing. A home health agency may not use the program
 296 designation in any advertising or marketing if the home health
 297 agency:

298 (a) Has not been awarded the designation;

299 (b) Fails to renew the designation upon expiration of the
 300 awarded designation;

301 (c) Has undergone a change in ownership that does not
 302 qualify for an exception under paragraph (3)(a); or

303 (d) Has been notified that it no longer meets the criteria
 304 for the award upon reapplication after expiration of the awarded
 305 designation.

306 Section 9. Section 408.822, Florida Statutes, is created to
 307 read:

308 408.822 Direct care workforce survey.—

309 (1) For purposes of this section, the term "direct care
 310 worker" means a certified nursing assistant, a home health aide,
 311 a personal care assistant, a companion services or homemaker
 312 services provider, a paid feeding assistant trained under s.
 313 400.141(1)(v), or another individual who provides personal care
 314 as defined in s. 400.462 to individuals who are elderly,
 315 developmentally disabled, or chronically ill.

316 (2) Beginning January 1, 2021, each licensee that applies
 317 for licensure renewal as a nursing home facility licensed under
 318 part II of chapter 400; an assisted living facility licensed
 319 under part I of chapter 429; or a home health agency, nurse

588-03099-20

20201676c1

320 registry, or companion services or homemaker services provider
 321 licensed under part III of chapter 400 shall furnish the
 322 following information to the agency in a survey on the direct
 323 care workforce:

324 (a) The number of registered nurses and the number of
 325 direct care workers by category employed by the licensee.

326 (b) The turnover and vacancy rates of registered nurses and
 327 direct care workers and the contributing factors to these rates.

328 (c) The average employee wage for registered nurses and
 329 each category of direct care worker.

330 (d) Employment benefits for registered nurses and direct
 331 care workers and the average cost of such benefits to the
 332 employer and the employee.

333 (e) Type and availability of training for registered nurses
 334 and direct care workers.

335 (3) An administrator or designee shall include the
 336 information required in subsection (2) on a survey form
 337 developed by the agency by rule which must contain an
 338 attestation that the information provided is true and accurate
 339 to the best of his or her knowledge.

340 (4) The licensee must submit the completed survey prior to
 341 the agency issuing the license renewal.

342 (5) The agency shall continually analyze the results of the
 343 surveys and publish the results on its website. The agency shall
 344 update the information published on its website monthly.

345 Section 10. Section 464.0156, Florida Statutes, is created
 346 to read:

347 464.0156 Delegation of duties.—

348 (1) A registered nurse may delegate a task to a certified

588-03099-20

20201676c1

349 nursing assistant certified under part II of this chapter or a
 350 home health aide as defined in s. 400.462, if the registered
 351 nurse determines that the certified nursing assistant or the
 352 home health aide is competent to perform the task, the task is
 353 delegable under federal law, and the task:

354 (a) Is within the nurse's scope of practice.

355 (b) Frequently recurs in the routine care of a patient or
 356 group of patients.

357 (c) Is performed according to an established sequence of
 358 steps.

359 (d) Involves little or no modification from one patient to
 360 another.

361 (e) May be performed with a predictable outcome.

362 (f) Does not inherently involve ongoing assessment,
 363 interpretation, or clinical judgment.

364 (g) Does not endanger a patient's life or well-being.

365 (2) A registered nurse may delegate to a certified nursing
 366 assistant or a home health aide the administration of oral,
 367 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
 368 topical prescription medications, if the certified nursing
 369 assistant or home health aide meets the requirements of s.
 370 464.2035 or s. 400.489, respectively. A registered nurse may not
 371 delegate the administration of any controlled substance listed
 372 in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21
 373 U.S.C. s. 812.

374 (3) The board, in consultation with the Agency for Health
 375 Care Administration, shall adopt rules to implement this
 376 section.

377 Section 11. Paragraph (r) is added to subsection (1) of

588-03099-20

20201676c1

378 section 464.018, Florida Statutes, to read:

379 464.018 Disciplinary actions.—

380 (1) The following acts constitute grounds for denial of a
 381 license or disciplinary action, as specified in ss. 456.072(2)
 382 and 464.0095:

383 (r) Delegating professional responsibilities to a person
 384 when the nurse delegating such responsibilities knows or has
 385 reason to know that such person is not qualified by training,
 386 experience, certification, or licensure to perform them.

387 Section 12. Section 464.2035, Florida Statutes, is created
 388 to read:

389 464.2035 Administration of medication.—

390 (1) A certified nursing assistant may administer oral,
 391 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
 392 topical prescription medication to a patient of a home health
 393 agency if the certified nursing assistant has been delegated
 394 such task by a registered nurse licensed under part I of this
 395 chapter, has satisfactorily completed an initial 6-hour training
 396 course approved by the board, and has been found competent to
 397 administer medication to a patient in a safe and sanitary
 398 manner. The training, determination of competency, and initial
 399 and annual validations required under this section must be
 400 conducted by a registered nurse licensed under this chapter or a
 401 physician licensed under chapter 458 or chapter 459.

402 (2) A certified nursing assistant shall annually and
 403 satisfactorily complete 2 hours of inservice training in
 404 medication administration and medication error prevention
 405 approved by the board, in consultation with the Agency for
 406 Health Care Administration. The inservice training is in

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20201676c1

407 addition to the other annual inservice training hours required
408 under this part.

409 (3) The board, in consultation with the Agency for Health
410 Care Administration, shall establish by rule standards and
411 procedures that a certified nursing assistant must follow when
412 administering medication to a patient. Such rules must, at a
413 minimum, address qualification requirements for trainers,
414 requirements for labeling medication, documentation and
415 recordkeeping, the storage and disposal of medication,
416 instructions concerning the safe administration of medication,
417 informed-consent requirements and records, and the training
418 curriculum and validation procedures.

419 Section 13. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 21, 2020

I respectfully request that **Senate Bill #1676**, relating to Direct Care Workers, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

1676
Bill Number (if applicable)

Topic Direct Care Workers

679738
Amendment Barcode (if applicable)

Name Corinne Mixon

Job Title Lobbyist

Address 511 N. Adams St.

Phone 766-5795

Street

Tallahassee FL 32301

Email Corinnemixon@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Academy of Physician Assistants

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)

3/3/2020

Meeting Date

SB 1676

Bill Number (if applicable)

Topic DIRECT CARE WORKERS

Amendment Barcode (if applicable)

Name STARLA BROWN

Job Title Deputy State Director

Address

Phone

Street

Deleon Beach

City

State

Zip

Email

Speaking: [X] For [] Against [] Information

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

Representing AMERICANS FOR PROSPERITY

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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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)

3/3/20

Meeting Date

1676

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Aron Schlau, MD, FACP

Job Title Physicians-Internal Medicine

Address 3820 Tampa Road

Phone _____

Street

Palm Harbor FL 34684

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Pinellas County Medical 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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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)

3/3/20

Meeting Date

1676

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nuland

Job Title _____

Address 4427 Herschel St

Phone 904-233-3051

Jacksonville FL 32210
City State Zip

Email nulandlawead.com

Speaking: For Against Information

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

Representing Florida Chapter, American College of Physicians

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)

3-3

Meeting Date

1676

Bill Number (if applicable)

Topic Direct Care workers

Amendment Barcode (if applicable)

Name Elizabeth Saunders

Job Title Medical Student

Address 10232 Estuary Dr

Phone 813-675-7837

Street

Tampa

City

FL

State

33647

Zip

Email lizpinks16@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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3

Meeting Date

1676

Bill Number (if applicable)

Topic Direct care workers

Amendment Barcode (if applicable)

Name Kirk Naught

Job Title Medical student

Address 3909 Reserve Dr.
Street

Phone 205-215-1472

Tallahassee
City

FL
State

32311
Zip

Email naughtk@acorn.edu

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2020

Meeting Date

SB 1676

Bill Number (if applicable)

Topic Direct Care Workers

Amendment Barcode (if applicable)

Name Tanya C. Jackson

Job Title _____

Address 150 S. Monroe St., Suite 303

Phone 850-445-0107

Street

Tallahassee

FL

32301

Email Tanya@PinPointResults.com

City

State

Zip

Speaking: For Against Information

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

Representing SEIU1199 United Healthcare Workers

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/20

Meeting Date

1676

Bill Number (if applicable)

Topic APRM / PA INDEPENDENT PRACTICE

Amendment Barcode (if applicable)

Name DOUGLAS MURPHY MD

Job Title PHYSICIAN

Address 6260 SW 21ST COURT RD

Phone 352-816-1773

Street

Ocala, FL

City

State

34471

Zip

Email DDMURPHY3576@GMAIL.COM

Speaking: For Against Information

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

Representing FMA / FOMA

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)

3/3/2020
Meeting Date

SB 1676
Bill Number (if applicable)

Topic Adding PAs to SB 1676

Amendment Barcode (if applicable)

Name TERRY GRUCHOW

Job Title PA-C

Address 15463 Santa Pola Dr
Street

Phone 727 709 2875

Winnipeg FL 33598
City State Zip

Email tgruchow@pa.com

Speaking: For Against Information

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

Representing Florida Academy of PAs -

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)

3/3/20

Meeting Date

1676

Bill Number (if applicable)

Topic Direct Care Workers/APRN

Amendment Barcode (if applicable)

Name Cody VanLandingham, MD

Job Title Physician

Address 1204 Micosukee Rd.

Phone 850-477-9018

Street

Tallahassee FL 32308

City

State

Zip

Email

Speaking: For Against Information

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

Representing Capital Medical Society

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

1676
Bill Number (if applicable)

Topic Direct Care Workers

Amendment Barcode (if applicable)

Name D. Paul Robinson, M.D.

Job Title _____

Address 4656 Twisheer Dr
Street

Phone 850 566 4551

TLH FL
City State Zip

Email Robinsonp23@gmail.com

Speaking: For Against Information

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

Representing Florida Chapter of the American Academy of Pediatrics

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20
Meeting Date

1676
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Lyon

Job Title _____

Address 315 S. Calhoun St., Ste. 830
Street
Tallahassee FL 32309
City State Zip

Phone 222-5702

Email clyon@llw-law.com

Speaking: For Against Information

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

Representing Florida Association of Nurse Anesthetists

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20

Meeting Date

SB 1676

Bill Number (if applicable)

Topic Direct Care Workers

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 215 South Monroe St, Suite 603

Phone 850-228-6387

Street

Tallahassee

City

FL

State

32301

Zip

Email dbarker@aarp.org

Speaking: For Against Information

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

Representing AARP FL

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/20

Meeting Date

1676

Bill Number (if applicable)

Topic ARNP-I

Amendment Barcode (if applicable)

Name SEYMOUR R. ROSEN MD

Job Title medical doctor

Address 4591 Burke Dr

Phone 850-272-0350

Street

Tallahassee FL 32308

City

State

Zip

Email SEYMOURROSEN@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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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)



Meeting Date

1676

Bill Number (if applicable)

Topic Direct Care Workers

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2020

Meeting Date

1676

Bill Number (if applicable)

Topic Direct Care Workers

Amendment Barcode (if applicable)

Name Solia Weeks, MD

Job Title _____

Address 13741 Barton Park Blvd

Phone 904-400-6189

Street

Jacksonville FL 32258

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing FL Academy of Family Physicians

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)

2-3-2020

Meeting Date

1476

Bill Number (if applicable)

Topic APRN Independent Practice

Amendment Barcode (if applicable)

Name Martha De Castro

Job Title V Pfn Nursing & Clinical Case Practice

Address 306 E College Ave

Phone

Street

Tut

FL 32301

City

State

Zip

Email

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.

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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)

3/3/2020
Meeting Date

1676
Bill Number (if applicable)

Topic Direct Care Workers

Amendment Barcode (if applicable)

Name Chris Floyd

Job Title Consultant

Address 1302 College Ave. #302

Phone 813-624-5117

Tallahassee FL 32301

Email

Speaking: For Against Information

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

Representing Florida Association of Nurse Practitioners

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)

3/3/20

Meeting Date

1676

Bill Number (if applicable)

Topic Direct Cave Workers

Amendment Barcode (if applicable)

Name Melody Arnold

Job Title ASSOC. DIRECTOR OF GOVT AFFAIRS

Address 307 W. PARK AVE

Phone 850 224 3907

Street

TUH

City

FL

State

32301

Zip

Email melody@arca.org

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

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

3/3/2020
Meeting Date

1676
Bill Number (if applicable)

Topic 1676

Amendment Barcode (if applicable)

Name STAN Whittaker

Job Title NP (FLANP) Florida Association of Nurse Practitioners

Address # 9624 NW Turner Ave Rd Phone 850-545-8301

Street

Bristol FL 32071 Email STAN Whittaker

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Nurse practitioners

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/03/2020

Meeting Date

60 1676

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Nick Meyer UNF CRNA School

Job Title Registered Nurse Anesthetist Student

Address 1289 Stimson St.

Phone 904 937 2142486

Street

Jacksonville

FL

State

32208

Zip

Email no144144@unf.edu

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

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

03/03/20
Meeting Date

1676
~~607~~
Bill Number (if applicable)

Topic 1 _____

Amendment Barcode (if applicable)

Name John Ly with UNF CRNA School

Job Title Registered Nurse Anesthetist Student

Address 1 UNF Dr _____ Phone _____

Street

Jacksonville FL 32256 _____ Email _____

City

State

Zip

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

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

3/2/2020
Meeting Date

1676
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name MARCUS DIXON

Job Title EXECUTIVE DIRECTOR

Address 2881 Corporate Way

Phone (35) 20-1627

Street Miramar City
State FL
Zip 33025

Email Marcus.Dixon@sejfla.org

Speaking: For Against Information

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

Representing SEIU Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2020

Meeting Date

1678

Bill Number (if applicable)

Topic scope expansion

Amendment Barcode (if applicable)

Name Helen Paulson

Job Title family physician

Address 1303 Leewood Dr

Phone 850-559-1709

Street

Tallahassee

FL

State

32312

Zip

Email helen.t.paulson@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.

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)

3-3-00
Meeting Date

1476
Bill Number (if applicable)

Topic Scape Expansion

Amendment Barcode (if applicable)

Name Tom Irwin

Job Title Executive Director

Address 8530 Charrington Forest Blvd

Phone 850 877 9018

Tallahassee, FL 32312
City State Zip

Email pirwin@capmed.org

Speaking: For Against Information

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

Representing Capital Medical Society Foundation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1692 (532034)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Flores

SUBJECT: Driver Licenses

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|--------------------------|
| 1. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1692 creates a capital letter “D” designation for a person who has a developmental disability to be placed on his or her driver license. Upon request the capital letter “D” will be exhibited on the driver license of a person who has a developmental disability if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

Until a person’s driver license is next renewed, the person, or their parent or legal guardian, may have the capital letter “D” added to their license upon the surrender of their current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter “D” without payment of a fee.

The bill requires the Department of Highway Safety and Motor Vehicles to include an option on the driver license or identification card application form to make a voluntary contribution of \$1 or more to Childhood Cancer Care to be distributed to the Live Like Bella Childhood Cancer Foundation.

The bill may have an indeterminate negative fiscal impact. SB 1694 is linked to this bill and creates a fee to place the designation on a new, renewal, or replacement driver license.

The bill is effective October 1, 2020.

II. Present Situation:

Developmental Disability

“Developmental disability’ is a broad term that refers to a variety of conditions that interfere with a person’s ability to function in everyday activities.”¹ Under Florida law, a “developmental disability” is defined as disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.² In 2016, the Florida Developmental Disabilities Council estimated that there were approximately 100,000 individuals living in Florida who met the developmental disability criteria.³

“Autism” is defined as a pervasive, neurologically based developmental disability of extended duration that causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.⁴

The Center for Disease Control (CDC) estimates that one in 59 children have been identified with autism spectrum disorder (ASD).⁵ The CDC defines “autism spectrum disorder” as a developmental disability that can cause significant social, communication, and behavioral challenges. “There is often nothing about how people with ASD look that sets them apart from other people, but people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The learning, thinking, and problem-solving abilities of people with ASD can range from gifted to severely challenged. Some people with ASD need a lot of help in their daily lives; others need less.”⁶

A diagnosis of ASD includes several conditions that used to be diagnosed separately: autistic disorder, Asperger’s syndrome, and pervasive developmental disorder not otherwise specified.⁷

¹ Florida Developmental Disabilities Council, *Developmental Disability Services in Florida*, available at <https://www.fddc.org/places-to-find-help> (last visited February 12, 2020).

² Section 393.063(12), F.S.

³ The Florida Senate, *Bill Analysis and Fiscal Impact Statement CS/CS/SB 718*, February 29, 2016.

⁴ Section 393.063(5), F.S.

⁵ Center for Disease Control and Prevention, *Autism and Developmental Disabilities Monitoring (ADDM) Network*, available at <https://www.cdc.gov/ncbddd/autism/addm.html> (last visited February 12, 2020).

⁶ Center for Disease Control and Prevention, *What is Autism Spectrum Disorder?*, available at <https://www.cdc.gov/ncbddd/autism/facts.html> (last visited February 12, 2020).

⁷ *Id.* See also ss. 627.6686(2)(b) and 641.31098(2), F.S.

Live Like Bella Childhood Cancer Foundation

The Live Like Bella Childhood Cancer Foundation was founded in 2013 “to promote and increase community awareness of childhood cancers and diseases and the need for research and development of medical treatments for children through the dissemination of information to the general public; to use funds to support such activities; and to make grants, loans, or other distributions...”⁸ The Live Like Bella Childhood Cancer Foundation is named after Bella Rodriguez-Torres, who passed away at the age of 10 from pediatric cancer. The foundation’s mission is to help children with cancer maintain a love for life. As of September 2017, the Live Like Bella Childhood Cancer Foundation had served families in 44 states and 11 countries, having surpassed \$4 million in donations. To date, donations have been used for on-going research, memorial support, compassionate use, and in-treatment support.⁹

Designations on Driver Licenses and Identification Cards

Currently, the designations an individual may have voluntarily placed on his or her driver license or identification card are:¹⁰

- Lifetime sportsman license;
- Lifetime boater;
- Lifetime freshwater fishing license;
- Lifetime saltwater fishing license;
- Lifetime hunting license;
- Veteran;
- Insulin dependent;
- Organ donor; and
- Deaf/hard of hearing.

Additionally, an individual may have voluntarily placed on his or her identification card a designation that the person has a developmental disability.¹¹ Upon request of a person who has a developmental disability or a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles will issue an identification card that exhibits a capital “D.” The request must be accompanied by payment of an additional \$1 fee and sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.¹² A replacement license may be issued with the capital “D” without payment of the fee required in s. 322.21(1)(f), F.S.

⁸ Florida Department of State, Division of Corporations, Sunbiz, *Live Like Bella, Inc.*, Document No. F13000004224, and link for *Application by Foreign Not For Profit Corporation For Authorization to Conduct Its Affairs in Florida*, at p. 4, September 30, 2013. This information can be found by searching at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (last visited February 19, 2020) by entity name or by detail by document number.

⁹ Live Like Bella Childhood Cancer Foundation, *About Us*, available at <http://livelikebella.org/aboutus.html> (last visited February 18, 2020).

¹⁰ Sections 322.051(8), 322.14, 322.141(2), and 765.521, F.S. See Department of Highway Safety and Motor Vehicles, *General Information – License Classes, Endorsements & Designations*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/general-information/license-classes-endorsements-designations/> (last visited February 12, 2020).

¹¹ Section 322.051(8)(e), F.S.

¹² The \$1 fee is deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.

Replacement Driver Licenses

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector; otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.¹³

Voluntary Contributions

The application form for an original, renewal, or replacement driver's license or identification card provides a voluntary contributions section that allows applicants to make a donation by checking a box on the form.¹⁴

The Florida Statutes specifically authorize which organizations can receive a voluntary contribution. Section 322.081, F.S., establishes the requirements for organizations seeking to establish a voluntary contribution on the application. Requirements include: a request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms; an application fee,¹⁵ not to exceed \$10,000, to defray the Department of Highway Safety and Motor Vehicles' cost for reviewing the application and developing the voluntary contribution checkoff, if authorized;¹⁶ a marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution; and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

This information must be submitted to the department at least 90 days before the next regular session of the Legislature convenes.

Section 322.081, F.S., also establishes a threshold for discontinuation of the voluntary contribution and oversight for organizations approved for a voluntary contribution on the application. The statute requires the Department of Highway Safety and Motor Vehicles to include any voluntary contributions approved by the Legislature on the application. The department must discontinue the voluntary contribution if less than \$25,000 has been contributed by the end of the 5th year or less than \$25,000 is contributed during any subsequent five-year period. Any voluntary contribution, or any interest earned from those contributions, is not to be used for commercial or for-profit activities or for general or administrative expenses; an organization to submit its audit to the department for review to determine if any voluntary contribution, or any interest earned from those contributions, was used for commercial or for-profit activities or for general or administrative expenses. All organizations required to operate under the Solicitation of Contributions Act, as provided in ch. 496, F.S., are to meet the requirements of that act before funds may be distributed.

The DHSMV is authorized to examine all records pertaining to the use of funds from the voluntary contributions by the organizations.

¹³ Section 322.21(1)(e), F.S.

¹⁴ Section 322.08(8), F.S., provides applicants with 19 options for voluntary contributions.

¹⁵ State funds may not be used to pay the application fee. See s. 322.081(1)(b), F.S.

¹⁶ If the voluntary contribution is not approved by the Legislature, the application fee must be refunded to the requesting organization. Section 322.081(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 320.08, F.S., to require the Department of Highway Safety and Motor Vehicles to include an option on the driver license or identification card application form to make a voluntary contribution of \$1 or more to Childhood Cancer Care. Any contributions will be distributed to the Live Like Bella Childhood Cancer Foundation.

Section 2 amends s. 322.14, F.S., to create a capital letter “D” designation for a person who has a developmental disability to be placed on his or her driver license. Upon request by a person who has a developmental disability¹⁷ or by a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles will issue a driver license that exhibits a capital letter “D” will be exhibited on the driver license. The request must be accompanied by sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

Until a person’s driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter “D” added to the license upon the surrender of the person’s current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter “D” without payment of the fee required in s. 322.21(1)(e), F.S.

The bill has an effective date of October 1, 2020.

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.

¹⁷ As defined in s. 393.063, F.S.

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

SB 1694, which is linked to this bill, establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

Section 322.21(1)(e), F.S., requires payment of a \$25 fee when an individual is getting a replacement driver license. The bill waives this fee when the applicant is getting a replacement driver license solely to get the new designation added to the card. This waiver should not affect revenues because the individual would not otherwise be obtaining a replacement license and the \$2 fee created in SB 1694 will offset the cost to print a new driver license.

B. Private Sector Impact:

Individuals may choose to make a voluntary contribution to the Live Like Bella Childhood Cancer Foundation, which will benefit from such contributions.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact, due to the cost to the tax collectors and the Department of Highway Safety and Motor Vehicles for replacing a driver license for those choosing to add the capital letter “D” designation prior to the renewal of their driver license, if SB 1694 or similar legislation establishing a fee is not adopted in the same legislative session or an extension thereof and becomes law.

There could be an indeterminate negative fiscal impact to the Department of Highway Safety and Motor Vehicles for programming to implement the “D” designation.

The Department of Highway Safety and Motor Vehicles also stated that it would train members of the Florida Highway Patrol and other law enforcement entities on the new designation and its meaning. However, the costs of such training would be absorbed within current resources.¹⁸

In 2019, for a similar provision to create a voluntary contribution to the application for motor vehicle registrations, the Department of Highway Safety and Motor Vehicles estimated a minimal fiscal impact for programming costs, which would be absorbed within existing resources.¹⁹

¹⁸ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis HB 787 & HB 789*, January 23, 2020 (on file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

¹⁹ The Florida Senate, *Bill Analysis and Fiscal Impact Statement CS/CS/SB 252*, March 29, 2019.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Highway Safety and Motor Vehicles stated “[t]he bill will likely benefit law enforcement by providing notification to officers of whether a person has a developmental disability. This knowledge could be vital in the de-escalation of scenarios during law enforcement encounters.”²⁰

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.08 and 322.14.

IX. Additional Information:

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

Recommend CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 18, 2020:

The committee substitute creates a voluntary contribution to the Live Like Bella Childhood Cancer Foundation on the application for a driver license or identification card. The committee substitute changes the effective date from July 1, 2020 to October 1, 2020.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute adds a requirement that a person, or the person’s parent or guardian, must first request the “D” designation before it is added to a driver license.

- B. **Amendments:**

None.

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

²⁰ *Id.*



393744

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment

Delete lines 110 - 117
and insert:
458 or chapter 459 as determined by the department.

2. Until a person's driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter "D" added to his or her license upon the surrender of his or her current license and presentation of sufficient proof that the person has been diagnosed with a



393744

11 developmental disability by a physician licensed under chapter
12 458 or chapter 459 as determined by the department. If the
13 applicant is not



532034

576-03901-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to driver licenses; amending s.

322.08, F.S.; requiring application forms for
original, renewal, and replacement driver licenses and
identification cards to include language allowing a
voluntary contribution to the Live Like Bella
Childhood Cancer Foundation; amending s. 322.14, F.S.;
authorizing a person with specified disabilities to
have the capital letter "D" exhibited on his or her
driver license under certain circumstances; providing
requirements for the placement of such letter on a
person's driver license; providing an effective date.

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

Section 1. Subsection (8) of section 322.08, Florida
Statutes, is amended to read:

322.08 Application for license; requirements for license
and identification card forms.—

(8) The application form for an original, renewal, or
replacement driver license or identification card must include
language permitting the following:

(a) A voluntary contribution of \$1 per applicant, which
contribution shall be deposited into the Health Care Trust Fund
for organ and tissue donor education and for maintaining the
organ and tissue donor registry.



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(b) A voluntary contribution of \$1 per applicant, which
shall be distributed to the Florida Council of the Blind.

(c) A voluntary contribution of \$2 per applicant, which
shall be distributed to the Hearing Research Institute,
Incorporated.

(d) A voluntary contribution of \$1 per applicant, which
shall be distributed to the Juvenile Diabetes Foundation
International.

(e) A voluntary contribution of \$1 per applicant, which
shall be distributed to the Children's Hearing Help Fund.

(f) A voluntary contribution of \$1 per applicant, which
shall be distributed to Family First, a nonprofit organization.

(g) A voluntary contribution of \$1 per applicant to Stop
Heart Disease, which shall be distributed to the Florida Heart
Research Institute, a nonprofit organization.

(h) A voluntary contribution of \$1 per applicant to Senior
Vision Services, which shall be distributed to the Florida
Association of Agencies Serving the Blind, Inc., a not-for-
profit organization.

(i) A voluntary contribution of \$1 per applicant for
services for persons with developmental disabilities, which
shall be distributed to The Arc of Florida.

(j) A voluntary contribution of \$1 to the Ronald McDonald
House, which shall be distributed each month to Ronald McDonald
House Charities of Tampa Bay, Inc.

(k) Notwithstanding s. 322.081, a voluntary contribution of
\$1 per applicant, which shall be distributed to the League
Against Cancer/La Liga Contra el Cancer, a not-for-profit
organization.



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56 (l) A voluntary contribution of \$1 per applicant to Prevent
57 Child Sexual Abuse, which shall be distributed to Lauren's Kids,
58 Inc., a nonprofit organization.

59 (m) A voluntary contribution of \$1 per applicant, which
60 shall be distributed to Prevent Blindness Florida, a not-for-
61 profit organization, to prevent blindness and preserve the sight
62 of the residents of this state.

63 (n) Notwithstanding s. 322.081, a voluntary contribution of
64 \$1 per applicant to the state homes for veterans, to be
65 distributed on a quarterly basis by the department to the
66 Operations and Maintenance Trust Fund within the Department of
67 Veterans' Affairs.

68 (o) A voluntary contribution of \$1 per applicant to the
69 Disabled American Veterans, Department of Florida, which shall
70 be distributed quarterly to Disabled American Veterans,
71 Department of Florida, a nonprofit organization.

72 (p) A voluntary contribution of \$1 per applicant for Autism
73 Services and Supports, which shall be distributed to Achievement
74 and Rehabilitation Centers, Inc., Autism Services Fund.

75 (q) A voluntary contribution of \$1 per applicant to Support
76 Our Troops, which shall be distributed to Support Our Troops,
77 Inc., a Florida not-for-profit organization.

78 (r) Notwithstanding s. 322.081, a voluntary contribution of
79 \$1 per applicant to aid the homeless. Contributions made
80 pursuant to this paragraph shall be deposited into the Grants
81 and Donations Trust Fund of the Department of Children and
82 Families and used by the State Office on Homelessness to
83 supplement grants made under s. 420.622(4) and (5), provide
84 information to the public about homelessness in the state, and



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85 provide literature for homeless persons seeking assistance.

86 (s) A voluntary contribution of \$1 or more per applicant to
87 End Breast Cancer, which shall be distributed to the Florida
88 Breast Cancer Foundation.

89 (t) A voluntary contribution of \$1 or more per applicant to
90 Childhood Cancer Care, which shall be distributed to the Live
91 Like Bella Childhood Cancer Foundation.

92
93 A statement providing an explanation of the purpose of the trust
94 funds shall also be included. For the purpose of applying the
95 service charge provided under s. 215.20, contributions received
96 under paragraphs (b)-(t) ~~(b)-(s)~~ are not income of a revenue
97 nature.

98 Section 2. Paragraph (f) is added to subsection (1) of
99 section 322.14, Florida Statutes, to read:

100 322.14 Licenses issued to drivers.-

101 (1)

102 (f)1. Upon request by a person who has a developmental
103 disability, or by a parent or guardian of a child or ward who
104 has a developmental disability, the capital letter "D" shall be
105 exhibited on the driver license of a person who has a
106 developmental disability, as defined in s. 393.063, if the
107 person, or his or her parent or legal guardian, presents
108 sufficient proof that the person has been diagnosed with a
109 developmental disability by a physician licensed under chapter
110 458 as determined by the department.

111 2. Until a person's driver license is next renewed, the
112 person, or his or her parent or legal guardian, may have the
113 capital letter "D" added to his or her license upon the



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114 surrender of his or her current license and presentation of
115 sufficient proof that the person has been diagnosed with a
116 developmental disability by a physician licensed under chapter
117 458 as determined by the department. If the applicant is not
118 conducting any other transaction affecting the driver license, a
119 replacement license may be issued with the capital letter "D"
120 without payment of the fee required in s. 322.21(1)(e).

121 Section 3. This act shall take effect October 1, 2020.

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 Appropriations

BILL: CS/CS/SB 1692

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Flores

SUBJECT: Driver Licenses

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|--------------------------|
| 1. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1692 creates a capital letter “D” designation for a person who has a developmental disability to be placed on his or her driver license. Upon request the capital letter “D” will be exhibited on the driver license of a person who has a developmental disability if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

Until a person’s driver license is next renewed, the person, or their parent or legal guardian, may have the capital letter “D” added to their license upon the surrender of their current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter “D” without payment of a fee.

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The bill may have an indeterminate negative fiscal impact. SB 1694 is linked to this bill and creates a fee to place the designation on a new, renewal, or replacement driver license.

The bill is effective October 1, 2020.

II. Present Situation:

Developmental Disability

“Developmental disability’ is a broad term that refers to a variety of conditions that interfere with a person’s ability to function in everyday activities.”¹ Under Florida law, a “developmental disability” is defined as disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.² In 2016, the Florida Developmental Disabilities Council estimated that there were approximately 100,000 individuals living in Florida who met the developmental disability criteria.³

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A diagnosis of ASD includes several conditions that used to be diagnosed separately: autistic disorder, Asperger’s syndrome, and pervasive developmental disorder not otherwise specified.⁷

¹ Florida Developmental Disabilities Council, *Developmental Disability Services in Florida*, available at <https://www.fddc.org/places-to-find-help> (last visited February 12, 2020).

² Section 393.063(12), F.S.

³ The Florida Senate, *Bill Analysis and Fiscal Impact Statement CS/CS/SB 718*, February 29, 2016.

⁴ Section 393.063(5), F.S.

⁵ Center for Disease Control and Prevention, *Autism and Developmental Disabilities Monitoring (ADDM) Network*, available at <https://www.cdc.gov/ncbddd/autism/addm.html> (last visited February 12, 2020).

⁶ Center for Disease Control and Prevention, *What is Autism Spectrum Disorder?*, available at <https://www.cdc.gov/ncbddd/autism/facts.html> (last visited February 12, 2020).

⁷ *Id.* See also ss. 627.6686(2)(b) and 641.31098(2), F.S.

Live Like Bella Childhood Cancer Foundation

The Live Like Bella Childhood Cancer Foundation was founded in 2013 “to promote and increase community awareness of childhood cancers and diseases and the need for research and development of medical treatments for children through the dissemination of information to the general public; to use funds to support such activities; and to make grants, loans, or other distributions...”⁸ The Live Like Bella Childhood Cancer Foundation is named after Bella Rodriguez-Torres, who passed away at the age of 10 from pediatric cancer. The foundation’s mission is to help children with cancer maintain a love for life. As of September 2017, the Live Like Bella Childhood Cancer Foundation had served families in 44 states and 11 countries, having surpassed \$4 million in donations. To date, donations have been used for on-going research, memorial support, compassionate use, and in-treatment support.⁹

Designations on Driver Licenses and Identification Cards

Currently, the designations an individual may have voluntarily placed on his or her driver license or identification card are:¹⁰

- Lifetime sportsman license;
- Lifetime boater;
- Lifetime freshwater fishing license;
- Lifetime saltwater fishing license;
- Lifetime hunting license;
- Veteran;
- Insulin dependent;
- Organ donor; and
- Deaf/hard of hearing.

Additionally, an individual may have voluntarily placed on his or her identification card a designation that the person has a developmental disability.¹¹ Upon request of a person who has a developmental disability or a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles will issue an identification card that exhibits a capital “D.” The request must be accompanied by payment of an additional \$1 fee and sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.¹² A replacement license may be issued with the capital “D” without payment of the fee required in s. 322.21(1)(f), F.S.

⁸ Florida Department of State, Division of Corporations, Sunbiz, *Live Like Bella, Inc.*, Document No. F13000004224, and link for *Application by Foreign Not For Profit Corporation For Authorization to Conduct Its Affairs in Florida*, at p. 4, September 30, 2013. This information can be found by searching at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (last visited February 19, 2020) by entity name or by detail by document number.

⁹ Live Like Bella Childhood Cancer Foundation, *About Us*, available at <http://livelikebella.org/aboutus.html> (last visited February 18, 2020).

¹⁰ Sections 322.051(8), 322.14, 322.141(2), and 765.521, F.S. See Department of Highway Safety and Motor Vehicles, *General Information – License Classes, Endorsements & Designations*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/general-information/license-classes-endorsements-designations/> (last visited February 12, 2020).

¹¹ Section 322.051(8)(e), F.S.

¹² The \$1 fee is deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.

Replacement Driver Licenses

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector; otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.¹³

Voluntary Contributions

The application form for an original, renewal, or replacement driver's license or identification card provides a voluntary contributions section that allows applicants to make a donation by checking a box on the form.¹⁴

The Florida Statutes specifically authorize which organizations can receive a voluntary contribution. Section 322.081, F.S., establishes the requirements for organizations seeking to establish a voluntary contribution on the application. Requirements include: a request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms; an application fee,¹⁵ not to exceed \$10,000, to defray the Department of Highway Safety and Motor Vehicles' cost for reviewing the application and developing the voluntary contribution checkoff, if authorized;¹⁶ a marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution; and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

This information must be submitted to the department at least 90 days before the next regular session of the Legislature convenes.

Section 322.081, F.S., also establishes a threshold for discontinuation of the voluntary contribution and oversight for organizations approved for a voluntary contribution on the application. The statute requires the Department of Highway Safety and Motor Vehicles to include any voluntary contributions approved by the Legislature on the application. The department must discontinue the voluntary contribution if less than \$25,000 has been contributed by the end of the 5th year or less than \$25,000 is contributed during any subsequent five-year period. Any voluntary contribution, or any interest earned from those contributions, is not to be used for commercial or for-profit activities or for general or administrative expenses; an organization to submit its audit to the department for review to determine if any voluntary contribution, or any interest earned from those contributions, was used for commercial or for-profit activities or for general or administrative expenses. All organizations required to operate under the Solicitation of Contributions Act, as provided in ch. 496, F.S., are to meet the requirements of that act before funds may be distributed.

The DHSMV is authorized to examine all records pertaining to the use of funds from the voluntary contributions by the organizations.

¹³ Section 322.21(1)(e), F.S.

¹⁴ Section 322.08(8), F.S., provides applicants with 19 options for voluntary contributions.

¹⁵ State funds may not be used to pay the application fee. See s. 322.081(1)(b), F.S.

¹⁶ If the voluntary contribution is not approved by the Legislature, the application fee must be refunded to the requesting organization. Section 322.081(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 320.08, F.S., to require the Department of Highway Safety and Motor Vehicles to include an option on the driver license or identification card application form to make a voluntary contribution of \$1 or more to Childhood Cancer Care. Any contributions will be distributed to the Live Like Bella Childhood Cancer Foundation.

Section 2 amends s. 322.14, F.S., to create a capital letter “D” designation for a person who has a developmental disability to be placed on his or her driver license. Upon request by a person who has a developmental disability¹⁷ or by a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles will issue a driver license that exhibits a capital letter “D” will be exhibited on the driver license. The request must be accompanied by sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under either ch. 458, F.S., or ch. 459, F.S.

Until a person’s driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter “D” added to the license upon the surrender of the person’s current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter “D” without payment of the fee required in s. 322.21(1)(e), F.S.

The bill has an effective date of October 1, 2020.

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.

¹⁷ As defined in s. 393.063, F.S.

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

SB 1694, which is linked to this bill, establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

Section 322.21(1)(e), F.S., requires payment of a \$25 fee when an individual is getting a replacement driver license. The bill waives this fee when the applicant is getting a replacement driver license solely to get the new designation added to the card. This waiver should not affect revenues because the individual would not otherwise be obtaining a replacement license and the \$2 fee created in SB 1694 will offset the cost to print a new driver license.

B. Private Sector Impact:

Individuals may choose to make a voluntary contribution to the Live Like Bella Childhood Cancer Foundation, which will benefit from such contributions.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact, due to the cost to the tax collectors and the Department of Highway Safety and Motor Vehicles for replacing a driver license for those choosing to add the capital letter “D” designation prior to the renewal of their driver license, if SB 1694 or similar legislation establishing a fee is not adopted in the same legislative session or an extension thereof and becomes law.

There could be an indeterminate negative fiscal impact to the Department of Highway Safety and Motor Vehicles for programming to implement the “D” designation.

The Department of Highway Safety and Motor Vehicles also stated that it would train members of the Florida Highway Patrol and other law enforcement entities on the new designation and its meaning. However, the costs of such training would be absorbed within current resources.¹⁸

In 2019, for a similar provision to create a voluntary contribution to the application for motor vehicle registrations, the Department of Highway Safety and Motor Vehicles estimated a minimal fiscal impact for programming costs, which would be absorbed within existing resources.¹⁹

¹⁸ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis HB 787 & HB 789*, January 23, 2020 (on file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

¹⁹ The Florida Senate, *Bill Analysis and Fiscal Impact Statement CS/CS/SB 252*, March 29, 2019.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Highway Safety and Motor Vehicles stated “[t]he bill will likely benefit law enforcement by providing notification to officers of whether a person has a developmental disability. This knowledge could be vital in the de-escalation of scenarios during law enforcement encounters.”²⁰

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.08 and 322.14.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute creates a voluntary contribution to the Live Like Bella Childhood Cancer Foundation on the application for a driver license or identification card. The committee substitute clarifies that a diagnosis of a developmental disability by a physician licensed under ch. 458, F.S., *or* ch. 459, F.S., is sufficient proof. The committee substitute changes the effective date from July 1, 2020 to October 1, 2020.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute adds a requirement that a person, or the person’s parent or guardian, must first request the “D” designation before it is added to a driver license.

- B. **Amendments:**

None.

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

²⁰ *Id.*

By the Committee on Infrastructure and Security; and Senator Flores

596-03408-20

20201692c1

1 A bill to be entitled
 2 An act relating to driver licenses; amending s.
 3 322.14, F.S.; authorizing a person with specified
 4 disabilities to have the capital letter "D" exhibited
 5 on his or her driver license under certain
 6 circumstances; providing requirements for the
 7 placement of such letter on a person's driver license;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (f) is added to subsection (1) of
 13 section 322.14, Florida Statutes, to read:
 14 322.14 Licenses issued to drivers.—
 15 (1)
 16 (f)1. Upon request by a person who has a developmental
 17 disability, or by a parent or guardian of a child or ward who
 18 has a developmental disability, the capital letter "D" shall be
 19 exhibited on the driver license of a person who has a
 20 developmental disability, as defined in s. 393.063, if the
 21 person, or his or her parent or legal guardian, presents
 22 sufficient proof that the person has been diagnosed with a
 23 developmental disability by a physician licensed under chapter
 24 458 as determined by the department.
 25 2. Until a person's driver license is next renewed, the
 26 person, or his or her parent or legal guardian, may have the
 27 capital letter "D" added to his or her license upon the
 28 surrender of his or her current license and presentation of
 29 sufficient proof that the person has been diagnosed with a

Page 1 of 2

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

596-03408-20

20201692c1

30 developmental disability by a physician licensed under chapter
 31 458 as determined by the department. If the applicant is not
 32 conducting any other transaction affecting the driver license, a
 33 replacement license may be issued with the capital letter "D"
 34 without payment of the fee required in s. 322.21(1)(e).
 35 Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Robert Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19th, 2020

I respectfully request that **Senate Bill #1692**, relating to Driver Licenses, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 39

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 Appropriations

BILL: PCS/CS/SB 1694 (909602)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Flores

SUBJECT: Driver License Fees

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|--------------------------|
| 1. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1694 establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in section 393.063, Florida Statutes.

SB 1692 is a linked bill that creates a capital letter “D” designation for a person who has a developmental disability to be placed on his or her driver license, upon request for a new, renewal, or replacement driver license.

The bill may have an insignificant, positive fiscal impact. The Revenue Estimating Conference has not yet met to estimate the impact of the bill.

The bill will take effect on the same date that SB 1692 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Developmental Disability

“Developmental disability’ is a broad term that refers to a variety of conditions that interfere with a person’s ability to function in everyday activities.”¹ Under Florida law, a “developmental disability” is defined as disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.² In 2016, the Florida Developmental Disabilities Council estimated that there were approximately 100,000 individuals living in Florida who met the developmental disability criteria.³

“Autism” is defined as a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.⁴

The Center for Disease Control (CDC) estimates that one in 59 children have been identified with autism spectrum disorder (ASD).⁵ The CDC defines “autism spectrum disorder” as a developmental disability that can cause significant social, communication, and behavioral challenges. “There is often nothing about how people with ASD look that sets them apart from other people, but people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The learning, thinking, and problem-solving abilities of people with ASD can range from gifted to severely challenged. Some people with ASD need a lot of help in their daily lives; others need less.”⁶

A diagnosis of ASD includes several conditions that used to be diagnosed separately: autistic disorder, Asperger’s syndrome, and pervasive developmental disorder not otherwise specified.⁷

Designations on Driver Licenses and Identification Cards

Currently, the designations an individual may have voluntarily placed on his or her driver license or identification card are:⁸

¹ Florida Developmental Disabilities Council, *Developmental Disability Services in Florida*, available at <https://www.fddc.org/places-to-find-help> (last visited February 12, 2020).

² Section 393.063(12), F.S.

³ Senate Bill Analysis and Fiscal Impact Statement, *CS/CS/SB 718*, February 29, 2016.

⁴ Section 393.063(5), F.S.

⁵ Center for Disease Control and Prevention, Autism and Developmental Disabilities Monitoring (ADDM) Network, available at <https://www.cdc.gov/ncbddd/autism/addm.html> (last visited February 12, 2020).

⁶ Center for Disease Control and Prevention, What is Autism Spectrum Disorder?, <https://www.cdc.gov/ncbddd/autism/facts.html> available at (last visited February 12, 2020).

⁷ *Id.* See also ss. 627.6686(2)(b) and 641.31098(2), F.S.

⁸ Sections 322.051(8), 322.14, 322.141(2), and 765.521, F.S. See Department of Highway Safety and Motor Vehicles, *General Information – License Classes, Endorsements & Designations*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/general-information/license-classes-endorsements-designations/> (last visited February 12, 2020.).

- Lifetime sportsman license;
- Lifetime boater;
- Lifetime freshwater fishing license;
- Lifetime saltwater fishing license;
- Lifetime hunting license;
- Veteran;
- Insulin dependent;
- Organ donor; and
- Deaf/hard of hearing.

Additionally, an individual may have voluntarily placed on his or her identification card a designation that the person has a developmental disability.⁹ Upon request of a person who has a developmental disability or a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles will issue an identification card that exhibits a capital “D.” The request must be accompanied by payment of an additional \$1 fee and sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.¹⁰ A replacement license may be issued with the capital “D” without payment of the fee required in s. 322.21(1)(f), F.S.

Replacement Driver Licenses

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector, otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.¹¹

III. Effect of Proposed Changes:

The bill establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

The bill directs the \$2 fee to be deposited in the Highway Safety Operating Trust Fund.

The bill will take effect on the same date that SB 1692 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁹ Section 322.051(8)(e), F.S.

¹⁰ The \$1 fee is deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.

¹¹ Section 322.21(1)(e), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s.19 of the Florida Constitution requires “a supermajority vote” of two-thirds of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.¹² A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹³ A state tax or fee imposed or authorized must be contained in a separate bill that contains no other subject.¹⁴

The \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license and the fee of \$2 to have the designation added to a replacement driver license of a person who has a developmental disability may be new state fees subject to the constitutional requirements.

E. Other Constitutional Issues:

None.

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

The bill establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

B. Private Sector Impact:

Individuals who choose the addition of the capital letter “D” to be exhibited on their driver license will pay an additional fee of \$1 for a new or renewed driver license and \$2 for a replacement driver license in addition to existing fees.

¹² FLA. CONST. art. VII, s. 19(a).

¹³ FLA. CONST. art. VII, s. 19(d)(1).

¹⁴ FLA. CONST. art. VII, s. 19(e).

C. Government Sector Impact:

The bill may have an insignificant, positive fiscal impact to the Highway Safety Operating Trust Fund. The Revenue Estimating Conference has not yet met to estimate the impact of the bill.

For a new or renewed driver license the \$1 additional fee would be deposited in the Highway Safety Operating Trust Fund. For a replacement driver license the \$2 additional fee would be deposited in the Highway Safety Operating Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 322.14 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.)

Recommend CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 18, 2020:

The committee substitute adds language to the bill to correspond to the amendment in SB 1692 to s. 322.14, F.S., which provides that the designation will be added upon the request of the person who has a developmental disability or such a person's parent or guardian.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute links the bill to SB 1692 to provide the fee component for the addition of the "D" designation on a driver license, as well as for linking the effective date to the same date provided in SB 1692 or similar legislation that takes effect, if adopted in the same legislative session or an extension thereof and becomes a law.

- B. **Amendments:**

None.



131602

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/04/2020 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment

Delete lines 24 - 32
and insert:
458 or chapter 459 as determined by the department.

2. Until a person's driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter "D" added to his or her license upon the surrender of his or her current license, payment of a \$2 fee to be deposited into the Highway Safety Operating Trust Fund, and



131602

11 presentation of sufficient proof that the person has been
12 diagnosed with a developmental disability by a physician
13 licensed under chapter 458 or chapter 459 as determined by the
14 department. If



909602

576-03902-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to driver license fees; amending s.
322.14, F.S.; providing fees for the placement of a
specified letter on the driver license of a person who
has a developmental disability; providing a contingent
effective date.

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

Section 1. Paragraph (f) of subsection (1) of section
322.14, Florida Statutes, as created by SB 1692, is amended to
read:

322.14 Licenses issued to drivers.—

(1)

(f)1. Upon request by a person who has a developmental
disability, or by a parent or guardian of a child or ward who
has a developmental disability, the capital letter "D" shall be
exhibited on the driver license of a person who has a
developmental disability, as defined in s. 393.063, upon the
payment of an additional \$1 fee for the license and if the
person, or his or her parent or legal guardian, presents
sufficient proof that the person has been diagnosed with a
developmental disability by a physician licensed under chapter
458 as determined by the department.

2. Until a person's driver license is next renewed, the
person, or his or her parent or legal guardian, may have the



909602

576-03902-20

capital letter "D" added to his or her license upon the
surrender of his or her current license, payment of a \$2 fee to
be deposited into the Highway Safety Operating Trust Fund, and
presentation of sufficient proof that the person has been
diagnosed with a developmental disability by a physician
licensed under chapter 458 as determined by the department. If
the applicant is not conducting any other transaction affecting
the driver license, a replacement license may be issued with the
capital letter "D" without payment of the fee required in s.
322.21(1)(e).

Section 2. This act shall take effect on the same date that
SB 1692 or similar legislation takes effect, if such legislation
is adopted in the same legislative session or an extension
thereof and becomes a law.

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 Appropriations

BILL: CS/CS/SB 1694

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Flores

SUBJECT: Driver License Fees

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|--------------------------|
| 1. | <u>Proctor</u> | <u>Miller</u> | <u>IS</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Hrdlicka</u> | <u>ATD</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Wells</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1694 establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in section 393.063, Florida Statutes.

SB 1692 is a linked bill that creates a capital letter “D” designation for a person who has a developmental disability to be placed on his or her driver license, upon request for a new, renewal, or replacement driver license.

The bill may have an insignificant, positive fiscal impact. The Revenue Estimating Conference has not yet met to estimate the impact of the bill.

The bill will take effect on the same date that SB 1692 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Developmental Disability

“Developmental disability’ is a broad term that refers to a variety of conditions that interfere with a person’s ability to function in everyday activities.”¹ Under Florida law, a “developmental disability” is defined as disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.² In 2016, the Florida Developmental Disabilities Council estimated that there were approximately 100,000 individuals living in Florida who met the developmental disability criteria.³

“Autism” is defined as a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.⁴

The Center for Disease Control (CDC) estimates that one in 59 children have been identified with autism spectrum disorder (ASD).⁵ The CDC defines “autism spectrum disorder” as a developmental disability that can cause significant social, communication, and behavioral challenges. “There is often nothing about how people with ASD look that sets them apart from other people, but people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The learning, thinking, and problem-solving abilities of people with ASD can range from gifted to severely challenged. Some people with ASD need a lot of help in their daily lives; others need less.”⁶

A diagnosis of ASD includes several conditions that used to be diagnosed separately: autistic disorder, Asperger’s syndrome, and pervasive developmental disorder not otherwise specified.⁷

¹ Florida Developmental Disabilities Council, *Developmental Disability Services in Florida*, available at <https://www.fddc.org/places-to-find-help> (last visited February 12, 2020).

² Section 393.063(12), F.S.

³ Senate Bill Analysis and Fiscal Impact Statement, *CS/CS/SB 718*, February 29, 2016.

⁴ Section 393.063(5), F.S.

⁵ Center for Disease Control and Prevention, Autism and Developmental Disabilities Monitoring (ADDM) Network, available at <https://www.cdc.gov/ncbddd/autism/addm.html> (last visited February 12, 2020).

⁶ Center for Disease Control and Prevention, What is Autism Spectrum Disorder?, <https://www.cdc.gov/ncbddd/autism/facts.html> available at (last visited February 12, 2020).

⁷ *Id.* See also ss. 627.6686(2)(b) and 641.31098(2), F.S.

Designations on Driver Licenses and Identification Cards

Currently, the designations an individual may have voluntarily placed on his or her driver license or identification card are:⁸

- Lifetime sportsman license;
- Lifetime boater;
- Lifetime freshwater fishing license;
- Lifetime saltwater fishing license;
- Lifetime hunting license;
- Veteran;
- Insulin dependent;
- Organ donor; and
- Deaf/hard of hearing.

Additionally, an individual may have voluntarily placed on his or her identification card a designation that the person has a developmental disability.⁹ Upon request of a person who has a developmental disability or a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles will issue an identification card that exhibits a capital “D.” The request must be accompanied by payment of an additional \$1 fee and sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.¹⁰ A replacement license may be issued with the capital “D” without payment of the fee required in s. 322.21(1)(f), F.S.

Replacement Driver Licenses

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector, otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.¹¹

III. Effect of Proposed Changes:

The bill establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

The bill directs the \$2 fee to be deposited in the Highway Safety Operating Trust Fund.

The bill will take effect on the same date that SB 1692 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

⁸ Sections 322.051(8), 322.14, 322.141(2), and 765.521, F.S. See Department of Highway Safety and Motor Vehicles, *General Information – License Classes, Endorsements & Designations*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/general-information/license-classes-endorsements-designations/> (last visited February 12, 2020).

⁹ Section 322.051(8)(e), F.S.

¹⁰ The \$1 fee is deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.

¹¹ Section 322.21(1)(e), F.S.

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:

Article VII, s.19 of the Florida Constitution requires “a supermajority vote” of two-thirds of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.¹² A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹³ A state tax or fee imposed or authorized must be contained in a separate bill that contains no other subject.¹⁴

The \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license and the fee of \$2 to have the designation added to a replacement driver license of a person who has a developmental disability may be new state fees subject to the constitutional requirements.

E. Other Constitutional Issues:

None.

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

The bill establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

¹² FLA. CONST. art. VII, s. 19(a).

¹³ FLA. CONST. art. VII, s. 19(d)(1).

¹⁴ FLA. CONST. art. VII, s. 19(e).

B. Private Sector Impact:

Individuals who choose the addition of the capital letter “D” to be exhibited on their driver license will pay an additional fee of \$1 for a new or renewed driver license and \$2 for a replacement driver license in addition to existing fees.

C. Government Sector Impact:

The bill may have an insignificant, positive fiscal impact to the Highway Safety Operating Trust Fund. The Revenue Estimating Conference has not yet met to estimate the impact of the bill.

For a new or renewed driver license the \$1 additional fee would be deposited in the Highway Safety Operating Trust Fund. For a replacement driver license the \$2 additional fee would be deposited in the Highway Safety Operating Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 322.14 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/CS by Appropriations on March 3, 2020:

The committee substitute adds language to the bill to correspond to the amendments made to SB 1692. The additional language provides that the designation will be added upon the request of the person who has a developmental disability or such a person’s parent or guardian and that the a diagnosis of a developmental disability by a physician licensed under ch. 458, F.S., *or* ch. 459, F.S., is sufficient proof.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute links the bill to SB 1692 to provide the fee component for the addition of the “D” designation on a driver license, as well as for linking the effective date to the same date provided in SB 1692 or similar legislation that takes effect, if adopted in the same legislative session or an extension thereof and becomes a law.

B. Amendments:

None.

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

By the Committee on Infrastructure and Security; and Senator Flores

596-03409-20

20201694c1

1 A bill to be entitled
 2 An act relating to driver license fees; amending s.
 3 322.14, F.S.; providing fees for the placement of a
 4 specified letter on the driver license of a person who
 5 has a developmental disability; providing a contingent
 6 effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Paragraph (f) of subsection (1) of section
 11 322.14, Florida Statutes, as created by SB 1692, is amended to
 12 read:
 13 322.14 Licenses issued to drivers.-
 14 (1)
 15 (f)1. The capital letter "D" shall be exhibited on the
 16 driver license of a person who has a developmental disability,
 17 as defined in s. 393.063, upon the payment of an additional \$1
 18 fee for the license and if the person, or his or her parent or
 19 legal guardian, presents sufficient proof that the person has
 20 been diagnosed with a developmental disability by a physician
 21 licensed under chapter 458 as determined by the department.
 22 2. Until a person's driver license is next renewed, the
 23 person, or his or her parent or legal guardian, may have the
 24 capital letter "D" added to his or her license upon the
 25 surrender of his or her current license, payment of a \$2 fee to
 26 be deposited into the Highway Safety Operating Trust Fund, and
 27 presentation of sufficient proof that the person has been
 28 diagnosed with a developmental disability by a physician
 29 licensed under chapter 458 as determined by the department. If

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

596-03409-20

20201694c1

30 the applicant is not conducting any other transaction affecting
 31 the driver license, a replacement license may be issued with the
 32 capital letter "D" without payment of the fee required in s.
 33 322.21(1)(e).
 34 Section 2. This act shall take effect on the same date that
 35 SB 1692 or similar legislation takes effect, if such legislation
 36 is adopted in the same legislative session or an extension
 37 thereof and becomes a law.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Robert Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19th, 2020

I respectfully request that **Senate Bill #1694**, relating to Drivers License Fees, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 39

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 Appropriations

BILL: PCS/CS/SB 1726 (233364)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Bean

SUBJECT: Agency for Health Care Administration

DATE: March 2, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Kibbey</u> | <u>Brown</u> | <u>HP</u> | <u>Fav/CS</u> |
| 2. | <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1726 addresses statutory duties and responsibilities of the Agency for Health Care Administration (AHCA) relating to the regulation of health care facilities and providers. The bill:

- Modifies annual birth center reporting to the AHCA.
- Removes outdated language relating to certificate of need, to allow hospital licenses to correctly reflect the actual bed categories provided by a licensee.
- Reinstates the AHCA's authority to require hospital adult cardiac programs to participate in national reporting and quality registries.
- Extends the current rural hospital designation to 2025 (set to expire June 30, 2021).
- Repeals an unenforceable annual assessment ruled unconstitutional.
- Removes provisions requiring fixed inspection time frames for nursing home facilities, hospices, assisted living facilities, and adult family care homes.
- Revises definitions and licensure requirements related to home health agencies.
- Creates an exemption to health care clinic licensure for federally certified providers.
- Removes the ability of a health care clinic to submit a surety bond instead of submitting certain documents as proof of financial ability to operate to satisfy initial licensure requirements.
- Creates risked-based licensure inspections for nurse registries, home medical equipment providers, and health care clinics to provide the AHCA the flexibility to inspect high-performing providers less frequently than poor performers.

- Authorizes the AHCA to adopt rules to waive a routine inspection, to waive an inspection for relicensure, or to allow an extended period between inspections for any provider type based upon specified factors.
- Authorizes the AHCA to issue a provisional license to all provider types.
- Revises requirements for the approval of comprehensive emergency management plans for newly-licensed facilities.
- Authorizes the AHCA to collect all legal fees incurred while defending a Medicaid case if the AHCA prevails.
- Clarifies the AHCA's authority to conduct retrospective reviews of Medicaid hospital inpatient claims and recover overpayments.
- Revises background screening regulations for health care provider staff.
- Removes class III psychiatric facilities from the diagnosis-related group (DRG) payment methodology.
- Removes the nursing home unit cost rate freeze.
- Aligns the state Medicaid anti-kickback law with the federal anti-kickback law.
- Requires the AHCA to extend the term of contracts awarded to Statewide Medicaid Managed Care plans (the Managed Medical Assistance Program, Long-term Care Program, and Dental Program) from five- to six-years, effectively extending current contracts through December 31, 2024.
- Requires the Florida Center for Health Information and Transparency to publish an annual report identifying health care services with the most significant price variation at statewide and regional levels.
- Expands the list of shoppable health care services that qualify for a shared savings incentive for patients to include services with the most significant price variation. Allows cash and cash equivalent incentives in shared savings incentives.
- Repeals multiphasic health testing center licensure.
- Replaces several legislatively mandated reports with online publications and repeals obsolete reports.

The bill has an indeterminate yet likely insignificant fiscal impact to the AHCA. See Section V.

The bill takes effect on July 1, 2020, except as otherwise expressly provided in the bill and except for the effective date section, which takes effect upon this bill becoming a law.

II. Present Situation:

The Agency for Health Care Administration (AHCA) is created in s. 20.42, F.S. It is the chief health policy and planning entity for the state and is responsible for, among other things, health facility licensure, inspection, and regulatory enforcement. It licenses or certifies and regulates 40 different types of health care providers, including hospitals, nursing homes, assisted living facilities, and home health agencies. In total, the AHCA licenses, certifies, regulates or provides exemptions for more than 48,000 providers.¹

¹ See the Agency for Health Care Administration, Division of Health Quality Assurance <http://ahca.myflorida.com/MCHQ/index.shtml> (last visited Jan. 23, 2020).

Generally applicable provisions of health care provider licensure are addressed in the Health Care Licensing Procedures Act in part II of ch. 408, F.S. Additional chapters or sections in the Florida Statutes provide specific licensure or regulatory requirements pertaining to health care providers in this state.²

Due to the many diverse issues within the bill, pertinent background information is provided within the effect of proposed changes for the reader's convenience.

III. Effect of Proposed Changes:

Birth Center Reporting

Section 1 amends s. 383.327, F.S. Birth centers are required under current law to immediately report each maternal death, newborn death, and stillbirth to the medical examiner. Changes to subsection (2) of this section require birth centers to immediately report this information to the AHCA as well. Changes to subsection (4) of this section remove the requirement that birth centers submit a report to the AHCA annually and instead require reports to be submitted at a frequency adopted by the AHCA in rule. These changes could enable the AHCA to have the most current information to review during the inspection of a birth center.

Hospital Licensure and Registries

Chapter No. 2019-136, L.O.F. (enacted by the Legislature in 2019 as CS/HB 21) removes certificate of need (CON) review requirements for hospitals over time, with the final change occurring on July 1, 2021. The Legislature also repealed s. 408.0361(5)(b), F.S., that required hospitals with adult cardiovascular programs to participate in clinical outcome reporting systems.^{3,4}

Section 2 amends s. 395.003(4), F.S., to remove the requirement that all beds not covered by any specialty-bed-need methodology be specified as general beds on the face of the hospital's license. If this subsection is not updated to reflect recent changes to CON requirements, specialty hospital beds such as neonatal intensive care beds will incorrectly be reported as general acute care beds on the face of the hospital's license.

Section 3 amends s. 395.1055, F.S., to reinstate the AHCA's authority to require hospital adult cardiac programs to participate in national reporting and quality registries. Adult diagnostic cardiac catheterization programs and Level I or Level II cardiovascular programs must participate in either the American college of Cardiology or American Heart Association registry to document quality improvement plans. Hospitals licensed for Level II adult cardiovascular services must participate in the Society for Thoracic Surgeons clinical outcome reporting systems.⁵

² See s. 408.802, F.S., for the health care provider types and applicable licensure statutes.

³ Chapter No. 2019-136, Laws of Fla.

⁴ Florida House of Representatives, *CS/HB 21 Final Bill Analysis* (June 26, 2019), available at <https://www.flsenate.gov/Session/Bill/2019/21/Analyses/h0021z1.HMR.PDF> (last visited Feb. 25, 2020).

⁵ Agency for Health Care Administration, *Analysis for Amendments to SB 1726* (February 25, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

Rural Hospitals

There are currently 28 hospitals in Florida that are recognized as meeting the definition of “rural hospital” as defined in 395.602(2)(b), F.S.⁶ The hospital must have 100 or fewer beds and an emergency room and meet one of the six additional criteria in order to be considered a rural hospital. Several of the criteria are based on the population density of up to 100 persons per square mile as well as distance from another acute care hospital. Hospitals licensed as a rural hospital during the 2010-2011 or 2011-2012 fiscal year are designated as a rural hospital through June 30, 2021.⁷

Section 4 amends s.395.602, F.S., to extend the current rural hospital designation through June 30, 2025.

Repeal of an Unenforceable Assessment

Section 5 repeals s. 395.7015, F.S., which imposes an annual assessment on ambulatory surgical centers and certain diagnostic-imaging centers that are freestanding outpatient facilities. These assessments were ruled to be unconstitutional in 2002, and are no longer collected.⁸

Section 6 amends s. 395.7016, F.S., to conform a cross-reference to this section.

Licensure Inspections for Nursing Home Facilities, Hospices, Assisted Living Facilities, and Adult Day Care Centers

Uniform licensing requirements in s. 408.811, F.S., require the biennial inspection of health care facilities unless otherwise specified in statute or in rule. Sections of the bill listed below remove the frequency required in statute for nursing home facilities, hospices, assisted living facilities, and adult day care centers.

Federal law currently requires the AHCA to inspect a nursing home facility, at a minimum, every 15 months.⁹ Section 400.19, F.S., also requires the AHCA to inspect a nursing home facility every 15 months. The AHCA is required to inspect a nursing home facility every six months for two years if the facility has been cited for a class I deficiency, has been cited for two or more

⁶ Section 395.602(2)(b), F.S., defines “rural hospital” as an acute care hospital licensed under ch. 395, F.S., having 100 or fewer licensed beds and an emergency room, which is: the sole provider within a county with a population density of up to 100 persons per square mile; an acute care hospital, in a county with a population density of up to 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county; a hospital supported by a tax district or subdistrict whose boundaries encompass a population of up to 100 persons per square mile; a hospital classified as a sole community hospital under 42 C.F.R. s. 412.92, regardless of the number of licensed beds; a hospital with a service area that has a population of up to 100 persons per square mile. As used in this subparagraph, the term “service area” means the fewest number of zip codes that account for 75 percent of the hospital’s discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Transparency at the agency; or a hospital designated as a critical access hospital, as defined in s. 408.07, F.S.

⁷ *Supra* note 5.

⁸ *Agency for Health Care Admin. v. Hameroff*, 816 So. 2d 1145, 1149-1150 (Fla. 1st DCA 2002).

⁹ 42 C.F.R. s. 488.308(a).

class II deficiencies arising from separate surveys or investigations within a 60-day period, or has had three or more substantiated complaints within a six-month period, each resulting in at least one class I or class II deficiency. Those nursing home facilities are required to pay a \$6,000 fine for the two additional inspections.

Section 7 amends s. 400.19, F.S., to remove the 15-month inspection requirement from state law and instead requires the AHCA to conduct periodic unannounced licensure inspections. This provision would require the AHCA to conduct licensure surveys every six months for a facility that has been cited for a class I or two or more class II deficiencies within a 60-day period until the facility has two consecutive licensure surveys without a class I or class II deficiency citation. The AHCA maintains current statutory authority to assess a fine of \$6,000 for the additional six month licensure survey.

Section 14 amends s. 400.605(3), F.S., to remove the requirement that the AHCA must inspect hospices annually or biennially for hospices having a three-year record of substantial compliance and instead requires the AHCA to conduct inspections and investigations of hospices as necessary to determine compliance.

Sections 48 and 49 amend ss. 429.35(2) and 429.905(2), F.S., to remove the requirement (and related provisions) that the AHCA inspect assisted living facilities biennially.

Section 50 amends s. 429.929, F.S., to remove a provision authorizing the AHCA to conduct an abbreviated biennial inspection of an adult day care center that has a record of good performance. It also removes a provision requiring the AHCA to conduct a full inspection of an adult day care center that has had one or more confirmed complaints.

Home Health Agencies

Section 400.462(12), F.S., defines the term “home health agency” as an organization that provides home health services and staffing services. An organization that provides only home health services does not meet the definition of a home health agency.

Subsection (30) of that section defines the term “staffing services” as services provided to a health care facility, school, or other business entity on a temporary or school-year basis pursuant to a written contract by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the auspices of, a licensed home health agency or who are registered with a licensed nurse registry.

Subsection (14) of that section defines “home health services” as the following services that are provided by an organization:

- Nursing care.
- Physical, occupational, respiratory, or speech therapy.
- Home health aide services.
- Dietetics and nutrition practice and nutrition counseling.
- Medical supplies, restricted to drugs and biologicals prescribed by a physician.

Subsection (22) of that section defines the term “organization” as a corporation, government or governmental subdivision or agency, partnership or association, or any other legal or commercial entity, any of which involve more than one health care professional discipline; a health care professional and a home health aide or certified nursing assistant; more than one home health aide; more than one certified nursing assistant; or a home health aide and a certified nursing assistant. The term does not include an entity that provides services using only volunteers or only individuals related by blood or marriage to the patient or client.

Section 8 amends s. 400.462, F.S., to revise the definitions of the terms “home health agency,” “home health services,” “home infusion therapy provider,” and “nurse registry” and delete the definition of the term “organization.”

- “Home health agency” is redefined to mean a person that provides one or more home health services, as opposed to an organization that provides home health services (plural) and staffing services as under current law. As a result, the word “person” (as defined in s.1.01(3), F.S.) includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations..
- “Home infusion therapy provider” is redefined to pertain to “a person,” as opposed to “an organization” that meets the definition’s criteria.
- “Home health services” is redefined to conform to elimination of the term “organization” in other definitions, and the definition of “organization” itself is eliminated since that term becomes obsolete under the bill for this section of statute.

The current definition of organization only refers to entities and does not include individual persons, which creates a potential loophole for an individual person to employ health care personnel for the provision of home health services without having to obtain a license.¹⁰ Under the bill, such an individual must obtain a license if they are not currently exempt from licensure as a home health agency pursuant to s. 400.464(5), F.S.

The AHCA has interpreted the provision of home health services to be an activity that requires licensure as a home health agency and does not believe changes to this section will impact services that require licensure.¹¹ However, it is unclear if there are unlicensed individuals that employ or may seek to employ health care personnel for the provision of home health services that would be required to obtain a license under the bill and not qualify for licensure exemption. Under the bill, such an individual would be subject to the provisions of s. 400.471(5), F.S., which requires an applicant or licensee for home health agency licensure to pay a fee for each submitted application. The fee must be established by the AHCA in rule at an amount sufficient to cover the AHCA’s costs in carrying out its responsibilities, not to exceed \$2,000 per biennium. Under this statutory authority in current law, the AHCA is imposing a \$1,705 fee for initial licensure, change of ownership, or licensure renewal.¹² See Sections IV.D. and VI.

¹⁰ Agency for Health Care Administration, *Senate Bill 1726 Agency Analysis* (on file with the Senate Committee on Health Policy).

¹¹ Email from the Agency for Health Care Administration (February 5, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

¹² 59A-8.003, F.A.C.

Section 9 amends s. 400.464, F.S., to make conforming changes and to make exemptions from licensure as a home health agency for a person that provides skilled care by health care professionals licensed solely under part I of ch. 464, F.S., (nursing); part I, part III, or part V of ch. 468, F.S., (speech therapy, occupational therapy, or respiratory therapy); or ch. 486, F.S., (physical therapy). Skilled care services are currently defined in s. 400.462(29), F.S. This exemption currently indirectly exists within the definition of “organization” that is being stricken in Section 8 of the bill. The section also clarifies that the exemption does not authorize an individual to perform home health services without the required professional license.

Section 10 amends s. 400.471(2)(g), F.S., to require applicants for change of ownership or license renewal to provide proof of accreditation and a survey demonstrating compliance with the applicable licensure requirements prior to licensure for the addition of skilled services.

Sections 11-13 amend ss. 400.492, 400.506, and 400.509, F.S., to conform provisions to changes made to the definitions section for part III of ch. 400, F.S., in Section 8 of the bill.

AHCA Reporting Requirements

Section 15 amends s. 400.60501, F.S., to delete a requirement that the AHCA develop an annual report that analyzes and evaluates the information collected under the Health Care Clinic Act. It also removes an obsolete date. Hospice outcome and quality information is currently published on FloridaHealthFinder.gov.

Section 22 amends s. 408.0611, F.S., to require the AHCA to report on its website information on the implementation of electronic prescribing rather than issuing an annual report to the Governor and the Legislature. The AHCA already updates this information quarterly on the ePrescribing dashboard of its website.¹³

Section 23 amends s. 408.062, F.S., to require the AHCA to report on its website information relating to the use of hospital emergency department services by patient acuity level and on health care quality measures rather than issuing an annual status report to the Governor and the Legislature. Most information that is required to be in the report is available on FloridaHealthFinder.gov.

Section 24 amends s. 408.063, F.S., to remove the requirement that the AHCA publish an annual comprehensive report of state health expenditures. This report currently identifies the contribution of health care dollars made by all payors and the dollars expended by the type of health care service. The AHCA indicates that this report has little value because of a three-year delay in reporting information.¹⁴

Section 35 amends s. 408.909, F.S., to delete a provision requiring the AHCA to evaluate and provide an annual assessment to the Governor and the Legislature relating to the Health Flex Plan. The Health Flex Plan program was a pilot program established to benefit low-income families who were not eligible for public assistance programs and not covered by private

¹³ Agency for Health Care Administration, *ePrescribing Clearinghouse*.
<https://ahca.myflorida.com/SCHS/ePrescribing/metrics.shtml> (last visited Jan. 24, 2020).

¹⁴ *Supra* note 10.

insurance.¹⁵ There were initially only three plans in limited service areas available for consumers. There is currently only one remaining Health Flex Plan with fewer than 300 members.¹⁶

Section 36 amends s. 408.9091, F.S., to remove the requirement that the AHCA and the Office of Insurance Regulation of the Financial Services Commission jointly submit an annual report to the Governor and the Legislature relating to the implementation of the Cover Florida Health Care Access Program. There are currently no plans participating in the Cover Florida Health Care Access Program.¹⁷ The last participating health plan terminated its Cover Florida policies in January of 2015.¹⁸

Section 42 amends s. 409.913, F.S., to move the Medicaid Program Integrity Annual Report due date from January 1, which is a national holiday, to January 15. Other changes made to this section of statute are discussed below.

Section 47 amends s. 429.19(9), F.S., to remove the requirement that the AHCA develop and disseminate a list of all assisted living facilities sanctioned or fined for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. The AHCA is required by s. 429.55(2), F.S., to create an accessible website containing this information and has done so with FloridaHealthFinder.gov.¹⁹

Health Care Clinics

Section 16 amends s. 400.9905, F.S., to provide exemptions from health care clinic licensure for Medicaid providers, for certain federally certified providers, for entities under common ownership by a mutual insurance holding company, and for certain entities that are owned by an entity that is a behavioral health service provider.

There are currently over 14 exemptions listed in the health care clinic licensure laws.²⁰ Most of these exemptions are for health care providers that are already licensed and regulated by the AHCA, an establishment or profession regulated by the Department of Health (DOH), a provider that is federally certified, a non-profit entity, or an entity with substantial financial commitment.

Comprehensive outpatient rehabilitation facilities (42 C.F.R. part 485, subpart B), outpatient physical therapy and speech-language pathology providers (42 C.F.R. part 485, subpart H), end stage renal diseases (42 C.F.R. part 494), and clinical laboratories are all federally certified providers that are regulated by the AHCA. These providers qualify for an exemption from health care clinic licensure.

Changes made in this section of the bill provide exemptions for other federally certified providers that are regulated by the AHCA, including community mental health center-partial

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

hospitalization programs (42 C.F.R. part 485, subpart J), portable X-ray providers (42 C.F.R. part 486, subpart C) and rural health care clinics (42 C.F.R. part 491, subpart A).

The Fiscal Year 2019-2020 Implementing Bill created two additional exemptions from clinic licensure for entities owned by an insurance holding company with over \$1 billion in annual sales and entities owned by a behavioral health provider in at least five states with \$90 million in annual revenues from behavioral health.²¹ These exemptions are in effect until June 30, 2020.²² Language in this section of CS/SB 1726 provides that those two exemptions will be permanent.

Providers that meet the definition of health care clinic who do not qualify for an exemption must obtain a license, and providers that participate in Medicaid must meet all requirements in applicable state laws. Medicaid recently initiated rule-making to add licensure as a health care clinic when required by law to be a pre-requisite to enrollment as a Medicaid provider. Over 20,000 providers have been identified as possibly requiring a health care clinic license to remain in Medicaid, though some will likely qualify for an exemption.²³ An estimated 13,000 may require licensure to meet Medicaid requirements by December 2020.²⁴ The AHCA asked for 13 positions to support this workload through a legislative budget request.²⁵

Section 17 amends s. 400.991(3)(c), F.S., to remove the option for a health care clinic to file a surety bond of at least \$500,000 as an alternative to submitting proof of financial ability to operate with its application for initial licensure or a change in ownership. No health care clinics have submitted the surety bond in lieu of proof of financial ability to operate.²⁶

Section 18 amends s. 400.9935(1)(i), F.S., to authorize a health care clinic's schedule of charges to group services by price level. This section of the bill revises the requirement that the schedule must be posted in the reception area of the urgent care center of a clinic to only require posting in the reception area of a clinic that meets the definition of an "urgent care center" as defined in s. 395.002(29)(b), F.S.

Deleting a Reference to a Specific Data Collection Rule

Section 21 amends s. 408.061, F.S., to remove a reference to a repealed Rule 59E-7.012, F.A.C. Rules 59E-7.011-7.020, F.A.C., were repealed and replaced with Rules 59E-7.021-7.030, F.A.C.

Low-Risk Providers and Licensure Inspections

Section 26 amends s. 408.803, F.S., to define the term "low-risk provider" as nurse registries, home medical equipment providers, and health care clinics. The AHCA has determined these specific provider types to be low-risk with infrequently cited deficiencies.²⁷ This section of the bill also conforms a provision to changes made in Section 49 of the bill.

²¹ Chapter No. 2019-116, s. 38, Laws of Fla.

²² *Id.*

²³ *Supra* note 10.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

Section 27 amends s. 408.806, F.S., to exempt low-risk providers from an initial licensure inspection as required under s. 408.811, F.S.

Section 30 amends s. 408.811, F.S., to authorize the AHCA to exempt a low-risk provider from licensure inspections if the provider or controlling interest has an excellent regulatory history with regard to deficiencies, sanctions, complaints, and other regulatory actions, as defined by the AHCA in rule. Under the bill, the AHCA is required to conduct unannounced licensure inspections for at least 10 percent of exempt low-risk providers.

The bill also authorizes the AHCA to adopt rules to waive routine inspections and inspections for relicensure or to allow for an extended period between relicensure inspections for specific providers based upon:

- A favorable regulatory history with regard to deficiencies, sanctions, complaints, and other regulatory measures.
- Outcome measures that demonstrate quality performance.
- Successful participation in a recognized quality assurance program.
- Accreditation status.
- Other measures reflective of quality and safety.
- The length of time between inspections.

With these changes, a provider will not necessarily have to meet any specific statutory requirement for the AHCA to waive the routine inspection. The AHCA's rules must base the decision to grant a waiver upon one or all of the factors listed above.

As it does with low-risk providers, the bill also requires the AHCA to conduct unannounced licensure inspections for at least 10 percent of providers that qualify for a waiver or extended period between licensure inspections.

Provisional Licenses for Health Care Facilities

Section 408.808(2), F.S., currently authorizes the AHCA to issue a provisional license for health care providers regulated under ch. 408, F.S., to a provider applying for a change of ownership or to a provider that is in litigation with the AHCA regarding the denial or revocation of its license.

Section 429.11(6), F.S., currently authorizes the AHCA to issue a provisional license for an assisted living facility when the provider is making an initial application for licensure.

Section 28 amends s. 408.808(2), F.S., to authorize the AHCA to issue a provisional license to an applicant for initial licensure as a health care provider under ch. 408, F.S., in addition to applicants for a change of ownership.

Section 46 amends s. 429.11(6), F.S., to remove provisions authorizing the AHCA to issue a provisional license to an assisted living facility because the AHCA would be authorized to issue a provisional licensed to an assisted living facility through the bill's changes to s. 408.808, F.S.

Background Screening Requirements for Health Care Providers and Employees

Seven state agencies participate in the Care Providers Background Screening Clearinghouse authorized in ch. 435, F.S. **Section 29** amends s. 408.809(2), F.S., to remove an obsolete provision relating to agencies that were once in the process of joining the Clearinghouse. All seven agencies are now fully implemented in the Clearinghouse.

Section 29 also amends s. 408.809(5), F.S., to remove an expired provision that allowed for an employee who becomes disqualified from employment because of legislation that created a new disqualifying offense, to continue to work pending the employee's request for an exemption from disqualification. That authority expired in 2014.

Federal regulations require state Medicaid programs to conduct criminal background checks including fingerprinting when required to do so under state law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of providers.²⁸ State Medicaid programs are also required to conduct a criminal background check and require the submission of a set of fingerprints in accordance with 42 C.F.R. s. 455.434 for providers designated as a high categorical risk.²⁹ The AHCA designates high categorical risk providers in the Florida Medicaid Provider Enrollment Policy handbook incorporated in Rule 59G-1.060, F.A.C.³⁰

Section 39 amends s. 409.907, F.S., to revise background screening requirements for Medicaid providers and codify federal requirements. This section of the bill requires a level 2 background screening to be conducted through the AHCA for certain persons who render services to Medicaid recipients, who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient. This change does not impose additional screening requirements on any providers licensed under part II of ch. 408, F.S. See Sections IV.D. and VI. Drivers providing transportation to Medicaid recipients through a transportation broker or a transportation network company are required to undergo a level 1 background screening through the Florida Department of Law Enforcement or, for Transportation Network Companies, an AHCA-approved equivalent background screening. The AHCA does not require level 2 screening for transportation drivers.³¹ **Section 39** clarifies that these drivers are required to undergo only the level 1 background (or equivalent) screening, not the required level 2 background screening.

Comprehensive Emergency Management Plans

Different provider types are subject to different comprehensive emergency management plan requirements in their authorizing statutes. Assisted living facilities are required to get plan

²⁸ 42 CFR s. 455.434

²⁹ 42 CFR s. 455.450

³⁰ Providers and suppliers designated as "high" categorical risk include: behavior analysis practitioners, mental health targeted case management providers, physical therapists, physician groups owned by non-physicians, prospective (newly enrolling) home health agencies and other home health service providers, prospective (newly enrolling) durable medical equipment, and prosthetics, orthotics, and supplies suppliers. Agency for Health Care Administration, *Florida Medicaid Provider Enrollment Policy* (December 2019), available at <https://ahca.myflorida.com/medicaid/review/General/59G-1.060.pdf> (last visited Feb. 25, 2020).

³¹ *Supra* note 5.

approval by local emergency management officials before they may be licensed. The AHCA indicates that some local jurisdictions refuse to review a plan until the provider is licensed.³² This makes it impossible for providers within those jurisdictions to become lawfully licensed.

Section 32 amends s. 408.821, F.S., to require providers that are required by authorizing statutes and the AHCA rule to have a comprehensive emergency management plan to:

- Submit the plan to the local emergency management agency, county health department, or the DOH within 30 days after initial licensure and change of ownership, and notify the AHCA within 30 days after submission of the plan.
- Submit the plan to the local emergency management agency, county health department, or the DOH annually and within 30 days after any significant modification, as defined by the AHCA rule, to a previously approved plan.
- Respond to the local emergency management agency, county health department, or the DOH with necessary plan revisions within 30 days after notification that plan revisions are required.
- Notify the AHCA within 30 days after approval of its plan by the local emergency management agency, county health department, or the DOH.

These changes establish consistent timeframes for the submission and review of comprehensive emergency management plans among provider types. This change allows for the licensure of a facility before its comprehensive emergency management plan is approved.

The Medicaid Program's Retrospective Review of Hospital Inpatient Admissions

The AHCA performs routine pre- and post-payment claim reviews to determine the appropriateness of Medicaid provider reimbursement.³³

Section 37 amends s. 409.905(5), F.S., to clarify that a specific provision in paragraph (a) of that subsection may not be construed to prevent the AHCA from conducting retrospective reviews in its efforts to combat Medicaid fraud and abuse and to recoup overpayments in the Medicaid Program.

The provision of current law that the bill seeks to clarify was enacted under ch. 2001-104, L.O.F. Before the enactment of that law, the AHCA had statutory authority to prior authorize inpatient hospital admissions for Medicaid patients with psychiatric and substance abuse diagnoses. However, there was no specific authority for the AHCA to prior authorize inpatient hospital admissions for any other diagnoses.³⁴

In lieu of prior authorization of inpatient hospital admissions for general acute care Medicaid services, the Medicaid Program was under contract in 2001 with a peer review organization for retrospective review of such admissions. If those retrospective reviews encountered inpatient admissions that should have been denied or inpatient services that were provided outside of

³² *Id.*

³³ *Id.*

³⁴ See Chapter 2001-104, L.O.F., available at http://laws.flrules.org/files/Ch_2001-104.pdf (last visited Jan. 30, 2020).

medical necessity, the AHCA would require the hospital to repay the Medicaid program for the associated costs.³⁵

Under ch. 2001-104, L.O.F., the Legislature amended s. 409.905(5)(a), F.S., to give the Medicaid Program authority to prior authorize nonemergency hospital inpatient admissions for individuals 21 years of age or older. The statute was also amended to allow Medicaid to require authorization of emergency and urgent-care admissions within 24 hours after Medicaid patients were admitted under such conditions.

Along with this new authority, the statute was further amended in 2001, in the same paragraph, to require the AHCA, upon implementing the prior authorization program for hospital inpatient services, to discontinue the Medicaid Program's hospital retrospective review efforts. CS/SB 1726 specifically addresses this latter provision of the 2001 law to clarify that the required discontinuation of the Medicaid Program's preexisting retrospective review program, which was being conducted in 2001 in lieu of prior authorization, may not be construed to prevent the AHCA's Office of Medicaid Program Integrity (MPI)³⁶ from conducting retrospective reviews under s. 409.913, F.S.

The Office of Medicaid Program Integrity

Section 409.913, F.S., is entitled, "Oversight of the integrity of the Medicaid program." This section of statute requires the AHCA to:

- Operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate;
- Conduct, or cause to be conducted by contract or otherwise, reviews, investigations, analyses, audits, or any combination thereof, to determine possible fraud, abuse, overpayment, or recipient neglect in the Medicaid program and shall report the findings of any overpayments in audit reports as appropriate; and
- Conduct reviews of provider exceptions to peer group norms and, using statistical methodologies, provider profiling, and analysis of billing patterns, detect and investigate abnormal or unusual increases in billing or payment of claims for Medicaid services and medically unnecessary provision of services.

Section 409.913, F.S., further provides that a Medicaid provider is subject to having goods and services that are paid for by the Medicaid program reviewed by an appropriate peer-review organization designated by the AHCA. The written findings of the applicable peer-review organization are admissible in any court or administrative proceeding as evidence of medical necessity or the lack of medical necessity.

³⁵ Senate Committee on Health Care, *Senate Staff Analysis and Economic Impact Statement for CS/SB 792* (April 5, 2001), available at http://www.flsenate.gov/Session/Bill/2001/792/Analyses/20010792SHC_2001s0792.hc.pdf (last visited Jan. 30, 2020).

³⁶ See the Office of Medicaid Program Integrity's web page at <https://ahca.myflorida.com/MCHQ/MPI/> (last visited Jan. 30, 2020).

MPI and the Medicaid Fraud Control Unit of the Department of Legal Affairs must submit a joint report to the Legislature each January, documenting the results of their work to control Medicaid fraud and abuse and to recover Medicaid overpayments during the previous fiscal year. The report for State Fiscal Year 2018-2019 indicates that overpayments of approximately \$32.7 million were identified in that fiscal year, with approximately \$13.4 million in accounts-receivable collections and reversals. MPI also prevented approximately \$385.2 million in overpayments from occurring during the fiscal year, according to the 2018-2019 report.³⁷

The bill clarifies that the Legislature's direction to the AHCA in 2001 to discontinue the Medicaid Program's hospital retrospective review efforts, upon implementing its newly-granted authority to prior authorize Medicaid hospital inpatient admissions, may not be construed to prevent MPI from conducting retrospective reviews under s. 409.913, F.S. This provision of the bill takes effect upon becoming law.³⁸

Section 38 provides that it is the intent of the Legislature that the amendment to s. 409.905(5)(a), F.S., in Section 37 of the bill, is intended to confirm and clarify existing law. This section takes effect upon becoming a law.

Reimbursement of Medicaid Providers

Class III psychiatric facilities are excluded in statute from the diagnosis related group (DRG) payment methodology. Federal law prohibits state Medicaid programs from receiving federal matching funds for services provided by facilities described in 42 CFR 435.1010 as an institution for mental diseases³⁹ (IMDs) under the fee-for-service program and therefore, the AHCA has not established the alternative methodology currently allowed under s. 409.908, F.S. However, in Medicaid managed care programs, states have slightly more flexibility; health plans may pay for services in an IMD in lieu of more costly services. For example, Florida Medicaid cannot pay for services in a crisis stabilization unit under the fee-for-service program. However, Medicaid managed care contracts allow health plans to pay for services in a crisis stabilization unit for a plan enrollee, as crisis stabilization units provide a less costly service equivalent to inpatient psychiatric hospitalization.⁴⁰

³⁷ The Agency for Health Care Administration and the Department of Legal Affairs, *Florida's Efforts to Control Medicaid Fraud & Abuse: Fiscal Year 2018-2019* (December 30, 2019) available at <https://ahca.myflorida.com/MCHQ/MPI/docs/FraudReports/FraudReport2018-19.pdf> (last visited Jan. 30, 2020).

³⁸ In February 2019, Florida's First District Court of Appeal construed the discontinuation provision in s. 409.905(5)(a), F.S., to mean that the AHCA is "barred from conducting a retrospective review of prior authorization claims" under s. 409.913, F.S., or any other existing statutory authority. See *Lee Memorial Health System Gulf Coast Medical Center v. State of Florida, Agency for Health Care Administration*, 272 So.3d 431 (Fla. 1st DCA 2019). The AHCA reports that, under this ruling: (1) The AHCA is at risk of being required to repay overpayments that have already been recouped by MPI from hospitals, and (2) MPI is prohibited from conducting any hospital retrospective audits, except those relating to suspected fraud or abuse. Email from the Agency for Health Care Administration to the Senate Committee on Healthy Policy (January 30, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services). See Section V.C.

³⁹ 42 CFR 435.1010 defines an "institution for mental diseases" as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An institution for Individuals with Intellectual Disabilities is not an institution for mental diseases.

⁴⁰ *Supra* note 5.

During the 2008 Session, the Legislature amended s. 409.908, F.S., to implement a two-year unit cost rate freeze, effective July 1, 2009, for nursing facilities, hospitals, county health departments, intermediate care facilities for the developmentally disabled, and prepaid health plans.⁴¹ The unit cost rate freeze was set to expire July 1, 2011. However, during the 2011 Session, the Legislature repealed the sunset date, capped unit costs at July 1, 2011 rates, and established reimbursement rates would be as provided in the General Appropriations Act. In effect, automatic annual Medicaid increase payments to nursing homes were capped at 2011 levels.⁴² In Fiscal Years 2018-2019 and 2019-2020, the Implementing Bill^{43,44} removed the unit cost rate freeze for one year.

Section 40 and 41 amend s. 409.908, F.S., to remove the nursing home unit cost rate freeze and remove class III psychiatric facilities from the DRG payment methodology, thereby eliminating the AHCA's authority to establish an alternative methodology to the DRG-based prospective payment system to set reimbursement rates for class III psychiatric hospitals.

Legal Fees in Medicaid Program Integrity Cases

Section 42 amends s. 409.913, F.S., to authorize the AHCA to recover legal fees in Medicaid Program Integrity and licensure cases. The AHCA has indicated that it spends significant funds defending Medicaid overpayment cases. The Division of Administrative Hearings (DOAH) ruled that s. 409.913(23)(a), F.S., does not authorize the AHCA to recover full legal fees on Medicaid Program Integrity legal cases.⁴⁵ The specific ruling came in the DOAH case number 18-5986F involving Covenant Hospice.⁴⁶ The case had an overpayment of \$637,973.10 and sanction of \$127,594.62. As of February 7, 2019, the AHCA was seeking to recover fees in the amount of \$330,186.14 and costs in the amount of \$14,466.52 as of February 7, 2019.⁴⁷ Currently, the AHCA only has the ability to collect the "costs" of \$14,466.52.⁴⁸

Multiphasic Health Testing Centers

Multiphasic health testing centers, regulated under part I of ch. 483, F.S., are facilities where, in addition to taking specimens from the human body for delivery to registered clinical laboratories for analysis, certain measurements such as height and weight determinations, blood pressure determinations, limited audio and visual tests, and electrocardiograms are also made. These additional services are not required to be provided by licensed personnel but can be provided by a medical assistant that is certified or registered through a national organization. These clinics would also fall under the definition of a health care clinic in part X of ch. 400, F.S., but are exempt since they are already regulated by the AHCA.

⁴¹ Chapter 2008-143, s. 5, Laws of Fla.

⁴² Chapter 2011-61, s. 4, Laws of Fla.

⁴³ Chapter 2018-10, s. 18-19

⁴⁴ Chapter 2019-116, s. 18-19

⁴⁵ *Agency for Health Care Administration v. Covenant Hospice, Inc.*, Case No.18-5986F (Fla. DOAH 2018).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

Section 54 repeals part I of ch. 483, F.S., relating to multiphasic health testing centers, which thereby repeals the requirements for and the licensing of multiphasic health testing centers as a provider type. Current multiphasic health testing centers would need to become licensed as health care clinics, in accordance with part X of ch. 400, F.S., unless they otherwise qualify for an exemption from health care clinic licensure.

As of January 21, 2020, there were 187 multiphasic health testing centers licensed in Florida. Of these, 69 were owned and operated by Laboratory Corporation of America and 111 were owned and operated by Quest Diagnostics, including one out-of-state center.⁴⁹ Both Laboratory Corporation of America and Quest Diagnostics also own and operate several clinical laboratories throughout the state that are regulated under the federal Clinical Laboratory Improvement Amendments (CLIA).⁵⁰ The remaining seven multiphasic health testing centers are owned by Professional Health Examiners, Inc.⁵¹ Services are provided by licensed personnel under the direction of a medical director, and the company does not bill insurance and thus would also be exempt from health care clinic licensure as would those centers owned and operated by clinical laboratories regulated under the federal CLIA.⁵²

Under current law, the AHCA assesses multiphasic health testing centers with a biennial licensure fee of \$652.64 and a biennial health care assessment fee of \$300 on multiphasic health testing centers. The AHCA collects an estimated \$89,071.84 annually (\$178,143.68 biennially) from 187 multiphasic health testing centers, roughly half of which renew each year.⁵³

Since 2011, the AHCA has imposed only six fines against multiphasic health testing centers.⁵⁴ In this timeframe, only 10 complaints were received with none substantiated while 195 deficiencies have been cited since 2011.⁵⁵

Sections 19, 25, 31, 33, and 34 amend ss. 408.033, 408.802, s. 408.820, 408.831, and 408.832, F.S., to delete references to multiphasic health testing centers or chapter 483, to conform to changes made by Section 54 of the bill, which repeals part I of ch. 483, F.S., relating to multiphasic health testing centers.

Medicaid Provider Fraud

New technology and innovative online platforms allow Medicaid patients to access doctor appointment schedules through a web portal hosted by an online service. Health care professionals may contract with such services for a fee. There is concern that this relationship may conflict with anti-kickback provisions in the Florida Medicaid law. These fee-based scheduling services can operate within other health insurance programs such as Medicare, Tricare, and commercial programs. The federal Anti-Kickback Statute⁵⁶ prohibits the knowing

⁴⁹ *Supra* note 10.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ 42 U.S.C. s. 1320a-7b(b).

and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs. The bill seeks to ensure Florida law mirrors federal law and does not apply a stricter standard than the federal Anti-Kickback Statute.⁵⁷

Section 43 amends s. 409.920(2)(a), F.S., to align the state Medicaid anti-kickback law with the federal anti-kickback law so that Medicaid recipients can utilize innovations and technological advances to access medical appointments and care, similar to services that are currently used by Medicare, TriCare, and commercial patients.

Managed Care Plan Contracts

The AHCA is currently authorized to contract with plans for Statewide Medicaid Managed Care to provide managed medical assistance (MMA), long-term care (LTC) and dental services for a period of 5-years and to extend those contracts to cover any delays during the transition to a new plan following a re-procurement.

The AHCA re-procured these contracts during 2017 and awarded contracts in spring of 2018. Pursuant to statute, those contracts are effective from December of 2018 through December of 2023. While each procurement has presented the AHCA with the opportunity to negotiate significant program gains, included additional benefits for enrollees, enhanced processes to reduce administrative burdens for providers participating in the program, as well as significantly increased quality and performance benchmarks and savings that can be redirected to reward high performing providers, a longer contract period would provide the AHCA with more time to assess program performance as negotiated during the 2017 procurement and allow the collection of additional complete data years that could be considered when the contract is next procured. In addition, a longer contract period would provide the AHCA with additional opportunities to work with stakeholders and the Legislature on substantive program design.

Sections 44 and 45 amend ss. 409.967 and s. 409.973, F.S., to require the AHCA to establish a 6-year, rather than a 5-year, contract with each Medicaid managed care plan selected through the procurement process. It also requires the AHCA to extend the term of contracts awarded to managed care plans pursuant to the invitation to negotiate published in July 2017, through December 31, 2024, effectively extending the duration of those contracts by one year.

Health Insurance Benefits

The Florida Center for Health Information and Transparency (Florida Center), housed within the AHCA, provides a comprehensive health information system (information system) that includes the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of health-related data.⁵⁸ The Florida Center identifies existing health-related data and collects data for use in the information system, including information on health care costs and financing, trends in health care prices and costs, the sources of payment for health care services, and federal, state, and local expenditures for health care.⁵⁹

⁵⁷ *Supra* note 5.

⁵⁸ Section 408.05(1), F.S.

⁵⁹ Section 408.05(2), F.S.

The Florida Center maintains www.FloridaHealthFinder.gov, which was established by law in 2016⁶⁰, to assist consumers in making informed health care decisions and lead to improvements in quality of care in Florida.

In 2019, the Legislature enacted the Patient Savings Act⁶¹ (Act), which allows (but does not mandate) health insurers and health maintenance organizations (HMOs) to create a shared savings incentive program (Shared Savings Program) to encourage insured individuals to shop for high quality, lower cost health care services and share any savings realized as a result of the insured's choice. The Act authorizes implementation of these incentive programs for plan years beginning January 1, 2020.

The Act defines a "shared savings incentive" as an optional financial incentive that may be paid to an insured for choosing certain shoppable health care services under a Shared Savings Program. When a patient obtains a shoppable health care service for less than the average price for the service, the bill requires the savings to be shared by the health insurer and the patient. A patient is entitled to a financial incentive that is no less than 25 percent of the savings that accrue to the insurer as a result of the patient's participation.

The law provides a range of methods by which a Shared Savings Program may financially reward patients who save money by shopping for health care services. Patients may receive financial incentives in the form of premium reductions, or deposits into a flexible spending account, health savings account, or health reimbursement account.⁶²

Sections 20 and 51-53 amend ss. 408.05, 627.6387, 627.6648, and 641.31076, F.S., to increase the range of services defined as "shoppable" for purposes of earning shared savings incentives under a Shared Savings Program. In addition to the specific services outlined in the Patient Savings Act, the bill extends the "shoppable" service designation to those services identified by the Florida Center as having the most significant price variation at statewide and regional levels. The bill also allows a Shared Savings Program to provide cash or a cash-equivalent reward to a program participant who earns a shared savings incentive.

Cross-references

Sections 55-60 amend ss. 20.43, 381.0034, 456.001, 456.057, 456.076, and 456.47, F.S., to conform cross-references to changes made by the bill.

Effective Date

Section 61 provides that except as otherwise expressly provided in the bill and except for this section, which will take effect upon the bill becoming a law, the bill will take effect July 1, 2020.

⁶⁰ Chapter 2016-234, Laws of Fla.; *see also* s. 408.05(3), F.S.

⁶¹ Sections 627.6387, 627.6648, and 641.31076, F.S.

⁶² Section 627.6387, F.S.

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:

Article VII, s. 19 of the State Constitution requires that a new state tax or fee, as well as an increased state tax or fee, be approved by two-thirds of the membership of each house of the Legislature and be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1) of the State 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.”

Currently, an individual could employ health care personnel for the provision of home health services without having to obtain a license. Section 6 of the bill amends s. 400.462, F.S., to require such an individual to obtain a home health agency license by paying the licensure fee required in s. 400.471(5), F.S., unless exempt from licensure pursuant to s. 400.464(5), F.S. This fee is an existing statutory fee that is not being increased. However, the bill expands the scope of licensure for home health agencies, which expands the application of the licensure fee (i.e., thereby requiring persons not subject to the fee to pay the fee).

Section 36 of the bill amends s. 409.907(8), F.S, to require a level 2 background screening to be conducted through the AHCA for certain persons who render services to Medicaid recipients, who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient. Accordingly, additional persons will be required to pay the fees for a level 2 background screening, who currently are not subject to that screening.

It is unclear if Article VII, s. 19 of the State Constitution applies to these provisions of the bill. As such, the State 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Currently, an individual could employ health care personnel for the provision of home health services without having to obtain a license. Section 8 of the bill amends s. 400.462, F.S., to require such an individual to obtain a home health agency license if they are not currently exempt from licensure as a home health agency pursuant to s. 400.464(5), F.S., and pay the licensure fee required in s. 400.471(5), F.S. The AHCA has interpreted the provision of home health services to be an activity that requires licensure as a home health agency and does not believe changes to this section will impact services that require licensure. However, it is unclear if there are unlicensed individuals that employ or may seek to employ health care personnel for the provision of home health services that would be required to obtain a license under the bill and not qualify for licensure exemption. The fee is established by the AHCA in rule at an amount sufficient to cover the AHCA's costs in carrying out its responsibilities, not to exceed \$2,000 per biennium. Under the statutory authority in current law, the AHCA is imposing a \$1,705 fee for initial licensure, change of ownership, or licensure renewal.⁶³ The number of individuals impacted by this requirement is indeterminate.

Section 39 of the bill amends s. 409.907(8), F.S. to require level 2 background screenings, in accordance with ch. 435, F.S., for individuals who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient. This does not impose additional screening requirements on any providers licensed under part II of ch. 408. According to the Florida Department of Law Enforcement (FDLE), the cost for a level 2 background screening with five years of Clearinghouse retention is \$61.25 (\$13.25 for the national criminal record check; \$24 for the state criminal record check; and \$24 paid up front for five years of state fingerprint Clearinghouse retention).⁶⁴ The number of individuals impacted by this requirement is indeterminate.⁶⁵

B. Private Sector Impact:

Under CS/SB 1726:

- The bill exempts community mental health partial-hospitalization programs, portable x-ray providers, and rural health care clinics from health care clinic licensure. Those providers will no longer be required to pay the \$2,000 biennial license renewal fee. The AHCA estimates that approximately 200 providers would qualify for the exemption.
- Low-risk Medicaid providers are exempt from health care clinic licensure. These providers are not currently required to be licensed, but licensure will be required

⁶³ *Supra* note 10.⁶⁴ Email from the Department of Law Enforcement (February 5, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

⁶⁴ Email from the Department of Law Enforcement (February 5, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

⁶⁵ *Supra* note 10.

effective July 1, 2020. The AHCA expects 28,291 providers to qualify for the exemption. Providers who qualify for the exemption would not have to pay the \$2,000 initial licensure fee.

- The bill repeals licensure for multiphasic health testing centers. As a result, multiphasic health testing centers will no longer be required to pay the biennial license renewal fee of \$952.64, although some of these centers will need to pay licensure fees to become licensed as a health care clinic. There are currently 187 multiphasic health testing centers licensed in Florida.
- See Section V.A. for additional fees that may impact individuals not currently required to pay licensure fees now required in s. 400.471.(5), F.S., as amended, and fees associated with a level 2 background screening required in s. 409.907(8), F.S., as amended. The number of individuals impacted by the new requirements is indeterminate.

C. Government Sector Impact:

Under CS/SB 1726:

- Exempting Medicaid providers from health care clinic licensure will result in a cost avoidance. The exemptions created in the bill eliminate the need for the 13 full-time equivalent employees requested in the AHCA's Fiscal Year 2020-2021 legislative budget request to process health care clinic licensure applications.⁶⁶
- The AHCA will be able to conduct retrospective reviews of hospital inpatient claims and recover all overpayments in the Medicaid program. The AHCA lost \$13,449,595.12 related to 42 cases that have been or will be closed at zero overpayment due to the court ruling on retrospective hospital audits. The AHCA would likely experience a significant positive fiscal impact from clarification, although the amount recovered from future retrospective reviews is indeterminate.
- The AHCA will be able to recover all legal fees in Medicaid Program Integrity legal cases in which the AHCA prevails. Although the AHCA's tracking system for Medicaid recovery amounts does not distinguish legal fees, the AHCA has incurred over \$300,000 in legal fees for a single case.⁶⁷ The AHCA would likely experience a significant positive fiscal impact from this, although the amount of legal costs arising from future litigation is indeterminate.
- The bill exempts certain providers from health care clinic licensure and repeals licensure for multiphasic health testing centers. As a result, a loss in annual revenue of \$489,071.84 and a commensurate workload reduction will occur from the repeal of multiphasic health testing center licensure (\$89,071.84), and the new exemptions from health care clinic licensure for community mental health partial-hospitalization program, portable x-ray providers, and rural health care clinics (\$400,000).⁶⁸

The AHCA will also experience a reduction in workload from removing requirements that the AHCA submit various reports to the Governor and the Legislature.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

VI. Technical Deficiencies:

The provisions of section 8 and 39 of the bill, amending s. 400.462 and 409.907, F.S., could result in the application of new fees or assessments.

- Section 8 amends s. 400.462, F.S., to require certain individuals to obtain a home health agency license by paying the licensure fee required in s. 400.471(5), F.S.
- Section 39 amends s. 409.907, F.S., to require level 2 background screenings, in accordance with ch. 435, F.S., for individuals who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient.

See Section IV.D. and Section V.A. A separate fee bill should be considered to address the applicable fees and assessments.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.43, 381.0034, 383.327, 395.003, 395.1055, 395.602, 395.7015, 395.7016, 400.19, 400.462, 400.464, 400.471, 400.492, 400.506, 400.509, 400.605, 400.60501, 400.9905, 400.991, 400.9935, 408.033, 408.05, 408.061, 408.0611, 408.062, 408.063, 408.802, 408.803, 408.806, 408.808, 408.809, 408.811, 408.820, 408.821, 408.831, 408.832, 408.909, 408.9091, 409.905, 409.907, 409.908, 409.913, 409.920, 409.967, 409.973, 429.11, 429.19, 429.35, 429.905, 429.929, 456.001, 456.057, 456.076, 456.47, 627.6387, 627.6648, and 641.31076.

This bill repeals the following sections of the Florida Statutes: 395.7015 and part I of chapter 483 and 19 of chapter 2019-116, Laws of Florida, relating to the abrogation of the scheduled expiration of an amendment to 408.908.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 25, 2020:

The committee substitute:

- Reinstates the AHCA's authority to require hospital adult cardiac programs to participate in national reporting and quality registries.
- Extends the current rural hospital designation to 2025 (set to expire June 30, 2021).
- Modifies surveys for nursing home with a Class I or two Class II deficiencies in 60 days, to clarify that the AHCA will continue to conduct licensure surveys every six months until a facility has two consecutive licensure surveys without a citation for a

Class I or Class II deficiency. Reinstates current law and maintains the \$6,000 fine for the additional surveys.

- Replaces the term “organization” for home health agencies to align with the AHCA uniform licensing requirements.
- Clarifies the current level 1 background screening requirements for non-emergency transportation providers and brokers remain in place.
- Amends directory language to provide the statutory clarification of retrospective hospital reviews is effective upon becoming a law.
- Removes class III psychiatric facilities from (DRG) payment methodology.
- Removes the nursing home unit cost rate freeze.
- Aligns the state Medicaid anti-kickback law with the federal anti-kickback law.
- Extends the Medicaid statewide dental contracts from five years to six years.
- Requires the Florida Center to publish an annual report identifying health care services with the most significant price variation at statewide and regional levels.
- Expands the list of shoppable health care services that qualify for a shared savings incentive for patients to include services with the most significant price variation. Allows cash and cash equivalent incentives in shared savings incentives.

CS by Health Policy on January 28, 2020:

The CS:

- Changes a reference from chapter 624 to chapter 627 to revise and make permanent an exemption from health care clinic licensure for entities owned by an insurance holding company with over \$1 billion in annual sales.
- Clarifies that the Legislature’s 2001 direction to the AHCA under s. 409.905(5)(a), F.S., to discontinue the Medicaid Program’s hospital retrospective review program upon implementing its new authority (also granted in 2001) to prior authorize Medicaid hospital inpatient admissions, may not be construed to prevent MPI from conducting retrospective reviews under s. 409.913, F.S. This provision of the bill takes effect upon becoming law.
- Provides that it is the intent of the Legislature that the bill’s amendment to s. 409.905(5)(a), F.S., is intended to confirm and clarify existing law
- Requires the AHCA to establish a six-year, rather than a five-year, contract with each managed care plan selected through the procurement process. Requires the AHCA to extend the term of contracts awarded to managed care plans pursuant to the invitation to negotiate published in July 2017, through December 31, 2024.
- Changes the effective date of the bill to allow for certain sections to take effect upon becoming a law as expressly provided. Unless expressly provided, the bill takes effect on July 1, 2020.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the Agency for Health Care Administration; amending s. 383.327, F.S.; requiring birth centers to report certain deaths and stillbirths to the agency; revising the frequency with which a certain report must be submitted to the agency; authorizing the agency to prescribe by rule the frequency with which such report is submitted; amending s. 395.003, F.S.; removing a requirement that specified information be listed on licenses for certain facilities; amending s. 395.1055, F.S.; requiring the agency to adopt specified rules related to ongoing quality improvement programs for certain cardiac programs; amending s. 395.602, F.S.; revising the definition of the term "rural hospital"; repealing s. 395.7015, F.S., relating to an annual assessment on health care entities; amending s. 395.7016, F.S.; conforming a provision to changes made by the act; amending s. 400.19, F.S.; revising provisions requiring the agency to conduct licensure inspections of nursing homes; requiring the agency to conduct additional licensure surveys under certain circumstances; requiring the agency to assess a specified fine for such surveys; amending s. 400.462, F.S.; revising definitions; amending s. 400.464, F.S.; revising exemptions from licensure requirements for home health agencies; amending s. 400.471, F.S.;



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revising provisions related to certain application requirements for home health agencies; amending s. 400.492, F.S.; revising provisions related to services provided by home health agencies during an emergency; amending s. 400.506, F.S.; revising provisions related to licensure requirements for nurse registries; amending s. 400.509, F.S.; revising provisions related to the registration of certain service providers; amending s. 400.605, F.S.; removing a requirement that the agency conduct specified inspections of certain licensees; amending s. 400.60501, F.S.; deleting an obsolete date; removing a requirement that the agency develop a specified annual report; amending s. 400.9905, F.S.; revising the definition of the term "clinic"; amending s. 400.991, F.S.; removing the option for health care clinics to file a surety bond under certain circumstances; amending s. 400.9935, F.S.; revising provisions related to the schedule of charges published and posted by certain clinics; specifying that urgent care centers are subject to such requirements; amending s. 408.033, F.S.; conforming a provision to changes made by the act; amending s. 408.05, F.S.; requiring the agency to publish by a specified date an annual report identifying certain health care services; amending s. 408.061, F.S.; revising provisions requiring health care facilities to submit specified data to the agency; amending s. 408.0611, F.S.; removing a requirement that the agency annually report to the



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57 Governor and the Legislature by a specified date on
58 the progress of implementation of electronic
59 prescribing and, instead, requiring the agency to
60 annually publish such information on its website;
61 amending s. 408.062, F.S.; removing requirements that
62 the agency annually report specified information to
63 the Governor and Legislature by a specified date and,
64 instead, requiring the agency to annually publish such
65 information on its website; amending s. 408.063, F.S.;
66 removing a requirement that the agency publish certain
67 annual reports; amending s. 408.802, F.S.; conforming
68 provisions to changes made by the act; amending s.
69 408.803, F.S.; conforming a definition to changes made
70 by the act; defining the term "low-risk provider";
71 amending s. 408.806, F.S.; exempting certain providers
72 from a specified inspection; amending s. 408.808,
73 F.S.; authorizing the issuance of a provisional
74 license to certain applicants; amending s. 408.809,
75 F.S.; revising background screening requirements for
76 certain licensees and providers; amending s. 408.811,
77 F.S.; authorizing the agency to grant certain
78 providers an exemption from a specified inspection
79 under certain circumstances; authorizing the agency to
80 adopt rules to grant waivers of certain inspections
81 and allow for extended inspection periods under
82 certain circumstances; requiring the agency to conduct
83 unannounced licensure inspections of certain providers
84 during a specified time period; providing that the
85 agency may conduct regulatory compliance inspections



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86 of providers at any time; amending s. 408.820, F.S.;
87 conforming a provision to changes made by the act;
88 amending s. 408.821, F.S.; revising provisions
89 requiring licensees to have a specified plan;
90 providing requirements for the submission of such
91 plan; amending ss. 408.831 and 408.832, F.S.;
92 conforming provisions to changes made by the act;
93 amending s. 408.909, F.S.; removing a requirement that
94 the agency and the Office of Insurance Regulation
95 evaluate a specified program; amending s. 408.9091,
96 F.S.; deleting a requirement that the agency and
97 office submit a specified joint annual report to the
98 Governor and the Legislature; amending s. 409.905,
99 F.S.; providing construction for a provision that
100 requires the agency to discontinue its hospital
101 retrospective review program under certain
102 circumstances; providing legislative intent; amending
103 s. 409.907, F.S.; requiring that a specified
104 background screening be conducted through the agency
105 on certain persons and entities; repealing s. 19 of
106 chapter 2019-116, Laws of Florida, relating to the
107 abrogation of the scheduled expiration of an amendment
108 to s. 409.908(23), F.S., and the scheduled reversion
109 of the text of that subsection; amending 409.908,
110 F.S.; revising provisions related to the prospective
111 payment methodology for certain Medicaid provider
112 reimbursements; reenacting s. 409.908(23), relating to
113 reimbursement of Medicaid providers for certain
114 services; amending s. 409.913, F.S.; revising the due



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115 date for a certain annual report; deleting the
116 requirement that certain agencies submit their annual
117 reports jointly; providing that the agency or its
118 contractor is entitled to recover certain costs and
119 attorney fees related to audits, investigations, or
120 enforcement actions conducted by the agency or its
121 contractor; amending s. 409.920, F.S.; revising
122 provisions related to prohibited referral practices in
123 the Medicaid program; amending ss. 409.967 and
124 409.973, F.S.; revising the length of managed care
125 plan contracts procured by the agency beginning during
126 a specified timeframe; requiring the agency to extend
127 the term of certain existing managed care plan
128 contracts until a specified date; amending s. 429.11,
129 F.S.; removing an authorization for the issuance of a
130 provisional license to certain facilities; amending s.
131 429.19, F.S.; removing requirements that the agency
132 develop and disseminate a specified list and the
133 Department of Children and Families disseminate such
134 list to certain providers; amending ss. 429.35 and
135 429.905, F.S.; revising provisions requiring a
136 biennial inspection cycle for specified facilities;
137 amending s. 429.929, F.S.; revising provisions
138 requiring a biennial inspection cycle for adult day
139 care centers; amending ss. 627.6387, 627.6648, and
140 641.31076, F.S.; revising the definition of the term
141 "shoppable health care service"; revising the duties
142 of certain health insurers and health maintenance
143 organizations; repealing part I of ch. 483, F.S.,



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144 relating to the Florida Multiphasic Health Testing
145 Center Law; redesignating parts II and III of ch. 483,
146 F.S., as parts I and II, respectively; amending ss.
147 20.43, 381.0034, 456.001, 456.057, 456.076, and
148 456.47, F.S.; conforming cross-references; providing
149 effective dates.

150
151 Be It Enacted by the Legislature of the State of Florida:

152
153 Section 1. Subsections (2) and (4) of section 383.327,
154 Florida Statutes, are amended to read:

155 383.327 Birth and death records; reports.—

156 (2) Each maternal death, newborn death, and stillbirth
157 shall be reported immediately to the medical examiner and the
158 agency.

159 (4) A report shall be submitted ~~annually~~ to the agency. The
160 contents of the report and the frequency with which it is
161 submitted shall be prescribed by rule of the agency.

162 Section 2. Subsection (4) of section 395.003, Florida
163 Statutes, is amended to read:

164 395.003 Licensure; denial, suspension, and revocation.—

165 (4) The agency shall issue a license ~~that which~~ specifies
166 the service categories and the number of hospital beds in each
167 bed category for which a license is received. Such information
168 shall be listed on the face of the license. ~~All beds which are~~
169 ~~not covered by any specialty-bed-need methodology shall be~~
170 ~~specified as general beds.~~ A licensed facility shall not operate
171 a number of hospital beds greater than the number indicated by
172 the agency on the face of the license without approval from the



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173 agency under conditions established by rule.

174 Section 3. Paragraph (g) is added to subsection (18) of
175 section 395.1055, Florida Statutes, to read:

176 395.1055 Rules and enforcement.—

177 (18) In establishing rules for adult cardiovascular
178 services, the agency shall include provisions that allow for:

179 (g) The requirement that hospitals licensed for adult
180 diagnostic cardiac catheterization, Level I or Level II adult
181 cardiovascular services participate in the American College of
182 Cardiology - National Cardiovascular Data Registry or the
183 American Heart Association's Get with the Guidelines - Coronary
184 Artery Disease program registry and document an ongoing quality
185 improvement plan to ensure these licensed programs meet or
186 exceed national quality and outcome benchmarks reported by the
187 registry in which they participate. Hospitals licensed for Level
188 II adult cardiovascular services must also participate in the
189 clinical outcome reporting systems operated by the Society for
190 Thoracic Surgeons.

191 Section 4. Paragraph (b) of subsection (2) of section
192 395.602, Florida Statutes, is amended to read:

193 395.602 Rural hospitals.—

194 (2) DEFINITIONS.—As used in this part, the term:

195 (b) "Rural hospital" means an acute care hospital licensed
196 under this chapter, having 100 or fewer licensed beds and an
197 emergency room, which is:

198 1. The sole provider within a county with a population
199 density of up to 100 persons per square mile;

200 2. An acute care hospital, in a county with a population
201 density of up to 100 persons per square mile, which is at least



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202 30 minutes of travel time, on normally traveled roads under
203 normal traffic conditions, from any other acute care hospital
204 within the same county;

205 3. A hospital supported by a tax district or subdistrict
206 whose boundaries encompass a population of up to 100 persons per
207 square mile;

208 4. A hospital classified as a sole community hospital under
209 42 C.F.R. s. 412.92, regardless of the number of licensed beds;

210 5. A hospital with a service area that has a population of
211 up to 100 persons per square mile. As used in this subparagraph,
212 the term "service area" means the fewest number of zip codes
213 that account for 75 percent of the hospital's discharges for the
214 most recent 5-year period, based on information available from
215 the hospital inpatient discharge database in the Florida Center
216 for Health Information and Transparency at the agency; or

217 6. A hospital designated as a critical access hospital, as
218 defined in s. 408.07.

219
220 Population densities used in this paragraph must be based upon
221 the most recently completed United States census. A hospital
222 that received funds under s. 409.9116 for a quarter beginning no
223 later than July 1, 2002, is deemed to have been and shall
224 continue to be a rural hospital from that date through June 30,
225 2021, if the hospital continues to have up to 100 licensed beds
226 and an emergency room. An acute care hospital that has not
227 previously been designated as a rural hospital and that meets
228 the criteria of this paragraph shall be granted such designation
229 upon application, including supporting documentation, to the
230 agency. A hospital that was licensed as a rural hospital during



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231 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
232 rural hospital from the date of designation through June 30,
233 ~~2025-2024~~, if the hospital continues to have up to 100 licensed
234 beds and an emergency room.

235 Section 5. Section 395.7015, Florida Statutes, is repealed.

236 Section 6. Section 395.7016, Florida Statutes, is amended
237 to read:

238 395.7016 Annual appropriation.—The Legislature shall
239 appropriate each fiscal year from either the General Revenue
240 Fund or the Agency for Health Care Administration Tobacco
241 Settlement Trust Fund an amount sufficient to replace the funds
242 lost due to ~~reduction by chapter 2000-256, Laws of Florida, of~~
243 ~~the assessment on other health care entities under s. 395.7015,~~
244 ~~and~~ the reduction by chapter 2000-256, Laws of Florida, in the
245 assessment on hospitals under s. 395.701~~7~~, and to maintain
246 federal approval of the reduced amount of funds deposited into
247 the Public Medical Assistance Trust Fund under s. 395.701~~7~~, as
248 state match for the state's Medicaid program.

249 Section 7. Subsection (3) of section 400.19, Florida
250 Statutes, is amended to read:

251 400.19 Right of entry and inspection.—

252 (3) The agency shall conduct periodic, every 15 months
253 ~~conduct at least one~~ unannounced licensure inspections
254 ~~inspection~~ to determine compliance by the licensee with
255 statutes, and with rules adopted promulgated under ~~the~~
256 ~~provisions of~~ those statutes, governing minimum standards of
257 construction, quality and adequacy of care, and rights of
258 residents. ~~The survey shall be conducted every 6 months for the~~
259 ~~next 2 year period~~ If the facility has been cited for a class I



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260 deficiency ~~or~~ has been cited for two or more class II
261 deficiencies arising from separate surveys or investigations
262 within a 60-day period, the agency shall conduct licensure
263 surveys every 6 months until the facility has two consecutive
264 licensure surveys without a citation for a class I or a class II
265 deficiency or has had three or more substantiated complaints
266 ~~within a 6-month period, each resulting in at least one class I~~
267 ~~or class II deficiency.~~ In addition to any other fees or fines
268 in this part, the agency shall assess a fine of for each
269 ~~facility that is subject to the 6-month survey cycle. The fine~~
270 ~~for the 2 year period shall be \$6,000 for the additional 6-month~~
271 ~~licensure surveys, one-half to be paid at the completion of each~~
272 ~~survey.~~ The agency may adjust such this fine by the change in
273 the Consumer Price Index, based on the 12 months immediately
274 preceding the increase, to cover the cost of the additional
275 surveys. The agency shall verify through subsequent inspection
276 that any deficiency identified during inspection is corrected.
277 However, the agency may verify the correction of a class III or
278 class IV deficiency unrelated to resident rights or resident
279 care without reinspecting the facility if adequate written
280 documentation has been received from the facility, which
281 provides assurance that the deficiency has been corrected. The
282 giving or causing to be given of advance notice of such
283 unannounced inspections by an employee of the agency to any
284 unauthorized person shall constitute cause for suspension of not
285 fewer than 5 working days according to ~~the provisions of~~ chapter
286 110.

287 Section 8. Subsections (12), (14), (17), (21), and (22) of
288 section 400.462, Florida Statutes, are amended to read:



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289 400.462 Definitions.—As used in this part, the term:

290 (12) “Home health agency” means a person who ~~an~~
291 ~~organization that provides one or more home health services and~~
292 ~~staffing services.~~

293 (14) “Home health services” means health and medical
294 services and medical supplies furnished ~~by an organization~~ to an
295 individual in the individual’s home or place of residence. The
296 term includes ~~organizations that provide one or more of the~~
297 following:

298 (a) Nursing care.

299 (b) Physical, occupational, respiratory, or speech therapy.

300 (c) Home health aide services.

301 (d) Dietetics and nutrition practice and nutrition
302 counseling.

303 (e) Medical supplies, restricted to drugs and biologicals
304 prescribed by a physician.

305 (17) “Home infusion therapy provider” means a person who ~~an~~
306 ~~organization that~~ employs, contracts with, or refers a licensed
307 professional who has received advanced training and experience
308 in intravenous infusion therapy and who administers infusion
309 therapy to a patient in the patient’s home or place of
310 residence.

311 (21) “Nurse registry” means any person ~~who that~~ procures,
312 offers, promises, or attempts to secure health-care-related
313 contracts for registered nurses, licensed practical nurses,
314 certified nursing assistants, home health aides, companions, or
315 homemakers, who are compensated by fees as independent
316 contractors, including, but not limited to, contracts for the
317 provision of services to patients and contracts to provide



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318 private duty or staffing services to health care facilities
319 licensed under chapter 395, this chapter, or chapter 429 or
320 other business entities.

321 ~~(22) “Organization” means a corporation, government or~~
322 ~~governmental subdivision or agency, partnership or association,~~
323 ~~or any other legal or commercial entity, any of which involve~~
324 ~~more than one health care professional discipline; a health care~~
325 ~~professional and a home health aide or certified nursing~~
326 ~~assistant; more than one home health aide; more than one~~
327 ~~certified nursing assistant; or a home health aide and a~~
328 ~~certified nursing assistant. The term does not include an entity~~
329 ~~that provides services using only volunteers or only individuals~~
330 ~~related by blood or marriage to the patient or client.~~

331 Section 9. Subsection (1), paragraph (a) of subsection (4),
332 and subsection (5) of section 400.464, Florida Statutes, are
333 amended to read:

334 400.464 Home health agencies to be licensed; expiration of
335 license; exemptions; unlawful acts; penalties.—

336 (1) The requirements of part II of chapter 408 apply to the
337 provision of services that require licensure pursuant to this
338 part and part II of chapter 408 and entities licensed or
339 registered by or applying for such licensure or registration
340 from the Agency for Health Care Administration pursuant to this
341 part. A license issued by the agency is required in order to
342 operate a home health agency in this state. A license issued on
343 or after July 1, 2018, must specify the home health services the
344 licensee ~~organization~~ is authorized to perform and indicate
345 whether such specified services are considered skilled care. The
346 provision or advertising of services that require licensure



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347 pursuant to this part without such services being specified on
348 the face of the license issued on or after July 1, 2018,
349 constitutes unlicensed activity as prohibited under s. 408.812.

350 (4) (a) ~~A licensee An organization~~ that offers or advertises
351 to the public any service for which licensure or registration is
352 required under this part must include in the advertisement the
353 license number or registration number issued to the licensee
354 ~~organization~~ by the agency. The agency shall assess a fine of
355 not less than \$100 to any licensee or registrant who fails to
356 include the license or registration number when submitting the
357 advertisement for publication, broadcast, or printing. The fine
358 for a second or subsequent offense is \$500. The holder of a
359 license issued under this part may not advertise or indicate to
360 the public that it holds a home health agency or nurse registry
361 license other than the one it has been issued.

362 (5) The following are exempt from ~~the~~ licensure as a home
363 health agency under requirements of this part:

364 (a) A home health agency operated by the Federal
365 Government.

366 (b) Home health services provided by a state agency, either
367 directly or through a contractor with:

368 1. The Department of Elderly Affairs.
369 2. The Department of Health, a community health center, or
370 a rural health network that furnishes home visits for the
371 purpose of providing environmental assessments, case management,
372 health education, personal care services, family planning, or
373 followup treatment, or for the purpose of monitoring and
374 tracking disease.

375 3. Services provided to persons with developmental



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376 disabilities, as defined in s. 393.063.

377 4. Companion and sitter organizations that were registered
378 under s. 400.509(1) on January 1, 1999, and were authorized to
379 provide personal services under a developmental services
380 provider certificate on January 1, 1999, may continue to provide
381 such services to past, present, and future clients of the
382 organization who need such services, notwithstanding the
383 provisions of this act.

384 5. The Department of Children and Families.

385 (c) A health care professional, whether or not
386 incorporated, who is licensed under chapter 457; chapter 458;
387 chapter 459; part I of chapter 464; chapter 467; part I, part
388 III, part V, or part X of chapter 468; chapter 480; chapter 486;
389 chapter 490; or chapter 491; and who is acting alone within the
390 scope of his or her professional license to provide care to
391 patients in their homes.

392 (d) A home health aide or certified nursing assistant who
393 is acting in his or her individual capacity, within the
394 definitions and standards of his or her occupation, and who
395 provides hands-on care to patients in their homes.

396 (e) An individual who acts alone, in his or her individual
397 capacity, and who is not employed by or affiliated with a
398 licensed home health agency or registered with a licensed nurse
399 registry. This exemption does not entitle an individual to
400 perform home health services without the required professional
401 license.

402 (f) The delivery of instructional services in home dialysis
403 and home dialysis supplies and equipment.

404 (g) The delivery of nursing home services for which the



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405 nursing home is licensed under part II of this chapter, to serve
406 its residents in its facility.

407 (h) The delivery of assisted living facility services for
408 which the assisted living facility is licensed under part I of
409 chapter 429, to serve its residents in its facility.

410 (i) The delivery of hospice services for which the hospice
411 is licensed under part IV of this chapter, to serve hospice
412 patients admitted to its service.

413 (j) A hospital that provides services for which it is
414 licensed under chapter 395.

415 (k) The delivery of community residential services for
416 which the community residential home is licensed under chapter
417 419, to serve the residents in its facility.

418 (l) A not-for-profit, community-based agency that provides
419 early intervention services to infants and toddlers.

420 (m) Certified rehabilitation agencies and comprehensive
421 outpatient rehabilitation facilities that are certified under
422 Title 18 of the Social Security Act.

423 (n) The delivery of adult family-care home services for
424 which the adult family-care home is licensed under part II of
425 chapter 429, to serve the residents in its facility.

426 (o) A person who provides skilled care by health care
427 professionals licensed solely under part I of chapter 464; part
428 I, part III, or part V of chapter 468; or chapter 486. This
429 exemption does not authorize an individual to perform home
430 health services without the required professional license.

431 (p) A person or entity that provides services using only
432 volunteers or only individuals related by blood or marriage to
433 the patient or client.



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434 Section 10. Paragraph (g) of subsection (2) of section
435 400.471, Florida Statutes, is amended to read:

436 400.471 Application for license; fee.—

437 (2) In addition to the requirements of part II of chapter
438 408, the initial applicant, the applicant for a change of
439 ownership, and the applicant for the addition of skilled care
440 services must file with the application satisfactory proof that
441 the home health agency is in compliance with this part and
442 applicable rules, including:

443 (g) In the case of an application for initial licensure, an
444 application for a change of ownership, or an application for the
445 addition of skilled care services, documentation of
446 accreditation, or an application for accreditation, from an
447 accrediting organization that is recognized by the agency as
448 having standards comparable to those required by this part and
449 part II of chapter 408. A home health agency that does not
450 provide skilled care is exempt from this paragraph.
451 Notwithstanding s. 408.806, ~~the an initial~~ applicant must
452 provide proof of accreditation that is not conditional or
453 provisional and a survey demonstrating compliance with the
454 requirements of this part, part II of chapter 408, and
455 applicable rules from an accrediting organization that is
456 recognized by the agency as having standards comparable to those
457 required by this part and part II of chapter 408 within 120 days
458 after the date of the agency's receipt of the application for
459 licensure. Such accreditation must be continuously maintained by
460 the home health agency to maintain licensure. The agency shall
461 accept, in lieu of its own periodic licensure survey, the
462 submission of the survey of an accrediting organization that is



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463 recognized by the agency if the accreditation of the licensed
464 home health agency is not provisional and if the licensed home
465 health agency authorizes release of, and the agency receives the
466 report of, the accrediting organization.

467 Section 11. Section 400.492, Florida Statutes, is amended
468 to read:

469 400.492 Provision of services during an emergency.—Each
470 home health agency shall prepare and maintain a comprehensive
471 emergency management plan that is consistent with the standards
472 adopted by national or state accreditation organizations and
473 consistent with the local special needs plan. The plan shall be
474 updated annually and shall provide for continuing home health
475 services during an emergency that interrupts patient care or
476 services in the patient's home. The plan shall include the means
477 by which the home health agency will continue to provide staff
478 to perform the same type and quantity of services to their
479 patients who evacuate to special needs shelters that were being
480 provided to those patients prior to evacuation. The plan shall
481 describe how the home health agency establishes and maintains an
482 effective response to emergencies and disasters, including:
483 notifying staff when emergency response measures are initiated;
484 providing for communication between staff members, county health
485 departments, and local emergency management agencies, including
486 a backup system; identifying resources necessary to continue
487 essential care or services or referrals to other health care
488 providers ~~organizations~~ subject to written agreement; and
489 prioritizing and contacting patients who need continued care or
490 services.

491 (1) Each patient record for patients who are listed in the



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492 registry established pursuant to s. 252.355 shall include a
493 description of how care or services will be continued in the
494 event of an emergency or disaster. The home health agency shall
495 discuss the emergency provisions with the patient and the
496 patient's caregivers, including where and how the patient is to
497 evacuate, procedures for notifying the home health agency in the
498 event that the patient evacuates to a location other than the
499 shelter identified in the patient record, and a list of
500 medications and equipment which must either accompany the
501 patient or will be needed by the patient in the event of an
502 evacuation.

503 (2) Each home health agency shall maintain a current
504 prioritized list of patients who need continued services during
505 an emergency. The list shall indicate how services shall be
506 continued in the event of an emergency or disaster for each
507 patient and if the patient is to be transported to a special
508 needs shelter, and shall indicate if the patient is receiving
509 skilled nursing services and the patient's medication and
510 equipment needs. The list shall be furnished to county health
511 departments and to local emergency management agencies, upon
512 request.

513 (3) Home health agencies shall not be required to continue
514 to provide care to patients in emergency situations that are
515 beyond their control and that make it impossible to provide
516 services, such as when roads are impassable or when patients do
517 not go to the location specified in their patient records. Home
518 health agencies may establish links to local emergency
519 operations centers to determine a mechanism by which to approach
520 specific areas within a disaster area in order for the agency to



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521 reach its clients. Home health agencies shall demonstrate a good
522 faith effort to comply with the requirements of this subsection
523 by documenting attempts of staff to follow procedures outlined
524 in the home health agency's comprehensive emergency management
525 plan, and by the patient's record, which support a finding that
526 the provision of continuing care has been attempted for those
527 patients who have been identified as needing care by the home
528 health agency and registered under s. 252.355, in the event of
529 an emergency or disaster under subsection (1).

530 (4) Notwithstanding the provisions of s. 400.464(2) or any
531 other provision of law to the contrary, a home health agency may
532 provide services in a special needs shelter located in any
533 county.

534 Section 12. Subsection (4) and paragraph (a) of subsection
535 (5) of section 400.506, Florida Statutes, are amended to read:

536 400.506 Licensure of nurse registries; requirements;
537 penalties.-

538 (4) A licensee who ~~person that~~ provides, offers, or
539 advertises to the public any service for which licensure is
540 required under this section must include in such advertisement
541 the license number issued to the licensee ~~it~~ by the Agency for
542 Health Care Administration. The agency shall assess a fine of
543 not less than \$100 against any licensee who fails to include the
544 license number when submitting the advertisement for
545 publication, broadcast, or printing. The fine for a second or
546 subsequent offense is \$500.

547 (5)(a) In addition to the requirements of s. 408.812, any
548 person or entity that ~~who~~ owns, operates, or maintains an
549 unlicensed nurse registry and who, after receiving notification



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550 from the agency, fails to cease operation and apply for a
551 license under this part commits a misdemeanor of the second
552 degree, punishable as provided in s. 775.082 or s. 775.083. Each
553 day of continued operation is a separate offense.

554 Section 13. Subsections (1), (2), (4), and (5) of section
555 400.509, Florida Statutes, are amended to read:

556 400.509 Registration of particular service providers exempt
557 from licensure; certificate of registration; regulation of
558 registrants.-

559 (1) Any person who ~~organization that~~ provides companion
560 services or homemaker services and does not provide a home
561 health service to a person is exempt from licensure under this
562 part. However, any person who ~~organization that~~ provides
563 companion services or homemaker services must register with the
564 agency. A person ~~An organization~~ under contract with the Agency
565 for Persons with Disabilities who ~~which~~ provides companion
566 services only for persons with a developmental disability, as
567 defined in s. 393.063, is exempt from registration.

568 (2) The requirements of part II of chapter 408 apply to the
569 provision of services that require registration or licensure
570 pursuant to this section and part II of chapter 408 and entities
571 registered by or applying for such registration from the Agency
572 for Health Care Administration pursuant to this section. Each
573 applicant for registration and each registrant must comply with
574 all provisions of part II of chapter 408. Registration or a
575 license issued by the agency is required for a person to provide
576 ~~the operation of an organization that provides~~ companion
577 services or homemaker services.

578 (4) Each registrant must obtain the employment or contract



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579 history of persons who are employed by or under contract with
580 the ~~person organization~~ and who will have contact at any time
581 with patients or clients in their homes by:

582 (a) Requiring such persons to submit an employment or
583 contractual history to the registrant; and

584 (b) Verifying the employment or contractual history, unless
585 through diligent efforts such verification is not possible. The
586 agency shall prescribe by rule the minimum requirements for
587 establishing that diligent efforts have been made.

588

589 There is no monetary liability on the part of, and no cause of
590 action for damages arises against, a former employer of a
591 prospective employee of or prospective independent contractor
592 with a registrant who reasonably and in good faith communicates
593 his or her honest opinions about the former employee's or
594 contractor's job performance. This subsection does not affect
595 the official immunity of an officer or employee of a public
596 corporation.

597 (5) A person ~~who that~~ offers or advertises to the public a
598 service for which registration is required must include in its
599 advertisement the registration number issued by the Agency for
600 Health Care Administration.

601 Section 14. Subsection (3) of section 400.605, Florida
602 Statutes, is amended to read:

603 400.605 Administration; forms; fees; rules; inspections;
604 fines.-

605 (3) In accordance with s. 408.811, the agency shall conduct
606 ~~annual inspections of all licensees, except that licensure~~
607 ~~inspections may be conducted biennially for hospices having a 3-~~



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608 ~~year record of substantial compliance. The agency shall conduct~~
609 such inspections and investigations as are necessary in order to
610 determine the state of compliance with ~~the provisions of this~~
611 part, part II of chapter 408, and applicable rules.

612 Section 15. Section 400.60501, Florida Statutes, is amended
613 to read:

614 400.60501 Outcome measures; adoption of federal quality
615 measures; public reporting; ~~annual report.-~~

616 (1) ~~No later than December 31, 2019,~~ The agency shall adopt
617 the national hospice outcome measures and survey data in 42
618 C.F.R. part 418 to determine the quality and effectiveness of
619 hospice care for hospices licensed in the state.

620 (2) The agency shall~~+~~

621 ~~(a)~~ make available to the public the national hospice
622 outcome measures and survey data in a format that is
623 comprehensible by a layperson and that allows a consumer to
624 compare such measures of one or more hospices.

625 ~~(b) Develop an annual report that analyzes and evaluates~~
626 ~~the information collected under this act and any other data~~
627 ~~collection or reporting provisions of law.~~

628 Section 16. Subsection (4) of section 400.9905, Florida
629 Statutes, is amended to read:

630 400.9905 Definitions.-

631 (4) "Clinic" means an entity where health care services are
632 provided to individuals and which tenders charges for
633 reimbursement for such services, including a mobile clinic and a
634 portable equipment provider. As used in this part, the term does
635 not include and the licensure requirements of this part do not
636 apply to:



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637 (a) Entities licensed or registered by the state under
638 chapter 395; entities licensed or registered by the state and
639 providing only health care services within the scope of services
640 authorized under their respective licenses under ss. 383.30-
641 383.332, chapter 390, chapter 394, chapter 397, this chapter
642 except part X, chapter 429, chapter 463, chapter 465, chapter
643 466, chapter 478, chapter 484, or chapter 651; end-stage renal
644 disease providers authorized under 42 C.F.R. part 405, subpart
645 U; providers certified and providing only health care services
646 within the scope of services authorized under their respective
647 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
648 H, or subpart J; providers certified and providing only health
649 care services within the scope of services authorized under
650 their respective certifications under 42 C.F.R. part 486,
651 subpart C; providers certified and providing only health care
652 services within the scope of services authorized under their
653 respective certifications under 42 C.F.R. part 491, subpart A;
654 providers certified by the Centers for Medicare and Medicaid
655 services under the federal Clinical Laboratory Improvement
656 Amendments and the federal rules adopted thereunder; or any
657 entity that provides neonatal or pediatric hospital-based health
658 care services or other health care services by licensed
659 practitioners solely within a hospital licensed under chapter
660 395.

661 (b) Entities that own, directly or indirectly, entities
662 licensed or registered by the state pursuant to chapter 395;
663 entities that own, directly or indirectly, entities licensed or
664 registered by the state and providing only health care services
665 within the scope of services authorized pursuant to their



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666 respective licenses under ss. 383.30-383.332, chapter 390,
667 chapter 394, chapter 397, this chapter except part X, chapter
668 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
669 484, or chapter 651; end-stage renal disease providers
670 authorized under 42 C.F.R. part 405, subpart U; providers
671 certified and providing only health care services within the
672 scope of services authorized under their respective
673 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
674 H, or subpart J; providers certified and providing only health
675 care services within the scope of services authorized under
676 their respective certifications under 42 C.F.R. part 486,
677 subpart C; providers certified and providing only health care
678 services within the scope of services authorized under their
679 respective certifications under 42 C.F.R. part 491, subpart A;
680 providers certified by the Centers for Medicare and Medicaid
681 services under the federal Clinical Laboratory Improvement
682 Amendments and the federal rules adopted thereunder; or any
683 entity that provides neonatal or pediatric hospital-based health
684 care services by licensed practitioners solely within a hospital
685 licensed under chapter 395.

686 (c) Entities that are owned, directly or indirectly, by an
687 entity licensed or registered by the state pursuant to chapter
688 395; entities that are owned, directly or indirectly, by an
689 entity licensed or registered by the state and providing only
690 health care services within the scope of services authorized
691 pursuant to their respective licenses under ss. 383.30-383.332,
692 chapter 390, chapter 394, chapter 397, this chapter except part
693 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
694 478, chapter 484, or chapter 651; end-stage renal disease



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695 providers authorized under 42 C.F.R. part 405, subpart U;
696 providers certified and providing only health care services
697 within the scope of services authorized under their respective
698 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
699 H, or subpart J; providers certified and providing only health
700 care services within the scope of services authorized under
701 their respective certifications under 42 C.F.R. part 486,
702 subpart C; providers certified and providing only health care
703 services within the scope of services authorized under their
704 respective certifications under 42 C.F.R. part 491, subpart A;
705 providers certified by the Centers for Medicare and Medicaid
706 services under the federal Clinical Laboratory Improvement
707 Amendments and the federal rules adopted thereunder; or any
708 entity that provides neonatal or pediatric hospital-based health
709 care services by licensed practitioners solely within a hospital
710 under chapter 395.

711 (d) Entities that are under common ownership, directly or
712 indirectly, with an entity licensed or registered by the state
713 pursuant to chapter 395; entities that are under common
714 ownership, directly or indirectly, with an entity licensed or
715 registered by the state and providing only health care services
716 within the scope of services authorized pursuant to their
717 respective licenses under ss. 383.30-383.332, chapter 390,
718 chapter 394, chapter 397, this chapter except part X, chapter
719 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
720 484, or chapter 651; end-stage renal disease providers
721 authorized under 42 C.F.R. part 405, subpart U; providers
722 certified and providing only health care services within the
723 scope of services authorized under their respective



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724 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
725 H, or subpart J; providers certified and providing only health
726 care services within the scope of services authorized under
727 their respective certifications under 42 C.F.R. part 486,
728 subpart C; providers certified and providing only health care
729 services within the scope of services authorized under their
730 respective certifications under 42 C.F.R. part 491, subpart A;
731 providers certified by the Centers for Medicare and Medicaid
732 services under the federal Clinical Laboratory Improvement
733 Amendments and the federal rules adopted thereunder; or any
734 entity that provides neonatal or pediatric hospital-based health
735 care services by licensed practitioners solely within a hospital
736 licensed under chapter 395.

737 (e) An entity that is exempt from federal taxation under 26
738 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
739 under 26 U.S.C. s. 409 that has a board of trustees at least
740 two-thirds of which are Florida-licensed health care
741 practitioners and provides only physical therapy services under
742 physician orders, any community college or university clinic,
743 and any entity owned or operated by the federal or state
744 government, including agencies, subdivisions, or municipalities
745 thereof.

746 (f) A sole proprietorship, group practice, partnership, or
747 corporation that provides health care services by physicians
748 covered by s. 627.419, that is directly supervised by one or
749 more of such physicians, and that is wholly owned by one or more
750 of those physicians or by a physician and the spouse, parent,
751 child, or sibling of that physician.

752 (g) A sole proprietorship, group practice, partnership, or



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753 corporation that provides health care services by licensed
754 health care practitioners under chapter 457, chapter 458,
755 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
756 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
757 chapter 490, chapter 491, or part I, part III, part X, part
758 XIII, or part XIV of chapter 468, or s. 464.012, and that is
759 wholly owned by one or more licensed health care practitioners,
760 or the licensed health care practitioners set forth in this
761 paragraph and the spouse, parent, child, or sibling of a
762 licensed health care practitioner if one of the owners who is a
763 licensed health care practitioner is supervising the business
764 activities and is legally responsible for the entity's
765 compliance with all federal and state laws. However, a health
766 care practitioner may not supervise services beyond the scope of
767 the practitioner's license, except that, for the purposes of
768 this part, a clinic owned by a licensee in s. 456.053(3)(b)
769 which provides only services authorized pursuant to s.
770 456.053(3)(b) may be supervised by a licensee specified in s.
771 456.053(3)(b).

772 (h) Clinical facilities affiliated with an accredited
773 medical school at which training is provided for medical
774 students, residents, or fellows.

775 (i) Entities that provide only oncology or radiation
776 therapy services by physicians licensed under chapter 458 or
777 chapter 459 or entities that provide oncology or radiation
778 therapy services by physicians licensed under chapter 458 or
779 chapter 459 which are owned by a corporation whose shares are
780 publicly traded on a recognized stock exchange.

781 (j) Clinical facilities affiliated with a college of



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782 chiropractic accredited by the Council on Chiropractic Education
783 at which training is provided for chiropractic students.

784 (k) Entities that provide licensed practitioners to staff
785 emergency departments or to deliver anesthesia services in
786 facilities licensed under chapter 395 and that derive at least
787 90 percent of their gross annual revenues from the provision of
788 such services. Entities claiming an exemption from licensure
789 under this paragraph must provide documentation demonstrating
790 compliance.

791 (l) Orthotic, prosthetic, pediatric cardiology, or
792 perinatology clinical facilities or anesthesia clinical
793 facilities that are not otherwise exempt under paragraph (a) or
794 paragraph (k) and that are a publicly traded corporation or are
795 wholly owned, directly or indirectly, by a publicly traded
796 corporation. As used in this paragraph, a publicly traded
797 corporation is a corporation that issues securities traded on an
798 exchange registered with the United States Securities and
799 Exchange Commission as a national securities exchange.

800 (m) Entities that are owned by a corporation that has \$250
801 million or more in total annual sales of health care services
802 provided by licensed health care practitioners where one or more
803 of the persons responsible for the operations of the entity is a
804 health care practitioner who is licensed in this state and who
805 is responsible for supervising the business activities of the
806 entity and is responsible for the entity's compliance with state
807 law for purposes of this part.

808 (n) Entities that employ 50 or more licensed health care
809 practitioners licensed under chapter 458 or chapter 459 where
810 the billing for medical services is under a single tax



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811 identification number. The application for exemption under this
812 subsection shall contain information that includes: the name,
813 residence, and business address and phone number of the entity
814 that owns the practice; a complete list of the names and contact
815 information of all the officers and directors of the
816 corporation; the name, residence address, business address, and
817 medical license number of each licensed Florida health care
818 practitioner employed by the entity; the corporate tax
819 identification number of the entity seeking an exemption; a
820 listing of health care services to be provided by the entity at
821 the health care clinics owned or operated by the entity and a
822 certified statement prepared by an independent certified public
823 accountant which states that the entity and the health care
824 clinics owned or operated by the entity have not received
825 payment for health care services under personal injury
826 protection insurance coverage for the preceding year. If the
827 agency determines that an entity which is exempt under this
828 subsection has received payments for medical services under
829 personal injury protection insurance coverage, the agency may
830 deny or revoke the exemption from licensure under this
831 subsection.

832 (o) Entities that are, directly or indirectly, under the
833 common ownership of or that are subject to common control by a
834 mutual insurance holding company, as defined in s. 628.703, with
835 an entity licensed or certified under chapter 627 or chapter 641
836 which has \$1 billion or more in total annual sales in this
837 state.

838 (p) Entities that are owned by an entity that is a
839 behavioral health service provider in at least 5 states other



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840 than Florida and that, together with its affiliates, has \$90
841 million or more in total annual revenues associated with the
842 provision of behavioral health services and where one or more of
843 the persons responsible for the operations of the entity is a
844 health care practitioner who is licensed in this state and who
845 is responsible for supervising the business activities of the
846 entity and for the entity's compliance with state law for
847 purposes of this part.

848 (q) Medicaid providers.

849
850 Notwithstanding this subsection, an entity shall be deemed a
851 clinic and must be licensed under this part in order to receive
852 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
853 627.730-627.7405, unless exempted under s. 627.736(5)(h).

854 Section 17. Paragraph (c) of subsection (3) of section
855 400.991, Florida Statutes, is amended to read:

856 400.991 License requirements; background screenings;
857 prohibitions.-

858 (3) In addition to the requirements of part II of chapter
859 408, the applicant must file with the application satisfactory
860 proof that the clinic is in compliance with this part and
861 applicable rules, including:

862 (c) Proof of financial ability to operate as required under
863 ~~ss. 408.8065(1) and 408.810(8) s. 408.810(8). As an alternative~~
864 ~~to submitting proof of financial ability to operate as required~~
865 ~~under s. 408.810(8), the applicant may file a surety bond of at~~
866 ~~least \$500,000 which guarantees that the clinic will act in full~~
867 ~~conformity with all legal requirements for operating a clinic,~~
868 ~~payable to the agency. The agency may adopt rules to specify~~



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869 ~~related requirements for such surety bond.~~

870 Section 18. Paragraph (i) of subsection (1) of section
871 400.9935, Florida Statutes, is amended to read:

872 400.9935 Clinic responsibilities.—

873 (1) Each clinic shall appoint a medical director or clinic
874 director who shall agree in writing to accept legal
875 responsibility for the following activities on behalf of the
876 clinic. The medical director or the clinic director shall:

877 (i) Ensure that the clinic publishes a schedule of charges
878 for the medical services offered to patients. The schedule must
879 include the prices charged to an uninsured person paying for
880 such services by cash, check, credit card, or debit card. The
881 schedule may group services by price levels, listing services in
882 each price level. The schedule must be posted in a conspicuous
883 place in the reception area of any clinic that is an ~~the~~ urgent
884 care center as defined in s. 395.002(29)(b) and must include,
885 but is not limited to, the 50 services most frequently provided
886 by the clinic. ~~The schedule may group services by three price~~
887 ~~levels, listing services in each price level.~~ The posting may be
888 a sign that must be at least 15 square feet in size or through
889 an electronic messaging board that is at least 3 square feet in
890 size. The failure of a clinic, including a clinic that is an
891 urgent care center, to publish and post a schedule of charges as
892 required by this section shall result in a fine of not more than
893 \$1,000, per day, until the schedule is published and posted.

894 Section 19. Paragraph (a) of subsection (2) of section
895 408.033, Florida Statutes, is amended to read:

896 408.033 Local and state health planning.—

897 (2) FUNDING.—



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898 (a) The Legislature intends that the cost of local health
899 councils be borne by assessments on selected health care
900 facilities subject to facility licensure by the Agency for
901 Health Care Administration, including abortion clinics, assisted
902 living facilities, ambulatory surgical centers, birth centers,
903 home health agencies, hospices, hospitals, intermediate care
904 facilities for the developmentally disabled, nursing homes, and
905 health care clinics, and multiphasic testing centers and by
906 assessments on organizations subject to certification by the
907 agency pursuant to chapter 641, part III, including health
908 maintenance organizations and prepaid health clinics. Fees
909 assessed may be collected prospectively at the time of licensure
910 renewal and prorated for the licensure period.

911 Section 20. Effective January 1, 2021, paragraph (1) is
912 added to subsection (3) of section 408.05, Florida Statutes, to
913 read:

914 408.05 Florida Center for Health Information and
915 Transparency.—

916 (3) HEALTH INFORMATION TRANSPARENCY.—In order to
917 disseminate and facilitate the availability of comparable and
918 uniform health information, the agency shall perform the
919 following functions:

920 (1) By July 1 of each year, publish a report identifying
921 the health care services with the most significant price
922 variation both statewide and regionally.

923 Section 21. Paragraph (a) of subsection (1) of section
924 408.061, Florida Statutes, is amended to read:

925 408.061 Data collection; uniform systems of financial
926 reporting; information relating to physician charges;



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927 confidential information; immunity.-

928 (1) The agency shall require the submission by health care
929 facilities, health care providers, and health insurers of data
930 necessary to carry out the agency's duties and to facilitate
931 transparency in health care pricing data and quality measures.
932 Specifications for data to be collected under this section shall
933 be developed by the agency and applicable contract vendors, with
934 the assistance of technical advisory panels including
935 representatives of affected entities, consumers, purchasers, and
936 such other interested parties as may be determined by the
937 agency.

938 (a) Data submitted by health care facilities, including the
939 facilities as defined in chapter 395, shall include, but are not
940 limited to, ~~+~~ case-mix data, patient admission and discharge
941 data, hospital emergency department data which shall include the
942 number of patients treated in the emergency department of a
943 licensed hospital reported by patient acuity level, data on
944 hospital-acquired infections as specified by rule, data on
945 complications as specified by rule, data on readmissions as
946 specified by rule, including patient- ~~with patient~~ and provider-
947 specific identifiers ~~included~~, actual charge data by diagnostic
948 groups or other bundled groupings as specified by rule,
949 financial data, accounting data, operating expenses, expenses
950 incurred for rendering services to patients who cannot or do not
951 pay, interest charges, depreciation expenses based on the
952 expected useful life of the property and equipment involved, and
953 demographic data. The agency shall adopt nationally recognized
954 risk adjustment methodologies or software consistent with the
955 standards of the Agency for Healthcare Research and Quality and



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956 as selected by the agency for all data submitted as required by
957 this section. Data may be obtained from documents including such
958 ~~as~~, but not limited to, ~~+~~ leases, contracts, debt instruments,
959 itemized patient statements or bills, medical record abstracts,
960 and related diagnostic information. ~~Reported~~ Data elements shall
961 be reported electronically in accordance with the inpatient data
962 reporting instructions as prescribed by agency rule 59E-7.012,
963 ~~Florida Administrative Code~~. Data submitted shall be certified
964 by the chief executive officer or an appropriate and duly
965 authorized representative or employee of the licensed facility
966 that the information submitted is true and accurate.

967 Section 22. Subsection (4) of section 408.0611, Florida
968 Statutes, is amended to read:

969 408.0611 Electronic prescribing clearinghouse.-

970 (4) Pursuant to s. 408.061, the agency shall monitor the
971 implementation of electronic prescribing by health care
972 practitioners, health care facilities, and pharmacies. ~~By~~
973 ~~January 31 of each year,~~ The agency shall report annually on its
974 website on the progress of implementation of electronic
975 prescribing ~~to the Governor and the Legislature~~. Information
976 reported pursuant to this subsection ~~must shall~~ include federal
977 and private sector electronic prescribing initiatives and, to
978 the extent that data is readily available from organizations
979 that operate electronic prescribing networks, the number of
980 health care practitioners using electronic prescribing and the
981 number of prescriptions electronically transmitted.

982 Section 23. Paragraphs (i) and (j) of subsection (1) of
983 section 408.062, Florida Statutes, are amended to read:

984 408.062 Research, analyses, studies, and reports.-



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985 (1) The agency shall conduct research, analyses, and
986 studies relating to health care costs and access to and quality
987 of health care services as access and quality are affected by
988 changes in health care costs. Such research, analyses, and
989 studies shall include, but not be limited to:
990 (i) The use of emergency department services by patient
991 acuity level ~~and the implication of increasing hospital cost by~~
992 ~~providing nonurgent care in emergency departments.~~ The agency
993 shall annually publish on its website information ~~submit an~~
994 ~~annual report~~ based on this monitoring and assessment ~~to the~~
995 ~~Governor, the Speaker of the House of Representatives, the~~
996 ~~President of the Senate, and the substantive legislative~~
997 ~~committees, due January 1.~~
998 (j) The making available on its Internet website, and in a
999 hard-copy format upon request, of patient charge, volumes,
1000 length of stay, and performance indicators collected from health
1001 care facilities pursuant to s. 408.061(1)(a) for specific
1002 medical conditions, surgeries, and procedures provided in
1003 inpatient and outpatient facilities as determined by the agency.
1004 In making the determination of specific medical conditions,
1005 surgeries, and procedures to include, the agency shall consider
1006 such factors as volume, severity of the illness, urgency of
1007 admission, individual and societal costs, and whether the
1008 condition is acute or chronic. Performance outcome indicators
1009 shall be risk adjusted or severity adjusted, as applicable,
1010 using nationally recognized risk adjustment methodologies or
1011 software consistent with the standards of the Agency for
1012 Healthcare Research and Quality and as selected by the agency.
1013 The website shall also provide an interactive search that allows



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1014 consumers to view and compare the information for specific
1015 facilities, a map that allows consumers to select a county or
1016 region, definitions of all of the data, descriptions of each
1017 procedure, and an explanation about why the data may differ from
1018 facility to facility. Such public data shall be updated
1019 quarterly. The agency shall annually publish on its website
1020 information ~~submit an annual status report~~ on the collection of
1021 data and publication of health care quality measures ~~to the~~
1022 ~~Governor, the Speaker of the House of Representatives, the~~
1023 ~~President of the Senate, and the substantive legislative~~
1024 ~~committees, due January 1.~~
1025 Section 24. Subsection (5) of section 408.063, Florida
1026 Statutes, is amended to read:
1027 408.063 Dissemination of health care information.—
1028 ~~(5) The agency shall publish annually a comprehensive~~
1029 ~~report of state health expenditures. The report shall identify:~~
1030 ~~(a) The contribution of health care dollars made by all~~
1031 ~~payors.~~
1032 ~~(b) The dollars expended by type of health care service in~~
1033 ~~Florida.~~
1034 Section 25. Section 408.802, Florida Statutes, is amended
1035 to read:
1036 408.802 Applicability.—~~The provisions of~~ This part applies
1037 ~~apply~~ to the provision of services that require licensure as
1038 defined in this part and to the following entities licensed,
1039 registered, or certified by the agency, as described in chapters
1040 112, 383, 390, 394, 395, 400, 429, 440, ~~483,~~ and 765:
1041 (1) Laboratories authorized to perform testing under the
1042 Drug-Free Workplace Act, as provided under ss. 112.0455 and



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1043 440.102.
1044 (2) Birth centers, as provided under chapter 383.
1045 (3) Abortion clinics, as provided under chapter 390.
1046 (4) Crisis stabilization units, as provided under parts I
1047 and IV of chapter 394.
1048 (5) Short-term residential treatment facilities, as
1049 provided under parts I and IV of chapter 394.
1050 (6) Residential treatment facilities, as provided under
1051 part IV of chapter 394.
1052 (7) Residential treatment centers for children and
1053 adolescents, as provided under part IV of chapter 394.
1054 (8) Hospitals, as provided under part I of chapter 395.
1055 (9) Ambulatory surgical centers, as provided under part I
1056 of chapter 395.
1057 (10) Nursing homes, as provided under part II of chapter
1058 400.
1059 (11) Assisted living facilities, as provided under part I
1060 of chapter 429.
1061 (12) Home health agencies, as provided under part III of
1062 chapter 400.
1063 (13) Nurse registries, as provided under part III of
1064 chapter 400.
1065 (14) Companion services or homemaker services providers, as
1066 provided under part III of chapter 400.
1067 (15) Adult day care centers, as provided under part III of
1068 chapter 429.
1069 (16) Hospices, as provided under part IV of chapter 400.
1070 (17) Adult family-care homes, as provided under part II of
1071 chapter 429.



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1072 (18) Homes for special services, as provided under part V
1073 of chapter 400.
1074 (19) Transitional living facilities, as provided under part
1075 XI of chapter 400.
1076 (20) Prescribed pediatric extended care centers, as
1077 provided under part VI of chapter 400.
1078 (21) Home medical equipment providers, as provided under
1079 part VII of chapter 400.
1080 (22) Intermediate care facilities for persons with
1081 developmental disabilities, as provided under part VIII of
1082 chapter 400.
1083 (23) Health care services pools, as provided under part IX
1084 of chapter 400.
1085 (24) Health care clinics, as provided under part X of
1086 chapter 400.
1087 ~~(25) Multiphasic health testing centers, as provided under~~
1088 ~~part I of chapter 483.~~
1089 (25) ~~(26)~~ Organ, tissue, and eye procurement organizations,
1090 as provided under part V of chapter 765.
1091 Section 26. Present subsections (10) through (14) of
1092 section 408.803, Florida Statutes, are redesignated as
1093 subsections (11) through (15), respectively, a new subsection
1094 (10) is added to that section, and subsection (3) of that
1095 section is amended, to read:
1096 408.803 Definitions.—As used in this part, the term:
1097 (3) "Authorizing statute" means the statute authorizing the
1098 licensed operation of a provider listed in s. 408.802 and
1099 includes chapters 112, 383, 390, 394, 395, 400, 429, 440, ~~483~~,
1100 and 765.



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1101 (10) "Low-risk provider" means nurse registries, home
1102 medical equipment providers, and health care clinics.

1103 Section 27. Paragraph (b) of subsection (7) of section
1104 408.806, Florida Statutes, is amended to read:
1105 408.806 License application process.—

1106 (7)
1107 (b) An initial inspection is not required for companion
1108 services or homemaker services providers, as provided under part
1109 III of chapter 400, ~~or~~ for health care services pools, as
1110 provided under part IX of chapter 400, or for low-risk providers
1111 as provided under s. 408.811.

1112 Section 28. Subsection (2) of section 408.808, Florida
1113 Statutes, is amended to read:

1114 408.808 License categories.—

1115 (2) PROVISIONAL LICENSE.—An applicant against whom a
1116 proceeding denying or revoking a license is pending at the time
1117 of license renewal may be issued a provisional license effective
1118 until final action not subject to further appeal. A provisional
1119 license may also be issued to an applicant for initial licensure
1120 or an applicant applying for a change of ownership. A
1121 provisional license must be limited in duration to a specific
1122 period of time, up to 12 months, as determined by the agency.

1123 Section 29. Subsections (2) and (5) of section 408.809,
1124 Florida Statutes, are amended to read:

1125 408.809 Background screening; prohibited offenses.—

1126 (2) Every 5 years following his or her licensure,
1127 employment, or entry into a contract in a capacity that under
1128 subsection (1) would require level 2 background screening under
1129 chapter 435, each such person must submit to level 2 background



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1130 rescreening as a condition of retaining such license or
1131 continuing in such employment or contractual status. For any
1132 such rescreening, the agency shall request the Department of Law
1133 Enforcement to forward the person's fingerprints to the Federal
1134 Bureau of Investigation for a national criminal history record
1135 check unless the person's fingerprints are enrolled in the
1136 Federal Bureau of Investigation's national retained print arrest
1137 notification program. If the fingerprints of such a person are
1138 not retained by the Department of Law Enforcement under s.
1139 943.05(2)(g) and (h), the person must submit fingerprints
1140 electronically to the Department of Law Enforcement for state
1141 processing, and the Department of Law Enforcement shall forward
1142 the fingerprints to the Federal Bureau of Investigation for a
1143 national criminal history record check. The fingerprints shall
1144 be retained by the Department of Law Enforcement under s.
1145 943.05(2)(g) and (h) and enrolled in the national retained print
1146 arrest notification program when the Department of Law
1147 Enforcement begins participation in the program. The cost of the
1148 state and national criminal history records checks required by
1149 level 2 screening may be borne by the licensee or the person
1150 fingerprinted. ~~Until a specified agency is fully implemented in~~
1151 ~~the clearinghouse created under s. 435.12,~~ The agency may accept
1152 as satisfying the requirements of this section proof of
1153 compliance with level 2 screening standards submitted within the
1154 previous 5 years to meet any provider or professional licensure
1155 requirements of ~~the agency, the Department of Health, the~~
1156 ~~Department of Elderly Affairs, the Agency for Persons with~~
1157 ~~Disabilities, the Department of Children and Families, or the~~
1158 Department of Financial Services for an applicant for a



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1159 certificate of authority or provisional certificate of authority
1160 to operate a continuing care retirement community under chapter
1161 651, provided that:

1162 (a) The screening standards and disqualifying offenses for
1163 the prior screening are equivalent to those specified in s.
1164 435.04 and this section;

1165 (b) The person subject to screening has not had a break in
1166 service from a position that requires level 2 screening for more
1167 than 90 days; and

1168 (c) Such proof is accompanied, under penalty of perjury, by
1169 an attestation of compliance with chapter 435 and this section
1170 using forms provided by the agency.

1171 ~~(5) A person who serves as a controlling interest of, is~~
1172 ~~employed by, or contracts with a licensee on July 31, 2010, who~~
1173 ~~has been screened and qualified according to standards specified~~
1174 ~~in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015,~~
1175 ~~in compliance with the following schedule. If, upon rescreening,~~
1176 ~~such person has a disqualifying offense that was not a~~
1177 ~~disqualifying offense at the time of the last screening, but is~~
1178 ~~a current disqualifying offense and was committed before the~~
1179 ~~last screening, he or she may apply for an exemption from the~~
1180 ~~appropriate licensing agency and, if agreed to by the employer,~~
1181 ~~may continue to perform his or her duties until the licensing~~
1182 ~~agency renders a decision on the application for exemption if~~
1183 ~~the person is eligible to apply for an exemption and the~~
1184 ~~exemption request is received by the agency within 30 days after~~
1185 ~~receipt of the rescreening results by the person. The~~
1186 ~~rescreening schedule shall be:~~

1187 ~~(a) Individuals for whom the last screening was conducted~~



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1188 ~~on or before December 31, 2004, must be rescreened by July 31,~~
1189 ~~2013.~~

1190 ~~(b) Individuals for whom the last screening conducted was~~
1191 ~~between January 1, 2005, and December 31, 2008, must be~~
1192 ~~rescreened by July 31, 2014.~~

1193 ~~(c) Individuals for whom the last screening conducted was~~
1194 ~~between January 1, 2009, through July 31, 2011, must be~~
1195 ~~rescreened by July 31, 2015.~~

1196 Section 30. Subsection (1) of section 408.811, Florida
1197 Statutes, is amended to read:

1198 408.811 Right of inspection; copies; inspection reports;
1199 plan for correction of deficiencies.—

1200 (1) An authorized officer or employee of the agency may
1201 make or cause to be made any inspection or investigation deemed
1202 necessary by the agency to determine the state of compliance
1203 with this part, authorizing statutes, and applicable rules. The
1204 right of inspection extends to any business that the agency has
1205 reason to believe is being operated as a provider without a
1206 license, but inspection of any business suspected of being
1207 operated without the appropriate license may not be made without
1208 the permission of the owner or person in charge unless a warrant
1209 is first obtained from a circuit court. Any application for a
1210 license issued under this part, authorizing statutes, or
1211 applicable rules constitutes permission for an appropriate
1212 inspection to verify the information submitted on or in
1213 connection with the application.

1214 (a) All inspections shall be unannounced, except as
1215 specified in s. 408.806.

1216 (b) Inspections for relicensure shall be conducted



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1217 biennially unless otherwise specified by this section,
1218 authorizing statutes, or applicable rules.

1219 (c) The agency may exempt a low-risk provider from
1220 licensure inspection if the provider or controlling interest has
1221 an excellent regulatory history with regard to deficiencies,
1222 sanctions, complaints, and other regulatory actions, as defined
1223 by rule. The agency shall continue to conduct unannounced
1224 licensure inspections for at least 10 percent of exempt low-risk
1225 providers to verify compliance.

1226 (d) The agency may adopt rules to waive a routine
1227 inspection, including inspection for relicensure, or allow for
1228 an extended period between relicensure inspections for specific
1229 providers based upon all of the following:

1230 1. A favorable regulatory history with regard to
1231 deficiencies, sanctions, complaints, and other regulatory
1232 measures.

1233 2. Outcome measures that demonstrate quality performance.

1234 3. Successful participation in a recognized quality
1235 assurance program.

1236 4. Accreditation status.

1237 5. Other measures reflective of quality and safety.

1238 6. The length of time between inspections.

1239
1240 The agency shall continue to conduct unannounced licensure
1241 inspections for at least 10 percent of providers that qualify
1242 for a waiver or extended period between relicensure inspections.

1243 (e) The agency maintains the authority to conduct an
1244 inspection of any provider at any time to determine regulatory
1245 compliance.



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1246 Section 31. Subsection (24) of section 408.820, Florida
1247 Statutes, is amended to read:

1248 408.820 Exemptions.—Except as prescribed in authorizing
1249 statutes, the following exemptions shall apply to specified
1250 requirements of this part:

1251 ~~(24) Multiphasic health testing centers, as provided under~~
1252 ~~part I of chapter 483, are exempt from s. 408.810(5)–(10).~~

1253 Section 32. Subsections (1) and (2) of section 408.821,
1254 Florida Statutes, are amended to read:

1255 408.821 Emergency management planning; emergency
1256 operations; inactive license.—

1257 (1) A licensee required by authorizing statutes and agency
1258 rule to have a comprehensive an emergency management operations
1259 plan must designate a safety liaison to serve as the primary
1260 contact for emergency operations. Such licensee shall submit its
1261 comprehensive emergency management plan to the local emergency
1262 management agency, the county health department, or the
1263 Department of Health as follows:

1264 (a) Submit the plan within 30 days after initial licensure
1265 and change of ownership, and notify the agency within 30 days
1266 after submission of the plan.

1267 (b) Submit the plan annually and within 30 days after any
1268 significant modification, as defined by agency rule, to a
1269 previously approved plan.

1270 (c) Respond with necessary plan revisions within 30 days
1271 after notification that plan revisions are required.

1272 (d) Notify the agency within 30 days after approval of its
1273 plan by the local emergency management agency, county health
1274 department, or Department of Health.



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1275 (2) An entity subject to this part may temporarily exceed
1276 its licensed capacity to act as a receiving provider in
1277 accordance with an approved comprehensive emergency management
1278 ~~operations~~ plan for up to 15 days. While in an overcapacity
1279 status, each provider must furnish or arrange for appropriate
1280 care and services to all clients. In addition, the agency may
1281 approve requests for overcapacity in excess of 15 days, which
1282 approvals may be based upon satisfactory justification and need
1283 as provided by the receiving and sending providers.

1284 Section 33. Subsection (3) of section 408.831, Florida
1285 Statutes, is amended to read:

1286 408.831 Denial, suspension, or revocation of a license,
1287 registration, certificate, or application.—

1288 (3) This section provides standards of enforcement
1289 applicable to all entities licensed or regulated by the Agency
1290 for Health Care Administration. This section controls over any
1291 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
1292 400, 408, 429, 468, ~~483~~, and 765 or rules adopted pursuant to
1293 those chapters.

1294 Section 34. Section 408.832, Florida Statutes, is amended
1295 to read:

1296 408.832 Conflicts.—In case of conflict between the
1297 provisions of this part and the authorizing statutes governing
1298 the licensure of health care providers by the Agency for Health
1299 Care Administration found in s. 112.0455 and chapters 383, 390,
1300 394, 395, 400, 429, 440, ~~483~~, and 765, the provisions of this
1301 part shall prevail.

1302 Section 35. Subsection (9) of section 408.909, Florida
1303 Statutes, is amended to read:



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1304 408.909 Health flex plans.—

1305 ~~(9) PROGRAM EVALUATION. The agency and the office shall~~
1306 ~~evaluate the pilot program and its effect on the entities that~~
1307 ~~seek approval as health flex plans, on the number of enrollees,~~
1308 ~~and on the scope of the health care coverage offered under a~~
1309 ~~health flex plan; shall provide an assessment of the health flex~~
1310 ~~plans and their potential applicability in other settings; shall~~
1311 ~~use health flex plans to gather more information to evaluate~~
1312 ~~low income consumer driven benefit packages; and shall, by~~
1313 ~~January 15, 2016, and annually thereafter, jointly submit a~~
1314 ~~report to the Governor, the President of the Senate, and the~~
1315 ~~Speaker of the House of Representatives.~~

1316 Section 36. Paragraph (d) of subsection (10) of section
1317 408.9091, Florida Statutes, is amended to read:

1318 408.9091 Cover Florida Health Care Access Program.—

1319 (10) PROGRAM EVALUATION.—The agency and the office shall:

1320 ~~(d) Jointly submit by March 1, annually, a report to the~~
1321 ~~Governor, the President of the Senate, and the Speaker of the~~
1322 ~~House of Representatives which provides the information~~
1323 ~~specified in paragraphs (a)–(c) and recommendations relating to~~
1324 ~~the successful implementation and administration of the program.~~

1325 Section 37. Effective upon becoming a law, paragraph (a) of
1326 subsection (5) of section 409.905, Florida Statutes, is amended
1327 to read:

1328 409.905 Mandatory Medicaid services.—The agency may make
1329 payments for the following services, which are required of the
1330 state by Title XIX of the Social Security Act, furnished by
1331 Medicaid providers to recipients who are determined to be
1332 eligible on the dates on which the services were provided. Any



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1333 service under this section shall be provided only when medically
1334 necessary and in accordance with state and federal law.
1335 Mandatory services rendered by providers in mobile units to
1336 Medicaid recipients may be restricted by the agency. Nothing in
1337 this section shall be construed to prevent or limit the agency
1338 from adjusting fees, reimbursement rates, lengths of stay,
1339 number of visits, number of services, or any other adjustments
1340 necessary to comply with the availability of moneys and any
1341 limitations or directions provided for in the General
1342 Appropriations Act or chapter 216.

1343 (5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for
1344 all covered services provided for the medical care and treatment
1345 of a recipient who is admitted as an inpatient by a licensed
1346 physician or dentist to a hospital licensed under part I of
1347 chapter 395. However, the agency shall limit the payment for
1348 inpatient hospital services for a Medicaid recipient 21 years of
1349 age or older to 45 days or the number of days necessary to
1350 comply with the General Appropriations Act.

1351 (a) 1. The agency may implement reimbursement and
1352 utilization management reforms in order to comply with any
1353 limitations or directions in the General Appropriations Act,
1354 which may include, but are not limited to: prior authorization
1355 for inpatient psychiatric days; prior authorization for
1356 nonemergency hospital inpatient admissions for individuals 21
1357 years of age and older; authorization of emergency and urgent-
1358 care admissions within 24 hours after admission; enhanced
1359 utilization and concurrent review programs for highly utilized
1360 services; reduction or elimination of covered days of service;
1361 adjusting reimbursement ceilings for variable costs; adjusting



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1362 reimbursement ceilings for fixed and property costs; and
1363 implementing target rates of increase.

1364 2. The agency may limit prior authorization for hospital
1365 inpatient services to selected diagnosis-related groups, based
1366 on an analysis of the cost and potential for unnecessary
1367 hospitalizations represented by certain diagnoses. Admissions
1368 for normal delivery and newborns are exempt from requirements
1369 for prior authorization.

1370 3. In implementing the provisions of this section related
1371 to prior authorization, the agency shall ensure that the process
1372 for authorization is accessible 24 hours per day, 7 days per
1373 week and authorization is automatically granted when not denied
1374 within 4 hours after the request. Authorization procedures must
1375 include steps for review of denials.

1376 4. Upon implementing the prior authorization program for
1377 hospital inpatient services, the agency shall discontinue its
1378 hospital retrospective review program. However, this
1379 subparagraph may not be construed to prevent the agency from
1380 conducting retrospective reviews under s. 409.913, including,
1381 but not limited to, reviews in which an overpayment is suspected
1382 due to a mistake or submission of an improper claim or for other
1383 reasons that do not rise to the level of fraud or abuse.

1384 Section 38. It is the intent of the Legislature that
1385 section 409.905(5) (a), Florida Statutes, as amended by this act,
1386 confirms and clarifies existing law. This section shall take
1387 effect upon becoming a law.

1388 Section 39. Subsection (8) of section 409.907, Florida
1389 Statutes, is amended to read:

1390 409.907 Medicaid provider agreements.—The agency may make



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1391 payments for medical assistance and related services rendered to
1392 Medicaid recipients only to an individual or entity who has a
1393 provider agreement in effect with the agency, who is performing
1394 services or supplying goods in accordance with federal, state,
1395 and local law, and who agrees that no person shall, on the
1396 grounds of handicap, race, color, or national origin, or for any
1397 other reason, be subjected to discrimination under any program
1398 or activity for which the provider receives payment from the
1399 agency.

1400 (8) (a) A level 2 background screening pursuant to chapter
1401 435 must be conducted through the agency on each of the
1402 following:

1403 1. The ~~Each~~ provider, or each principal of the provider if
1404 the provider is a corporation, partnership, association, or
1405 other entity, seeking to participate in the Medicaid program
1406 must submit a complete set of his or her fingerprints to the
1407 agency for the purpose of conducting a criminal history record
1408 check.

1409 2. Principals of the provider, who include any officer,
1410 director, billing agent, managing employee, or affiliated
1411 person, or any partner or shareholder who has an ownership
1412 interest equal to 5 percent or more in the provider. However,
1413 for a hospital licensed under chapter 395 or a nursing home
1414 licensed under chapter 400, principals of the provider are those
1415 who meet the definition of a controlling interest under s.
1416 408.803. A director of a not-for-profit corporation or
1417 organization is not a principal for purposes of a background
1418 investigation required by this section if the director: serves
1419 solely in a voluntary capacity for the corporation or



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1420 organization, does not regularly take part in the day-to-day
1421 operational decisions of the corporation or organization,
1422 receives no remuneration from the not-for-profit corporation or
1423 organization for his or her service on the board of directors,
1424 has no financial interest in the not-for-profit corporation or
1425 organization, and has no family members with a financial
1426 interest in the not-for-profit corporation or organization; and
1427 if the director submits an affidavit, under penalty of perjury,
1428 to this effect to the agency and the not-for-profit corporation
1429 or organization submits an affidavit, under penalty of perjury,
1430 to this effect to the agency as part of the corporation's or
1431 organization's Medicaid provider agreement application.

1432 3. Any person who participates or seeks to participate in
1433 the Florida Medicaid program by way of rendering services to
1434 Medicaid recipients or having direct access to Medicaid
1435 recipients, recipient living areas, or the financial, medical,
1436 or service records of a Medicaid recipient or who supervises the
1437 delivery of goods or services to a Medicaid recipient. This
1438 subparagraph does not impose additional screening requirements
1439 on any providers licensed under part II of chapter 408 or
1440 transportation service providers contracted with a
1441 transportation broker subject to this paragraph while
1442 administering the Medicaid transportation benefit.

1443 (b) Notwithstanding paragraph (a) ~~the above~~, the agency may
1444 require a background check for any person reasonably suspected
1445 by the agency to have been convicted of a crime.

1446 (c) ~~(a)~~ Paragraph (a) This subsection does not apply to:

1447 1. A unit of local government, except that requirements of
1448 this subsection apply to nongovernmental providers and entities



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1449 contracting with the local government to provide Medicaid
1450 services. The actual cost of the state and national criminal
1451 history record checks must be borne by the nongovernmental
1452 provider or entity; or

1453 2. Any business that derives more than 50 percent of its
1454 revenue from the sale of goods to the final consumer, and the
1455 business or its controlling parent is required to file a form
1456 10-K or other similar statement with the Securities and Exchange
1457 Commission or has a net worth of \$50 million or more.

1458 (d) ~~(b)~~ Background screening shall be conducted in
1459 accordance with chapter 435 and s. 408.809. The cost of the
1460 state and national criminal record check shall be borne by the
1461 provider.

1462 Section 40. Effective June 30, 2020, section 19 of chapter
1463 2019-116, Laws of Florida, is repealed.

1464 Section 41. Paragraph (a) of subsection (1) of section
1465 409.908, Florida Statutes, is amended, and subsection (23) of
1466 that section is reenacted, to read:

1467 409.908 Reimbursement of Medicaid providers.—Subject to
1468 specific appropriations, the agency shall reimburse Medicaid
1469 providers, in accordance with state and federal law, according
1470 to methodologies set forth in the rules of the agency and in
1471 policy manuals and handbooks incorporated by reference therein.
1472 These methodologies may include fee schedules, reimbursement
1473 methods based on cost reporting, negotiated fees, competitive
1474 bidding pursuant to s. 287.057, and other mechanisms the agency
1475 considers efficient and effective for purchasing services or
1476 goods on behalf of recipients. If a provider is reimbursed based
1477 on cost reporting and submits a cost report late and that cost



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1478 report would have been used to set a lower reimbursement rate
1479 for a rate semester, then the provider's rate for that semester
1480 shall be retroactively calculated using the new cost report, and
1481 full payment at the recalculated rate shall be effected
1482 retroactively. Medicare-granted extensions for filing cost
1483 reports, if applicable, shall also apply to Medicaid cost
1484 reports. Payment for Medicaid compensable services made on
1485 behalf of Medicaid eligible persons is subject to the
1486 availability of moneys and any limitations or directions
1487 provided for in the General Appropriations Act or chapter 216.
1488 Further, nothing in this section shall be construed to prevent
1489 or limit the agency from adjusting fees, reimbursement rates,
1490 lengths of stay, number of visits, or number of services, or
1491 making any other adjustments necessary to comply with the
1492 availability of moneys and any limitations or directions
1493 provided for in the General Appropriations Act, provided the
1494 adjustment is consistent with legislative intent.

1495 (1) Reimbursement to hospitals licensed under part I of
1496 chapter 395 must be made prospectively or on the basis of
1497 negotiation.

1498 (a) Reimbursement for inpatient care is limited as provided
1499 in s. 409.905(5), except as otherwise provided in this
1500 subsection.

1501 1. If authorized by the General Appropriations Act, the
1502 agency may modify reimbursement for specific types of services
1503 or diagnoses, recipient ages, and hospital provider types.

1504 2. The agency may establish an alternative methodology to
1505 the DRG-based prospective payment system to set reimbursement
1506 rates for:



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1507 a. State-owned psychiatric hospitals.
1508 b. Newborn hearing screening services.
1509 c. Transplant services for which the agency has established
1510 a global fee.
1511 d. Recipients who have tuberculosis that is resistant to
1512 therapy who are in need of long-term, hospital-based treatment
1513 pursuant to s. 392.62.
1514 ~~e. Class III psychiatric hospitals.~~
1515 3. The agency shall modify reimbursement according to other
1516 methodologies recognized in the General Appropriations Act.
1517
1518 The agency may receive funds from state entities, including, but
1519 not limited to, the Department of Health, local governments, and
1520 other local political subdivisions, for the purpose of making
1521 special exception payments, including federal matching funds,
1522 through the Medicaid inpatient reimbursement methodologies.
1523 Funds received for this purpose shall be separately accounted
1524 for and may not be commingled with other state or local funds in
1525 any manner. The agency may certify all local governmental funds
1526 used as state match under Title XIX of the Social Security Act,
1527 to the extent and in the manner authorized under the General
1528 Appropriations Act and pursuant to an agreement between the
1529 agency and the local governmental entity. In order for the
1530 agency to certify such local governmental funds, a local
1531 governmental entity must submit a final, executed letter of
1532 agreement to the agency, which must be received by October 1 of
1533 each fiscal year and provide the total amount of local
1534 governmental funds authorized by the entity for that fiscal year
1535 under this paragraph, paragraph (b), or the General



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1536 Appropriations Act. The local governmental entity shall use a
1537 certification form prescribed by the agency. At a minimum, the
1538 certification form must identify the amount being certified and
1539 describe the relationship between the certifying local
1540 governmental entity and the local health care provider. The
1541 agency shall prepare an annual statement of impact which
1542 documents the specific activities undertaken during the previous
1543 fiscal year pursuant to this paragraph, to be submitted to the
1544 Legislature annually by January 1.
1545 (23) (a) The agency shall establish rates at a level that
1546 ensures no increase in statewide expenditures resulting from a
1547 change in unit costs for county health departments effective
1548 July 1, 2011. Reimbursement rates shall be as provided in the
1549 General Appropriations Act.
1550 (b)1. Base rate reimbursement for inpatient services under
1551 a diagnosis-related group payment methodology shall be provided
1552 in the General Appropriations Act.
1553 2. Base rate reimbursement for outpatient services under an
1554 enhanced ambulatory payment group methodology shall be provided
1555 in the General Appropriations Act.
1556 3. Prospective payment system reimbursement for nursing
1557 home services shall be as provided in subsection (2) and in the
1558 General Appropriations Act.
1559 Section 42. Section 409.913, Florida Statutes, is amended
1560 to read:
1561 409.913 Oversight of the integrity of the Medicaid
1562 program.—The agency shall operate a program to oversee the
1563 activities of Florida Medicaid recipients, and providers and
1564 their representatives, to ensure that fraudulent and abusive



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1565 behavior and neglect of recipients occur to the minimum extent
1566 possible, and to recover overpayments and impose sanctions as
1567 appropriate. Each ~~January 15~~ ~~January 1~~, the agency and the
1568 Medicaid Fraud Control Unit of the Department of Legal Affairs
1569 shall submit ~~reports~~ ~~a joint report~~ to the Legislature
1570 documenting the effectiveness of the state's efforts to control
1571 Medicaid fraud and abuse and to recover Medicaid overpayments
1572 during the previous fiscal year. The report must describe the
1573 number of cases opened and investigated each year; the sources
1574 of the cases opened; the disposition of the cases closed each
1575 year; the amount of overpayments alleged in preliminary and
1576 final audit letters; the number and amount of fines or penalties
1577 imposed; any reductions in overpayment amounts negotiated in
1578 settlement agreements or by other means; the amount of final
1579 agency determinations of overpayments; the amount deducted from
1580 federal claiming as a result of overpayments; the amount of
1581 overpayments recovered each year; the amount of cost of
1582 investigation recovered each year; the average length of time to
1583 collect from the time the case was opened until the overpayment
1584 is paid in full; the amount determined as uncollectible and the
1585 portion of the uncollectible amount subsequently reclaimed from
1586 the Federal Government; the number of providers, by type, that
1587 are terminated from participation in the Medicaid program as a
1588 result of fraud and abuse; and all costs associated with
1589 discovering and prosecuting cases of Medicaid overpayments and
1590 making recoveries in such cases. The report must also document
1591 actions taken to prevent overpayments and the number of
1592 providers prevented from enrolling in or reenrolling in the
1593 Medicaid program as a result of documented Medicaid fraud and



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1594 abuse and must include policy recommendations necessary to
1595 prevent or recover overpayments and changes necessary to prevent
1596 and detect Medicaid fraud. All policy recommendations in the
1597 report must include a detailed fiscal analysis, including, but
1598 not limited to, implementation costs, estimated savings to the
1599 Medicaid program, and the return on investment. The agency must
1600 submit the policy recommendations and fiscal analyses in the
1601 report to the appropriate estimating conference, pursuant to s.
1602 216.137, by February 15 of each year. The agency and the
1603 Medicaid Fraud Control Unit of the Department of Legal Affairs
1604 each must include detailed unit-specific performance standards,
1605 benchmarks, and metrics in the report, including projected cost
1606 savings to the state Medicaid program during the following
1607 fiscal year.

1608 (1) For the purposes of this section, the term:

1609 (a) "Abuse" means:

1610 1. Provider practices that are inconsistent with generally
1611 accepted business or medical practices and that result in an
1612 unnecessary cost to the Medicaid program or in reimbursement for
1613 goods or services that are not medically necessary or that fail
1614 to meet professionally recognized standards for health care.

1615 2. Recipient practices that result in unnecessary cost to
1616 the Medicaid program.

1617 (b) "Complaint" means an allegation that fraud, abuse, or
1618 an overpayment has occurred.

1619 (c) "Fraud" means an intentional deception or
1620 misrepresentation made by a person with the knowledge that the
1621 deception results in unauthorized benefit to herself or himself
1622 or another person. The term includes any act that constitutes



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1623 fraud under applicable federal or state law.

1624 (d) "Medical necessity" or "medically necessary" means any
1625 goods or services necessary to palliate the effects of a
1626 terminal condition, or to prevent, diagnose, correct, cure,
1627 alleviate, or preclude deterioration of a condition that
1628 threatens life, causes pain or suffering, or results in illness
1629 or infirmity, which goods or services are provided in accordance
1630 with generally accepted standards of medical practice. For
1631 purposes of determining Medicaid reimbursement, the agency is
1632 the final arbiter of medical necessity. Determinations of
1633 medical necessity must be made by a licensed physician employed
1634 by or under contract with the agency and must be based upon
1635 information available at the time the goods or services are
1636 provided.

1637 (e) "Overpayment" includes any amount that is not
1638 authorized to be paid by the Medicaid program whether paid as a
1639 result of inaccurate or improper cost reporting, improper
1640 claiming, unacceptable practices, fraud, abuse, or mistake.

1641 (f) "Person" means any natural person, corporation,
1642 partnership, association, clinic, group, or other entity,
1643 whether or not such person is enrolled in the Medicaid program
1644 or is a provider of health care.

1645 (2) The agency shall conduct, or cause to be conducted by
1646 contract or otherwise, reviews, investigations, analyses,
1647 audits, or any combination thereof, to determine possible fraud,
1648 abuse, overpayment, or recipient neglect in the Medicaid program
1649 and shall report the findings of any overpayments in audit
1650 reports as appropriate. At least 5 percent of all audits shall
1651 be conducted on a random basis. As part of its ongoing fraud



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1652 detection activities, the agency shall identify and monitor, by
1653 contract or otherwise, patterns of overutilization of Medicaid
1654 services based on state averages. The agency shall track
1655 Medicaid provider prescription and billing patterns and evaluate
1656 them against Medicaid medical necessity criteria and coverage
1657 and limitation guidelines adopted by rule. Medical necessity
1658 determination requires that service be consistent with symptoms
1659 or confirmed diagnosis of illness or injury under treatment and
1660 not in excess of the patient's needs. The agency shall conduct
1661 reviews of provider exceptions to peer group norms and shall,
1662 using statistical methodologies, provider profiling, and
1663 analysis of billing patterns, detect and investigate abnormal or
1664 unusual increases in billing or payment of claims for Medicaid
1665 services and medically unnecessary provision of services.

1666 (3) The agency may conduct, or may contract for, prepayment
1667 review of provider claims to ensure cost-effective purchasing;
1668 to ensure that billing by a provider to the agency is in
1669 accordance with applicable provisions of all Medicaid rules,
1670 regulations, handbooks, and policies and in accordance with
1671 federal, state, and local law; and to ensure that appropriate
1672 care is rendered to Medicaid recipients. Such prepayment reviews
1673 may be conducted as determined appropriate by the agency,
1674 without any suspicion or allegation of fraud, abuse, or neglect,
1675 and may last for up to 1 year. Unless the agency has reliable
1676 evidence of fraud, misrepresentation, abuse, or neglect, claims
1677 shall be adjudicated for denial or payment within 90 days after
1678 receipt of complete documentation by the agency for review. If
1679 there is reliable evidence of fraud, misrepresentation, abuse,
1680 or neglect, claims shall be adjudicated for denial of payment



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1681 within 180 days after receipt of complete documentation by the
1682 agency for review.

1683 (4) Any suspected criminal violation identified by the
1684 agency must be referred to the Medicaid Fraud Control Unit of
1685 the Office of the Attorney General for investigation. The agency
1686 and the Attorney General shall enter into a memorandum of
1687 understanding, which must include, but need not be limited to, a
1688 protocol for regularly sharing information and coordinating
1689 casework. The protocol must establish a procedure for the
1690 referral by the agency of cases involving suspected Medicaid
1691 fraud to the Medicaid Fraud Control Unit for investigation, and
1692 the return to the agency of those cases where investigation
1693 determines that administrative action by the agency is
1694 appropriate. Offices of the Medicaid program integrity program
1695 and the Medicaid Fraud Control Unit of the Department of Legal
1696 Affairs, shall, to the extent possible, be collocated. The
1697 agency and the Department of Legal Affairs shall periodically
1698 conduct joint training and other joint activities designed to
1699 increase communication and coordination in recovering
1700 overpayments.

1701 (5) A Medicaid provider is subject to having goods and
1702 services that are paid for by the Medicaid program reviewed by
1703 an appropriate peer-review organization designated by the
1704 agency. The written findings of the applicable peer-review
1705 organization are admissible in any court or administrative
1706 proceeding as evidence of medical necessity or the lack thereof.

1707 (6) Any notice required to be given to a provider under
1708 this section is presumed to be sufficient notice if sent to the
1709 address last shown on the provider enrollment file. It is the



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1710 responsibility of the provider to furnish and keep the agency
1711 informed of the provider's current address. United States Postal
1712 Service proof of mailing or certified or registered mailing of
1713 such notice to the provider at the address shown on the provider
1714 enrollment file constitutes sufficient proof of notice. Any
1715 notice required to be given to the agency by this section must
1716 be sent to the agency at an address designated by rule.

1717 (7) When presenting a claim for payment under the Medicaid
1718 program, a provider has an affirmative duty to supervise the
1719 provision of, and be responsible for, goods and services claimed
1720 to have been provided, to supervise and be responsible for
1721 preparation and submission of the claim, and to present a claim
1722 that is true and accurate and that is for goods and services
1723 that:

1724 (a) Have actually been furnished to the recipient by the
1725 provider prior to submitting the claim.

1726 (b) Are Medicaid-covered goods or services that are
1727 medically necessary.

1728 (c) Are of a quality comparable to those furnished to the
1729 general public by the provider's peers.

1730 (d) Have not been billed in whole or in part to a recipient
1731 or a recipient's responsible party, except for such copayments,
1732 coinsurance, or deductibles as are authorized by the agency.

1733 (e) Are provided in accord with applicable provisions of
1734 all Medicaid rules, regulations, handbooks, and policies and in
1735 accordance with federal, state, and local law.

1736 (f) Are documented by records made at the time the goods or
1737 services were provided, demonstrating the medical necessity for
1738 the goods or services rendered. Medicaid goods or services are



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1739 excessive or not medically necessary unless both the medical
1740 basis and the specific need for them are fully and properly
1741 documented in the recipient's medical record.

1742
1743 The agency shall deny payment or require repayment for goods or
1744 services that are not presented as required in this subsection.

1745 (8) The agency shall not reimburse any person or entity for
1746 any prescription for medications, medical supplies, or medical
1747 services if the prescription was written by a physician or other
1748 prescribing practitioner who is not enrolled in the Medicaid
1749 program. This section does not apply:

1750 (a) In instances involving bona fide emergency medical
1751 conditions as determined by the agency;

1752 (b) To a provider of medical services to a patient in a
1753 hospital emergency department, hospital inpatient or outpatient
1754 setting, or nursing home;

1755 (c) To bona fide pro bono services by preapproved non-
1756 Medicaid providers as determined by the agency;

1757 (d) To prescribing physicians who are board-certified
1758 specialists treating Medicaid recipients referred for treatment
1759 by a treating physician who is enrolled in the Medicaid program;

1760 (e) To prescriptions written for dually eligible Medicare
1761 beneficiaries by an authorized Medicare provider who is not
1762 enrolled in the Medicaid program;

1763 (f) To other physicians who are not enrolled in the
1764 Medicaid program but who provide a medically necessary service
1765 or prescription not otherwise reasonably available from a
1766 Medicaid-enrolled physician; or

1767 (9) A Medicaid provider shall retain medical, professional,



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1768 financial, and business records pertaining to services and goods
1769 furnished to a Medicaid recipient and billed to Medicaid for a
1770 period of 5 years after the date of furnishing such services or
1771 goods. The agency may investigate, review, or analyze such
1772 records, which must be made available during normal business
1773 hours. However, 24-hour notice must be provided if patient
1774 treatment would be disrupted. The provider must keep the agency
1775 informed of the location of the provider's Medicaid-related
1776 records. The authority of the agency to obtain Medicaid-related
1777 records from a provider is neither curtailed nor limited during
1778 a period of litigation between the agency and the provider.

1779 (10) Payments for the services of billing agents or persons
1780 participating in the preparation of a Medicaid claim shall not
1781 be based on amounts for which they bill nor based on the amount
1782 a provider receives from the Medicaid program.

1783 (11) The agency shall deny payment or require repayment for
1784 inappropriate, medically unnecessary, or excessive goods or
1785 services from the person furnishing them, the person under whose
1786 supervision they were furnished, or the person causing them to
1787 be furnished.

1788 (12) The complaint and all information obtained pursuant to
1789 an investigation of a Medicaid provider, or the authorized
1790 representative or agent of a provider, relating to an allegation
1791 of fraud, abuse, or neglect are confidential and exempt from the
1792 provisions of s. 119.07(1):

1793 (a) Until the agency takes final agency action with respect
1794 to the provider and requires repayment of any overpayment, or
1795 imposes an administrative sanction;

1796 (b) Until the Attorney General refers the case for criminal



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1797 prosecution;

1798 (c) Until 10 days after the complaint is determined without
1799 merit; or

1800 (d) At all times if the complaint or information is
1801 otherwise protected by law.

1802 (13) The agency shall terminate participation of a Medicaid
1803 provider in the Medicaid program and may seek civil remedies or
1804 impose other administrative sanctions against a Medicaid
1805 provider, if the provider or any principal, officer, director,
1806 agent, managing employee, or affiliated person of the provider,
1807 or any partner or shareholder having an ownership interest in
1808 the provider equal to 5 percent or greater, has been convicted
1809 of a criminal offense under federal law or the law of any state
1810 relating to the practice of the provider's profession, or a
1811 criminal offense listed under s. 408.809(4), s. 409.907(10), or
1812 s. 435.04(2). If the agency determines that the provider did not
1813 participate or acquiesce in the offense, termination will not be
1814 imposed. If the agency effects a termination under this
1815 subsection, the agency shall take final agency action.

1816 (14) If the provider has been suspended or terminated from
1817 participation in the Medicaid program or the Medicare program by
1818 the Federal Government or any state, the agency must immediately
1819 suspend or terminate, as appropriate, the provider's
1820 participation in this state's Medicaid program for a period no
1821 less than that imposed by the Federal Government or any other
1822 state, and may not enroll such provider in this state's Medicaid
1823 program while such foreign suspension or termination remains in
1824 effect. The agency shall also immediately suspend or terminate,
1825 as appropriate, a provider's participation in this state's



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1826 Medicaid program if the provider participated or acquiesced in
1827 any action for which any principal, officer, director, agent,
1828 managing employee, or affiliated person of the provider, or any
1829 partner or shareholder having an ownership interest in the
1830 provider equal to 5 percent or greater, was suspended or
1831 terminated from participating in the Medicaid program or the
1832 Medicare program by the Federal Government or any state. This
1833 sanction is in addition to all other remedies provided by law.

1834 (15) The agency shall seek a remedy provided by law,
1835 including, but not limited to, any remedy provided in
1836 subsections (13) and (16) and s. 812.035, if:

1837 (a) The provider's license has not been renewed, or has
1838 been revoked, suspended, or terminated, for cause, by the
1839 licensing agency of any state;

1840 (b) The provider has failed to make available or has
1841 refused access to Medicaid-related records to an auditor,
1842 investigator, or other authorized employee or agent of the
1843 agency, the Attorney General, a state attorney, or the Federal
1844 Government;

1845 (c) The provider has not furnished or has failed to make
1846 available such Medicaid-related records as the agency has found
1847 necessary to determine whether Medicaid payments are or were due
1848 and the amounts thereof;

1849 (d) The provider has failed to maintain medical records
1850 made at the time of service, or prior to service if prior
1851 authorization is required, demonstrating the necessity and
1852 appropriateness of the goods or services rendered;

1853 (e) The provider is not in compliance with provisions of
1854 Medicaid provider publications that have been adopted by



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1855 reference as rules in the Florida Administrative Code; with
1856 provisions of state or federal laws, rules, or regulations; with
1857 provisions of the provider agreement between the agency and the
1858 provider; or with certifications found on claim forms or on
1859 transmittal forms for electronically submitted claims that are
1860 submitted by the provider or authorized representative, as such
1861 provisions apply to the Medicaid program;

1862 (f) The provider or person who ordered, authorized, or
1863 prescribed the care, services, or supplies has furnished, or
1864 ordered or authorized the furnishing of, goods or services to a
1865 recipient which are inappropriate, unnecessary, excessive, or
1866 harmful to the recipient or are of inferior quality;

1867 (g) The provider has demonstrated a pattern of failure to
1868 provide goods or services that are medically necessary;

1869 (h) The provider or an authorized representative of the
1870 provider, or a person who ordered, authorized, or prescribed the
1871 goods or services, has submitted or caused to be submitted false
1872 or a pattern of erroneous Medicaid claims;

1873 (i) The provider or an authorized representative of the
1874 provider, or a person who has ordered, authorized, or prescribed
1875 the goods or services, has submitted or caused to be submitted a
1876 Medicaid provider enrollment application, a request for prior
1877 authorization for Medicaid services, a drug exception request,
1878 or a Medicaid cost report that contains materially false or
1879 incorrect information;

1880 (j) The provider or an authorized representative of the
1881 provider has collected from or billed a recipient or a
1882 recipient's responsible party improperly for amounts that should
1883 not have been so collected or billed by reason of the provider's



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1884 billing the Medicaid program for the same service;

1885 (k) The provider or an authorized representative of the
1886 provider has included in a cost report costs that are not
1887 allowable under a Florida Title XIX reimbursement plan after the
1888 provider or authorized representative had been advised in an
1889 audit exit conference or audit report that the costs were not
1890 allowable;

1891 (l) The provider is charged by information or indictment
1892 with fraudulent billing practices or an offense referenced in
1893 subsection (13). The sanction applied for this reason is limited
1894 to suspension of the provider's participation in the Medicaid
1895 program for the duration of the indictment unless the provider
1896 is found guilty pursuant to the information or indictment;

1897 (m) The provider or a person who ordered, authorized, or
1898 prescribed the goods or services is found liable for negligent
1899 practice resulting in death or injury to the provider's patient;

1900 (n) The provider fails to demonstrate that it had available
1901 during a specific audit or review period sufficient quantities
1902 of goods, or sufficient time in the case of services, to support
1903 the provider's billings to the Medicaid program;

1904 (o) The provider has failed to comply with the notice and
1905 reporting requirements of s. 409.907;

1906 (p) The agency has received reliable information of patient
1907 abuse or neglect or of any act prohibited by s. 409.920; or

1908 (q) The provider has failed to comply with an agreed-upon
1909 repayment schedule.

1910
1911 A provider is subject to sanctions for violations of this
1912 subsection as the result of actions or inactions of the



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1913 provider, or actions or inactions of any principal, officer,
1914 director, agent, managing employee, or affiliated person of the
1915 provider, or any partner or shareholder having an ownership
1916 interest in the provider equal to 5 percent or greater, in which
1917 the provider participated or acquiesced.

1918 (16) The agency shall impose any of the following sanctions
1919 or disincentives on a provider or a person for any of the acts
1920 described in subsection (15):

1921 (a) Suspension for a specific period of time of not more
1922 than 1 year. Suspension precludes participation in the Medicaid
1923 program, which includes any action that results in a claim for
1924 payment to the Medicaid program for furnishing, supervising a
1925 person who is furnishing, or causing a person to furnish goods
1926 or services.

1927 (b) Termination for a specific period of time ranging from
1928 more than 1 year to 20 years. Termination precludes
1929 participation in the Medicaid program, which includes any action
1930 that results in a claim for payment to the Medicaid program for
1931 furnishing, supervising a person who is furnishing, or causing a
1932 person to furnish goods or services.

1933 (c) Imposition of a fine of up to \$5,000 for each
1934 violation. Each day that an ongoing violation continues, such as
1935 refusing to furnish Medicaid-related records or refusing access
1936 to records, is considered a separate violation. Each instance of
1937 improper billing of a Medicaid recipient; each instance of
1938 including an unallowable cost on a hospital or nursing home
1939 Medicaid cost report after the provider or authorized
1940 representative has been advised in an audit exit conference or
1941 previous audit report of the cost unallowability; each instance



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1942 of furnishing a Medicaid recipient goods or professional
1943 services that are inappropriate or of inferior quality as
1944 determined by competent peer judgment; each instance of
1945 knowingly submitting a materially false or erroneous Medicaid
1946 provider enrollment application, request for prior authorization
1947 for Medicaid services, drug exception request, or cost report;
1948 each instance of inappropriate prescribing of drugs for a
1949 Medicaid recipient as determined by competent peer judgment; and
1950 each false or erroneous Medicaid claim leading to an overpayment
1951 to a provider is considered a separate violation.

1952 (d) Immediate suspension, if the agency has received
1953 information of patient abuse or neglect or of any act prohibited
1954 by s. 409.920. Upon suspension, the agency must issue an
1955 immediate final order under s. 120.569(2)(n).

1956 (e) A fine, not to exceed \$10,000, for a violation of
1957 paragraph (15)(i).

1958 (f) Imposition of liens against provider assets, including,
1959 but not limited to, financial assets and real property, not to
1960 exceed the amount of fines or recoveries sought, upon entry of
1961 an order determining that such moneys are due or recoverable.

1962 (g) Prepayment reviews of claims for a specified period of
1963 time.

1964 (h) Comprehensive followup reviews of providers every 6
1965 months to ensure that they are billing Medicaid correctly.

1966 (i) Corrective-action plans that remain in effect for up to
1967 3 years and that are monitored by the agency every 6 months
1968 while in effect.

1969 (j) Other remedies as permitted by law to effect the
1970 recovery of a fine or overpayment.



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1971
1972 If a provider voluntarily relinquishes its Medicaid provider
1973 number or an associated license, or allows the associated
1974 licensure to expire after receiving written notice that the
1975 agency is conducting, or has conducted, an audit, survey,
1976 inspection, or investigation and that a sanction of suspension
1977 or termination will or would be imposed for noncompliance
1978 discovered as a result of the audit, survey, inspection, or
1979 investigation, the agency shall impose the sanction of
1980 termination for cause against the provider. The agency's
1981 termination with cause is subject to hearing rights as may be
1982 provided under chapter 120. The Secretary of Health Care
1983 Administration may make a determination that imposition of a
1984 sanction or disincentive is not in the best interest of the
1985 Medicaid program, in which case a sanction or disincentive may
1986 not be imposed.

1987 (17) In determining the appropriate administrative sanction
1988 to be applied, or the duration of any suspension or termination,
1989 the agency shall consider:

1990 (a) The seriousness and extent of the violation or
1991 violations.

1992 (b) Any prior history of violations by the provider
1993 relating to the delivery of health care programs which resulted
1994 in either a criminal conviction or in administrative sanction or
1995 penalty.

1996 (c) Evidence of continued violation within the provider's
1997 management control of Medicaid statutes, rules, regulations, or
1998 policies after written notification to the provider of improper
1999 practice or instance of violation.



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2000 (d) The effect, if any, on the quality of medical care
2001 provided to Medicaid recipients as a result of the acts of the
2002 provider.

2003 (e) Any action by a licensing agency respecting the
2004 provider in any state in which the provider operates or has
2005 operated.

2006 (f) The apparent impact on access by recipients to Medicaid
2007 services if the provider is suspended or terminated, in the best
2008 judgment of the agency.

2009
2010 The agency shall document the basis for all sanctioning actions
2011 and recommendations.

2012 (18) The agency may take action to sanction, suspend, or
2013 terminate a particular provider working for a group provider,
2014 and may suspend or terminate Medicaid participation at a
2015 specific location, rather than or in addition to taking action
2016 against an entire group.

2017 (19) The agency shall establish a process for conducting
2018 followup reviews of a sampling of providers who have a history
2019 of overpayment under the Medicaid program. This process must
2020 consider the magnitude of previous fraud or abuse and the
2021 potential effect of continued fraud or abuse on Medicaid costs.

2022 (20) In making a determination of overpayment to a
2023 provider, the agency must use accepted and valid auditing,
2024 accounting, analytical, statistical, or peer-review methods, or
2025 combinations thereof. Appropriate statistical methods may
2026 include, but are not limited to, sampling and extension to the
2027 population, parametric and nonparametric statistics, tests of
2028 hypotheses, and other generally accepted statistical methods.



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2029 Appropriate analytical methods may include, but are not limited
2030 to, reviews to determine variances between the quantities of
2031 products that a provider had on hand and available to be
2032 purveyed to Medicaid recipients during the review period and the
2033 quantities of the same products paid for by the Medicaid program
2034 for the same period, taking into appropriate consideration sales
2035 of the same products to non-Medicaid customers during the same
2036 period. In meeting its burden of proof in any administrative or
2037 court proceeding, the agency may introduce the results of such
2038 statistical methods as evidence of overpayment.

2039 (21) When making a determination that an overpayment has
2040 occurred, the agency shall prepare and issue an audit report to
2041 the provider showing the calculation of overpayments. The
2042 agency's determination must be based solely upon information
2043 available to it before issuance of the audit report and, in the
2044 case of documentation obtained to substantiate claims for
2045 Medicaid reimbursement, based solely upon contemporaneous
2046 records. The agency may consider addenda or modifications to a
2047 note that was made contemporaneously with the patient care
2048 episode if the addenda or modifications are germane to the note.

2049 (22) The audit report, supported by agency work papers,
2050 showing an overpayment to a provider constitutes evidence of the
2051 overpayment. A provider may not present or elicit testimony on
2052 direct examination or cross-examination in any court or
2053 administrative proceeding, regarding the purchase or acquisition
2054 by any means of drugs, goods, or supplies; sales or divestment
2055 by any means of drugs, goods, or supplies; or inventory of
2056 drugs, goods, or supplies, unless such acquisition, sales,
2057 divestment, or inventory is documented by written invoices,



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2058 written inventory records, or other competent written
2059 documentary evidence maintained in the normal course of the
2060 provider's business. A provider may not present records to
2061 contest an overpayment or sanction unless such records are
2062 contemporaneous and, if requested during the audit process, were
2063 furnished to the agency or its agent upon request. This
2064 limitation does not apply to Medicaid cost report audits. This
2065 limitation does not preclude consideration by the agency of
2066 addenda or modifications to a note if the addenda or
2067 modifications are made before notification of the audit, the
2068 addenda or modifications are germane to the note, and the note
2069 was made contemporaneously with a patient care episode.
2070 Notwithstanding the applicable rules of discovery, all
2071 documentation to be offered as evidence at an administrative
2072 hearing on a Medicaid overpayment or an administrative sanction
2073 must be exchanged by all parties at least 14 days before the
2074 administrative hearing or be excluded from consideration.

2075 (23) (a) In an audit, ~~an~~ investigation, or enforcement
2076 action taken for ~~of~~ a violation committed by a provider which is
2077 conducted pursuant to this section, the agency is entitled to
2078 recover all investigative ~~and~~ legal costs incurred as a result
2079 of such audit, investigation, or enforcement action. The costs
2080 associated with an investigation, audit, or enforcement action
2081 may include, but are not limited to, salaries and benefits of
2082 personnel, costs related to the time spent by an attorney and
2083 other personnel working on the case, and any other expenses
2084 incurred by the agency or contractor which are associated with
2085 the case, including any, ~~and~~ expert witness costs and attorney
2086 fees incurred on behalf of the agency or contractor if the



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2087 agency's findings were not contested by the provider or, if
2088 contested, the agency ultimately prevailed.

2089 (b) The agency has the burden of documenting the costs,
2090 which include salaries and employee benefits and out-of-pocket
2091 expenses. The amount of costs that may be recovered must be
2092 reasonable in relation to the seriousness of the violation and
2093 must be set taking into consideration the financial resources,
2094 earning ability, and needs of the provider, who has the burden
2095 of demonstrating such factors.

2096 (c) The provider may pay the costs over a period to be
2097 determined by the agency if the agency determines that an
2098 extreme hardship would result to the provider from immediate
2099 full payment. Any default in payment of costs may be collected
2100 by any means authorized by law.

2101 (24) If the agency imposes an administrative sanction
2102 pursuant to subsection (13), subsection (14), or subsection
2103 (15), except paragraphs (15) (e) and (o), upon any provider or
2104 any principal, officer, director, agent, managing employee, or
2105 affiliated person of the provider who is regulated by another
2106 state entity, the agency shall notify that other entity of the
2107 imposition of the sanction within 5 business days. Such
2108 notification must include the provider's or person's name and
2109 license number and the specific reasons for sanction.

2110 (25) (a) The agency shall withhold Medicaid payments, in
2111 whole or in part, to a provider upon receipt of reliable
2112 evidence that the circumstances giving rise to the need for a
2113 withholding of payments involve fraud, willful
2114 misrepresentation, or abuse under the Medicaid program, or a
2115 crime committed while rendering goods or services to Medicaid



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2116 recipients. If it is determined that fraud, willful
2117 misrepresentation, abuse, or a crime did not occur, the payments
2118 withheld must be paid to the provider within 14 days after such
2119 determination. Amounts not paid within 14 days accrue interest
2120 at the rate of 10 percent per year, beginning after the 14th
2121 day.

2122 (b) The agency shall deny payment, or require repayment, if
2123 the goods or services were furnished, supervised, or caused to
2124 be furnished by a person who has been suspended or terminated
2125 from the Medicaid program or Medicare program by the Federal
2126 Government or any state.

2127 (c) Overpayments owed to the agency bear interest at the
2128 rate of 10 percent per year from the date of final determination
2129 of the overpayment by the agency, and payment arrangements must
2130 be made within 30 days after the date of the final order, which
2131 is not subject to further appeal.

2132 (d) The agency, upon entry of a final agency order, a
2133 judgment or order of a court of competent jurisdiction, or a
2134 stipulation or settlement, may collect the moneys owed by all
2135 means allowable by law, including, but not limited to, notifying
2136 any fiscal intermediary of Medicare benefits that the state has
2137 a superior right of payment. Upon receipt of such written
2138 notification, the Medicare fiscal intermediary shall remit to
2139 the state the sum claimed.

2140 (e) The agency may institute amnesty programs to allow
2141 Medicaid providers the opportunity to voluntarily repay
2142 overpayments. The agency may adopt rules to administer such
2143 programs.

2144 (26) The agency may impose administrative sanctions against



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2145 a Medicaid recipient, or the agency may seek any other remedy
2146 provided by law, including, but not limited to, the remedies
2147 provided in s. 812.035, if the agency finds that a recipient has
2148 engaged in solicitation in violation of s. 409.920 or that the
2149 recipient has otherwise abused the Medicaid program.

2150 (27) When the Agency for Health Care Administration has
2151 made a probable cause determination and alleged that an
2152 overpayment to a Medicaid provider has occurred, the agency,
2153 after notice to the provider, shall:

2154 (a) Withhold, and continue to withhold during the pendency
2155 of an administrative hearing pursuant to chapter 120, any
2156 medical assistance reimbursement payments until such time as the
2157 overpayment is recovered, unless within 30 days after receiving
2158 notice thereof the provider:

- 2159 1. Makes repayment in full; or
- 2160 2. Establishes a repayment plan that is satisfactory to the
2161 Agency for Health Care Administration.

2162 (b) Withhold, and continue to withhold during the pendency
2163 of an administrative hearing pursuant to chapter 120, medical
2164 assistance reimbursement payments if the terms of a repayment
2165 plan are not adhered to by the provider.

2166 (28) Venue for all Medicaid program integrity cases lies in
2167 Leon County, at the discretion of the agency.

2168 (29) Notwithstanding other provisions of law, the agency
2169 and the Medicaid Fraud Control Unit of the Department of Legal
2170 Affairs may review a provider's Medicaid-related and non-
2171 Medicaid-related records in order to determine the total output
2172 of a provider's practice to reconcile quantities of goods or
2173 services billed to Medicaid with quantities of goods or services



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2174 used in the provider's total practice.

2175 (30) The agency shall terminate a provider's participation
2176 in the Medicaid program if the provider fails to reimburse an
2177 overpayment or pay an agency-imposed fine that has been
2178 determined by final order, not subject to further appeal, within
2179 30 days after the date of the final order, unless the provider
2180 and the agency have entered into a repayment agreement.

2181 (31) If a provider requests an administrative hearing
2182 pursuant to chapter 120, such hearing must be conducted within
2183 90 days following assignment of an administrative law judge,
2184 absent exceptionally good cause shown as determined by the
2185 administrative law judge or hearing officer. Upon issuance of a
2186 final order, the outstanding balance of the amount determined to
2187 constitute the overpayment and fines is due. If a provider fails
2188 to make payments in full, fails to enter into a satisfactory
2189 repayment plan, or fails to comply with the terms of a repayment
2190 plan or settlement agreement, the agency shall withhold
2191 reimbursement payments for Medicaid services until the amount
2192 due is paid in full.

2193 (32) Duly authorized agents and employees of the agency
2194 shall have the power to inspect, during normal business hours,
2195 the records of any pharmacy, wholesale establishment, or
2196 manufacturer, or any other place in which drugs and medical
2197 supplies are manufactured, packed, packaged, made, stored, sold,
2198 or kept for sale, for the purpose of verifying the amount of
2199 drugs and medical supplies ordered, delivered, or purchased by a
2200 provider. The agency shall provide at least 2 business days'
2201 prior notice of any such inspection. The notice must identify
2202 the provider whose records will be inspected, and the inspection



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2203 shall include only records specifically related to that
2204 provider.

2205 (33) In accordance with federal law, Medicaid recipients
2206 convicted of a crime pursuant to 42 U.S.C. s. 1320a-7b may be
2207 limited, restricted, or suspended from Medicaid eligibility for
2208 a period not to exceed 1 year, as determined by the agency head
2209 or designee.

2210 (34) To deter fraud and abuse in the Medicaid program, the
2211 agency may limit the number of Schedule II and Schedule III
2212 refill prescription claims submitted from a pharmacy provider.
2213 The agency shall limit the allowable amount of reimbursement of
2214 prescription refill claims for Schedule II and Schedule III
2215 pharmaceuticals if the agency or the Medicaid Fraud Control Unit
2216 determines that the specific prescription refill was not
2217 requested by the Medicaid recipient or authorized representative
2218 for whom the refill claim is submitted or was not prescribed by
2219 the recipient's medical provider or physician. Any such refill
2220 request must be consistent with the original prescription.

2221 (35) The Office of Program Policy Analysis and Government
2222 Accountability shall provide a report to the President of the
2223 Senate and the Speaker of the House of Representatives on a
2224 biennial basis, beginning January 31, 2006, on the agency's
2225 efforts to prevent, detect, and deter, as well as recover funds
2226 lost to, fraud and abuse in the Medicaid program.

2227 (36) The agency may provide to a sample of Medicaid
2228 recipients or their representatives through the distribution of
2229 explanations of benefits information about services reimbursed
2230 by the Medicaid program for goods and services to such
2231 recipients, including information on how to report inappropriate



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2232 or incorrect billing to the agency or other law enforcement
2233 entities for review or investigation, information on how to
2234 report criminal Medicaid fraud to the Medicaid Fraud Control
2235 Unit's toll-free hotline number, and information about the
2236 rewards available under s. 409.9203. The explanation of benefits
2237 may not be mailed for Medicaid independent laboratory services
2238 as described in s. 409.905(7) or for Medicaid certified match
2239 services as described in ss. 409.9071 and 1011.70.

2240 (37) The agency shall post on its website a current list of
2241 each Medicaid provider, including any principal, officer,
2242 director, agent, managing employee, or affiliated person of the
2243 provider, or any partner or shareholder having an ownership
2244 interest in the provider equal to 5 percent or greater, who has
2245 been terminated for cause from the Medicaid program or
2246 sanctioned under this section. The list must be searchable by a
2247 variety of search parameters and provide for the creation of
2248 formatted lists that may be printed or imported into other
2249 applications, including spreadsheets. The agency shall update
2250 the list at least monthly.

2251 (38) In order to improve the detection of health care
2252 fraud, use technology to prevent and detect fraud, and maximize
2253 the electronic exchange of health care fraud information, the
2254 agency shall:

2255 (a) Compile, maintain, and publish on its website a
2256 detailed list of all state and federal databases that contain
2257 health care fraud information and update the list at least
2258 biannually;

2259 (b) Develop a strategic plan to connect all databases that
2260 contain health care fraud information to facilitate the



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2261 | electronic exchange of health information between the agency,
2262 | the Department of Health, the Department of Law Enforcement, and
2263 | the Attorney General's Office. The plan must include recommended
2264 | standard data formats, fraud identification strategies, and
2265 | specifications for the technical interface between state and
2266 | federal health care fraud databases;

2267 | (c) Monitor innovations in health information technology,
2268 | specifically as it pertains to Medicaid fraud prevention and
2269 | detection; and

2270 | (d) Periodically publish policy briefs that highlight
2271 | available new technology to prevent or detect health care fraud
2272 | and projects implemented by other states, the private sector, or
2273 | the Federal Government which use technology to prevent or detect
2274 | health care fraud.

2275 | Section 43. Paragraph (a) of subsection (2) of section
2276 | 409.920, Florida Statutes, is amended to read:

2277 | 409.920 Medicaid provider fraud.—

2278 | (2) (a) A person may not:

2279 | 1. Knowingly make, cause to be made, or aid and abet in the
2280 | making of any false statement or false representation of a
2281 | material fact, by commission or omission, in any claim submitted
2282 | to the agency or its fiscal agent or a managed care plan for
2283 | payment.

2284 | 2. Knowingly make, cause to be made, or aid and abet in the
2285 | making of a claim for items or services that are not authorized
2286 | to be reimbursed by the Medicaid program.

2287 | 3. Knowingly charge, solicit, accept, or receive anything
2288 | of value, other than an authorized copayment from a Medicaid
2289 | recipient, from any source in addition to the amount legally



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2290 | payable for an item or service provided to a Medicaid recipient
2291 | under the Medicaid program or knowingly fail to credit the
2292 | agency or its fiscal agent for any payment received from a
2293 | third-party source.

2294 | 4. Knowingly make or in any way cause to be made any false
2295 | statement or false representation of a material fact, by
2296 | commission or omission, in any document containing items of
2297 | income and expense that is or may be used by the agency to
2298 | determine a general or specific rate of payment for an item or
2299 | service provided by a provider.

2300 | 5. Knowingly solicit, offer, pay, or receive any
2301 | remuneration, including any kickback, bribe, or rebate, directly
2302 | or indirectly, overtly or covertly, in cash or in kind, in
2303 | return for referring an individual to a person for the
2304 | furnishing or arranging for the furnishing of any item or
2305 | service for which payment may be made, in whole or in part,
2306 | under the Medicaid program, or in return for obtaining,
2307 | purchasing, leasing, ordering, or arranging for or recommending,
2308 | obtaining, purchasing, leasing, or ordering any goods, facility,
2309 | item, or service, for which payment may be made, in whole or in
2310 | part, under the Medicaid program. This subparagraph does not
2311 | apply to any discount, payment, waiver of payment, or payment
2312 | practice not prohibited by 42 U.S.C. s. 1320a-7b(b) or
2313 | regulations adopted thereunder.

2314 | 6. Knowingly submit false or misleading information or
2315 | statements to the Medicaid program for the purpose of being
2316 | accepted as a Medicaid provider.

2317 | 7. Knowingly use or endeavor to use a Medicaid provider's
2318 | identification number or a Medicaid recipient's identification



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2319 number to make, cause to be made, or aid and abet in the making
2320 of a claim for items or services that are not authorized to be
2321 reimbursed by the Medicaid program.

2322 Section 44. Subsection (1) of section 409.967, Florida
2323 Statutes, is amended to read:

2324 409.967 Managed care plan accountability.—

2325 (1) Beginning with the contract procurement process
2326 initiated during the 2023 calendar year, the agency shall
2327 establish a 6-year ~~5-year~~ contract with each managed care plan
2328 selected through the procurement process described in s.
2329 409.966. A plan contract may not be renewed; however, the agency
2330 may extend the term of a plan contract to cover any delays
2331 during the transition to a new plan. The agency shall extend
2332 until December 31, 2024, the term of existing plan contracts
2333 awarded pursuant to the invitation to negotiate published in
2334 July 2017.

2335 Section 45. Paragraph (b) of subsection (5) of section
2336 409.973, Florida Statutes, is amended to read:

2337 409.973 Benefits.—

2338 (5) PROVISION OF DENTAL SERVICES.—

2339 (b) In the event the Legislature takes no action before
2340 July 1, 2017, with respect to the report findings required under
2341 subparagraph (a)2., the agency shall implement a statewide
2342 Medicaid prepaid dental health program for children and adults
2343 with a choice of at least two licensed dental managed care
2344 providers who must have substantial experience in providing
2345 dental care to Medicaid enrollees and children eligible for
2346 medical assistance under Title XXI of the Social Security Act
2347 and who meet all agency standards and requirements. To qualify



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2348 as a provider under the prepaid dental health program, the
2349 entity must be licensed as a prepaid limited health service
2350 organization under part I of chapter 636 or as a health
2351 maintenance organization under part I of chapter 641. The
2352 contracts for program providers shall be awarded through a
2353 competitive procurement process. Beginning with the contract
2354 procurement process initiated during the 2023 calendar year, the
2355 contracts must be for 6 ~~5~~ years and may not be renewed; however,
2356 the agency may extend the term of a plan contract to cover
2357 delays during a transition to a new plan provider. The agency
2358 shall include in the contracts a medical loss ratio provision
2359 consistent with s. 409.967(4). The agency is authorized to seek
2360 any necessary state plan amendment or federal waiver to commence
2361 enrollment in the Medicaid prepaid dental health program no
2362 later than March 1, 2019. The agency shall extend until December
2363 31, 2024, the term of existing plan contracts awarded pursuant
2364 to the invitation to negotiate published in October 2017.

2365 Section 46. Subsection (6) of section 429.11, Florida
2366 Statutes, is amended to read:

2367 429.11 Initial application for license; provisional
2368 license.—

2369 ~~(6) In addition to the license categories available in s.~~
2370 ~~409.808, a provisional license may be issued to an applicant~~
2371 ~~making initial application for licensure or making application~~
2372 ~~for a change of ownership. A provisional license shall be~~
2373 ~~limited in duration to a specific period of time not to exceed 6~~
2374 ~~months, as determined by the agency.~~

2375 Section 47. Subsection (9) of section 429.19, Florida
2376 Statutes, is amended to read:



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2377 429.19 Violations; imposition of administrative fines;
2378 grounds.-
2379 ~~(9) The agency shall develop and disseminate an annual list~~
2380 ~~of all facilities sanctioned or fined for violations of state~~
2381 ~~standards, the number and class of violations involved, the~~
2382 ~~penalties imposed, and the current status of cases. The list~~
2383 ~~shall be disseminated, at no charge, to the Department of~~
2384 ~~Elderly Affairs, the Department of Health, the Department of~~
2385 ~~Children and Families, the Agency for Persons with Disabilities,~~
2386 ~~the area agencies on aging, the Florida Statewide Advocacy~~
2387 ~~Council, the State Long Term Care Ombudsman Program, and state~~
2388 ~~and local ombudsman councils. The Department of Children and~~
2389 ~~Families shall disseminate the list to service providers under~~
2390 ~~contract to the department who are responsible for referring~~
2391 ~~persons to a facility for residency. The agency may charge a fee~~
2392 ~~commensurate with the cost of printing and postage to other~~
2393 ~~interested parties requesting a copy of this list. This~~
2394 ~~information may be provided electronically or through the~~
2395 ~~agency's Internet site.~~
2396 Section 48. Subsection (2) of section 429.35, Florida
2397 Statutes, is amended to read:
2398 429.35 Maintenance of records; reports.-
2399 (2) Within 60 days after the date of ~~an the biennial~~
2400 ~~inspection conducted visit required~~ under s. 408.811 or within
2401 30 days after the date of ~~an any~~ interim visit, the agency shall
2402 forward the results of the inspection to the local ombudsman
2403 council in the district where the facility is located; to at
2404 least one public library or, in the absence of a public library,
2405 the county seat in the county in which the inspected assisted



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2406 living facility is located; and, when appropriate, to the
2407 district Adult Services and Mental Health Program Offices.
2408 Section 49. Subsection (2) of section 429.905, Florida
2409 Statutes, is amended to read:
2410 429.905 Exemptions; monitoring of adult day care center
2411 programs colocated with assisted living facilities or licensed
2412 nursing home facilities.-
2413 (2) A licensed assisted living facility, a licensed
2414 hospital, or a licensed nursing home facility may provide
2415 services during the day which include, but are not limited to,
2416 social, health, therapeutic, recreational, nutritional, and
2417 respite services, to adults who are not residents. Such a
2418 facility need not be licensed as an adult day care center;
2419 however, the agency must monitor the facility during the regular
2420 inspection ~~and at least biennially~~ to ensure adequate space and
2421 sufficient staff. If an assisted living facility, a hospital, or
2422 a nursing home holds itself out to the public as an adult day
2423 care center, it must be licensed as such and meet all standards
2424 prescribed by statute and rule. For the purpose of this
2425 subsection, the term "day" means any portion of a 24-hour day.
2426 Section 50. Section 429.929, Florida Statutes, is amended
2427 to read:
2428 429.929 Rules establishing standards.-
2429 ~~(1)~~ The agency shall adopt rules to implement this part.
2430 The rules must include reasonable and fair standards. Any
2431 conflict between these standards and those that may be set forth
2432 in local, county, or municipal ordinances shall be resolved in
2433 favor of those having statewide effect. Such standards must
2434 relate to:



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2435 ~~(1)(a)~~ The maintenance of adult day care centers with
2436 respect to plumbing, heating, lighting, ventilation, and other
2437 building conditions, including adequate meeting space, to ensure
2438 the health, safety, and comfort of participants and protection
2439 from fire hazard. Such standards may not conflict with chapter
2440 553 and must be based upon the size of the structure and the
2441 number of participants.

2442 ~~(2)(b)~~ The number and qualifications of all personnel
2443 employed by adult day care centers who have responsibilities for
2444 the care of participants.

2445 ~~(3)(c)~~ All sanitary conditions within adult day care
2446 centers and their surroundings, including water supply, sewage
2447 disposal, food handling, and general hygiene, and maintenance of
2448 sanitary conditions, to ensure the health and comfort of
2449 participants.

2450 ~~(4)(d)~~ Basic services provided by adult day care centers.

2451 ~~(5)(e)~~ Supportive and optional services provided by adult
2452 day care centers.

2453 ~~(6)(f)~~ Data and information relative to participants and
2454 programs of adult day care centers, including, but not limited
2455 to, the physical and mental capabilities and needs of the
2456 participants, the availability, frequency, and intensity of
2457 basic services and of supportive and optional services provided,
2458 the frequency of participation, the distances traveled by
2459 participants, the hours of operation, the number of referrals to
2460 other centers or elsewhere, and the incidence of illness.

2461 ~~(7)(g)~~ Components of a comprehensive emergency management
2462 plan, developed in consultation with the Department of Health
2463 and the Division of Emergency Management.



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2464 ~~(2) Pursuant to this part, s. 408.811, and applicable~~
2465 ~~rules, the agency may conduct an abbreviated biennial inspection~~
2466 ~~of key quality of care standards, in lieu of a full inspection,~~
2467 ~~of a center that has a record of good performance. However, the~~
2468 ~~agency must conduct a full inspection of a center that has had~~
2469 ~~one or more confirmed complaints within the licensure period~~
2470 ~~immediately preceding the inspection or which has a serious~~
2471 ~~problem identified during the abbreviated inspection. The agency~~
2472 ~~shall develop the key quality of care standards, taking into~~
2473 ~~consideration the comments and recommendations of provider~~
2474 ~~groups. These standards shall be included in rules adopted by~~
2475 ~~the agency.~~

2476 Section 51. Effective January 1, 2021, paragraph (e) of
2477 subsection (2) and paragraph (e) of subsection (3) of section
2478 627.6387, Florida Statutes, are amended to read:

2479 627.6387 Shared savings incentive program.—

2480 (2) As used in this section, the term:

2481 (e) "Shoppable health care service" means a lower-cost,
2482 high-quality nonemergency health care service for which a shared
2483 savings incentive is available for insureds under a health
2484 insurer's shared savings incentive program. Shoppable health
2485 care services may be provided within or outside this state and
2486 include, but are not limited to:

- 2487 1. Clinical laboratory services.
- 2488 2. Infusion therapy.
- 2489 3. Inpatient and outpatient surgical procedures.
- 2490 4. Obstetrical and gynecological services.
- 2491 5. Inpatient and outpatient nonsurgical diagnostic tests
2492 and procedures.



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- 2493 6. Physical and occupational therapy services.
2494 7. Radiology and imaging services.
2495 8. Prescription drugs.
2496 9. Services provided through telehealth.
2497 10. Any additional services published by the Agency for
2498 Health Care Administration which have the most significant price
2499 variation pursuant to s. 408.05(3)(1).

2500 (3) A health insurer may offer a shared savings incentive
2501 program to provide incentives to an insured when the insured
2502 obtains a shoppable health care service from the health
2503 insurer's shared savings list. An insured may not be required to
2504 participate in a shared savings incentive program. A health
2505 insurer that offers a shared savings incentive program must:

2506 (e) At least quarterly, credit or deposit the shared
2507 savings incentive amount to the insured's account as a return or
2508 reduction in premium, ~~or~~ credit the shared savings incentive
2509 amount to the insured's flexible spending account, health
2510 savings account, or health reimbursement account, or reward the
2511 insured directly with cash or a cash equivalent such that the
2512 ~~amount does not constitute income to the insured.~~

2513 Section 52. Effective January 1, 2021, paragraph (e) of
2514 subsection (2) and paragraph (e) of subsection (3) of section
2515 627.6648, Florida Statutes, are amended to read:

2516 627.6648 Shared savings incentive program.—

2517 (2) As used in this section, the term:

2518 (e) "Shoppable health care service" means a lower-cost,
2519 high-quality nonemergency health care service for which a shared
2520 savings incentive is available for insureds under a health
2521 insurer's shared savings incentive program. Shoppable health



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- 2522 care services may be provided within or outside this state and
2523 include, but are not limited to:
2524 1. Clinical laboratory services.
2525 2. Infusion therapy.
2526 3. Inpatient and outpatient surgical procedures.
2527 4. Obstetrical and gynecological services.
2528 5. Inpatient and outpatient nonsurgical diagnostic tests
2529 and procedures.
2530 6. Physical and occupational therapy services.
2531 7. Radiology and imaging services.
2532 8. Prescription drugs.
2533 9. Services provided through telehealth.
2534 10. Any additional services published by the Agency for
2535 Health Care Administration which have the most significant price
2536 variation pursuant to s. 408.05(3)(1).

2537 (3) A health insurer may offer a shared savings incentive
2538 program to provide incentives to an insured when the insured
2539 obtains a shoppable health care service from the health
2540 insurer's shared savings list. An insured may not be required to
2541 participate in a shared savings incentive program. A health
2542 insurer that offers a shared savings incentive program must:

2543 (e) At least quarterly, credit or deposit the shared
2544 savings incentive amount to the insured's account as a return or
2545 reduction in premium, ~~or~~ credit the shared savings incentive
2546 amount to the insured's flexible spending account, health
2547 savings account, or health reimbursement account, or reward the
2548 insured directly with cash or a cash equivalent such that the
2549 ~~amount does not constitute income to the insured.~~

2550 Section 53. Effective January 1, 2021, paragraph (e) of



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2551 subsection (2) and paragraph (e) of subsection (3) of section
2552 641.31076, Florida Statutes, are amended to read:
2553 641.31076 Shared savings incentive program.—
2554 (2) As used in this section, the term:
2555 (e) "Shoppable health care service" means a lower-cost,
2556 high-quality nonemergency health care service for which a shared
2557 savings incentive is available for subscribers under a health
2558 maintenance organization's shared savings incentive program.
2559 Shoppable health care services may be provided within or outside
2560 this state and include, but are not limited to:
2561 1. Clinical laboratory services.
2562 2. Infusion therapy.
2563 3. Inpatient and outpatient surgical procedures.
2564 4. Obstetrical and gynecological services.
2565 5. Inpatient and outpatient nonsurgical diagnostic tests
2566 and procedures.
2567 6. Physical and occupational therapy services.
2568 7. Radiology and imaging services.
2569 8. Prescription drugs.
2570 9. Services provided through telehealth.
2571 10. Any additional services published by the Agency for
2572 Health Care Administration which have the most significant price
2573 variation pursuant to s. 408.05(3)(1).
2574 (3) A health maintenance organization may offer a shared
2575 savings incentive program to provide incentives to a subscriber
2576 when the subscriber obtains a shoppable health care service from
2577 the health maintenance organization's shared savings list. A
2578 subscriber may not be required to participate in a shared
2579 savings incentive program. A health maintenance organization



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2580 that offers a shared savings incentive program must:
2581 (e) At least quarterly, credit or deposit the shared
2582 savings incentive amount to the subscriber's account as a return
2583 or reduction in premium, ~~or~~ credit the shared savings incentive
2584 amount to the subscriber's flexible spending account, health
2585 savings account, or health reimbursement account, or reward the
2586 subscriber directly with cash or a cash equivalent such that the
2587 amount does not constitute income to the subscriber.
2588 Section 54. Part I of chapter 483, Florida Statutes, is
2589 repealed, and part II and part III of that chapter are
2590 redesignated as part I and part II, respectively.
2591 Section 55. Paragraph (g) of subsection (3) of section
2592 20.43, Florida Statutes, is amended to read:
2593 20.43 Department of Health.—There is created a Department
2594 of Health.
2595 (3) The following divisions of the Department of Health are
2596 established:
2597 (g) Division of Medical Quality Assurance, which is
2598 responsible for the following boards and professions established
2599 within the division:
2600 1. The Board of Acupuncture, created under chapter 457.
2601 2. The Board of Medicine, created under chapter 458.
2602 3. The Board of Osteopathic Medicine, created under chapter
2603 459.
2604 4. The Board of Chiropractic Medicine, created under
2605 chapter 460.
2606 5. The Board of Podiatric Medicine, created under chapter
2607 461.
2608 6. Naturopathy, as provided under chapter 462.



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- 2609 7. The Board of Optometry, created under chapter 463.
2610 8. The Board of Nursing, created under part I of chapter
2611 464.
2612 9. Nursing assistants, as provided under part II of chapter
2613 464.
2614 10. The Board of Pharmacy, created under chapter 465.
2615 11. The Board of Dentistry, created under chapter 466.
2616 12. Midwifery, as provided under chapter 467.
2617 13. The Board of Speech-Language Pathology and Audiology,
2618 created under part I of chapter 468.
2619 14. The Board of Nursing Home Administrators, created under
2620 part II of chapter 468.
2621 15. The Board of Occupational Therapy, created under part
2622 III of chapter 468.
2623 16. Respiratory therapy, as provided under part V of
2624 chapter 468.
2625 17. Dietetics and nutrition practice, as provided under
2626 part X of chapter 468.
2627 18. The Board of Athletic Training, created under part XIII
2628 of chapter 468.
2629 19. The Board of Orthotists and Prosthetists, created under
2630 part XIV of chapter 468.
2631 20. Electrolysis, as provided under chapter 478.
2632 21. The Board of Massage Therapy, created under chapter
2633 480.
2634 22. The Board of Clinical Laboratory Personnel, created
2635 under part I ~~part II~~ of chapter 483.
2636 23. Medical physicists, as provided under part II ~~part III~~
2637 of chapter 483.



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- 2638 24. The Board of Opticianry, created under part I of
2639 chapter 484.
2640 25. The Board of Hearing Aid Specialists, created under
2641 part II of chapter 484.
2642 26. The Board of Physical Therapy Practice, created under
2643 chapter 486.
2644 27. The Board of Psychology, created under chapter 490.
2645 28. School psychologists, as provided under chapter 490.
2646 29. The Board of Clinical Social Work, Marriage and Family
2647 Therapy, and Mental Health Counseling, created under chapter
2648 491.
2649 30. Emergency medical technicians and paramedics, as
2650 provided under part III of chapter 401.
2651 Section 56. Subsection (3) of section 381.0034, Florida
2652 Statutes, is amended to read:
2653 381.0034 Requirement for instruction on HIV and AIDS.—
2654 (3) The department shall require, as a condition of
2655 granting a license under chapter 467 or part I ~~part II~~ of
2656 chapter 483, that an applicant making initial application for
2657 licensure complete an educational course acceptable to the
2658 department on human immunodeficiency virus and acquired immune
2659 deficiency syndrome. Upon submission of an affidavit showing
2660 good cause, an applicant who has not taken a course at the time
2661 of licensure shall be allowed 6 months to complete this
2662 requirement.
2663 Section 57. Subsection (4) of section 456.001, Florida
2664 Statutes, is amended to read:
2665 456.001 Definitions.—As used in this chapter, the term:
2666 (4) "Health care practitioner" means any person licensed



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2667 under chapter 457; chapter 458; chapter 459; chapter 460;
2668 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2669 chapter 466; chapter 467; part I, part II, part III, part V,
2670 part X, part XIII, or part XIV of chapter 468; chapter 478;
2671 chapter 480; part I or part II ~~part II or part III~~ of chapter
2672 483; chapter 484; chapter 486; chapter 490; or chapter 491.

2673 Section 58. Paragraphs (h) and (i) of subsection (2) of
2674 section 456.057, Florida Statutes, are amended to read:

2675 456.057 Ownership and control of patient records; report or
2676 copies of records to be furnished; disclosure of information.-

2677 (2) As used in this section, the terms "records owner,"
2678 "health care practitioner," and "health care practitioner's
2679 employer" do not include any of the following persons or
2680 entities; furthermore, the following persons or entities are not
2681 authorized to acquire or own medical records, but are authorized
2682 under the confidentiality and disclosure requirements of this
2683 section to maintain those documents required by the part or
2684 chapter under which they are licensed or regulated:

2685 (h) Clinical laboratory personnel licensed under part I
2686 ~~part II~~ of chapter 483.

2687 (i) Medical physicists licensed under part II ~~part III~~ of
2688 chapter 483.

2689 Section 59. Paragraph (j) of subsection (1) of section
2690 456.076, Florida Statutes, is amended to read:

2691 456.076 Impaired practitioner programs.-

2692 (1) As used in this section, the term:

2693 (j) "Practitioner" means a person licensed, registered,
2694 certified, or regulated by the department under part III of
2695 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;



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2696 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2697 chapter 466; chapter 467; part I, part II, part III, part V,
2698 part X, part XIII, or part XIV of chapter 468; chapter 478;
2699 chapter 480; part I or part II ~~part II or part III~~ of chapter
2700 483; chapter 484; chapter 486; chapter 490; or chapter 491; or
2701 an applicant for a license, registration, or certification under
2702 the same laws.

2703 Section 60. Paragraph (b) of subsection (1) of section
2704 456.47, Florida Statutes, is amended to read:

2705 456.47 Use of telehealth to provide services.-

2706 (1) DEFINITIONS.-As used in this section, the term:

2707 (b) "Telehealth provider" means any individual who provides
2708 health care and related services using telehealth and who is
2709 licensed or certified under s. 393.17; part III of chapter 401;
2710 chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;
2711 chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;
2712 part I, part III, part IV, part V, part X, part XIII, or part
2713 XIV of chapter 468; chapter 478; chapter 480; part I or part II
2714 ~~part II or part III~~ of chapter 483; chapter 484; chapter 486;
2715 chapter 490; or chapter 491; who is licensed under a multistate
2716 health care licensure compact of which Florida is a member
2717 state; or who is registered under and complies with subsection
2718 (4).

2719 Section 61. Except as otherwise expressly provided in this
2720 act and except for this section, which shall become effective
2721 upon this act becoming a law, this act shall take effect July 1,
2722 2020.

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 Appropriations

BILL: CS/CS/SB 1726

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Bean

SUBJECT: Agency for Health Care Administration

DATE: March 4, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Kibbey</u> | <u>Brown</u> | <u>HP</u> | <u>Fav/CS</u> |
| 2. | <u>McKnight</u> | <u>Kidd</u> | <u>AHS</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>McKnight</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1726 addresses statutory duties and responsibilities of the Agency for Health Care Administration (AHCA) relating to the regulation of health care facilities and providers. The bill:

- Modifies annual birth center reporting to the AHCA.
- Removes outdated language relating to certificate of need, to allow hospital licenses to correctly reflect the actual bed categories provided by a licensee.
- Reinstates the AHCA's authority to require hospital adult cardiac programs to participate in national reporting and quality registries.
- Extends the current rural hospital designation to 2025 (set to expire June 30, 2021).
- Repeals an unenforceable annual assessment ruled unconstitutional.
- Removes provisions requiring fixed inspection time frames for nursing home facilities, hospices, assisted living facilities, and adult family care homes.
- Revises definitions and licensure requirements related to home health agencies.
- Creates an exemption to health care clinic licensure for federally certified providers.
- Removes the ability of a health care clinic to submit a surety bond instead of submitting certain documents as proof of financial ability to operate to satisfy initial licensure requirements.
- Creates risked-based licensure inspections for nurse registries, home medical equipment providers, and health care clinics to provide the AHCA the flexibility to inspect high-performing providers less frequently than poor performers.

- Authorizes the AHCA to adopt rules to waive a routine inspection, to waive an inspection for relicensure, or to allow an extended period between inspections for any provider type based upon specified factors.
- Authorizes the AHCA to issue a provisional license to all provider types.
- Revises requirements for the approval of comprehensive emergency management plans for newly-licensed facilities.
- Authorizes the AHCA to collect all legal fees incurred while defending a Medicaid case if the AHCA prevails.
- Clarifies the AHCA's authority to conduct retrospective reviews of Medicaid hospital inpatient claims and recover overpayments.
- Revises background screening regulations for health care provider staff.
- Removes class III psychiatric facilities from the diagnosis-related group (DRG) payment methodology.
- Removes the nursing home unit cost rate freeze.
- Aligns the state Medicaid anti-kickback law with the federal anti-kickback law.
- Requires the AHCA to extend the term of contracts awarded to Statewide Medicaid Managed Care plans (the Managed Medical Assistance Program, Long-term Care Program, and Dental Program) from five- to six-years, effectively extending current contracts through December 31, 2024.
- Requires the Florida Center for Health Information and Transparency to publish an annual report identifying health care services with the most significant price variation at statewide and regional levels.
- Expands the list of shoppable health care services that qualify for a shared savings incentive for patients to include services with the most significant price variation. Allows cash and cash equivalent incentives in shared savings incentives.
- Repeals multiphasic health testing center licensure.
- Replaces several legislatively mandated reports with online publications and repeals obsolete reports.

The bill has an indeterminate yet likely insignificant fiscal impact to the AHCA. See Section V.

The bill takes effect on July 1, 2020, except as otherwise expressly provided in the bill and except for the effective date section, which takes effect upon this bill becoming a law.

II. Present Situation:

The Agency for Health Care Administration (AHCA) is created in s. 20.42, F.S. It is the chief health policy and planning entity for the state and is responsible for, among other things, health facility licensure, inspection, and regulatory enforcement. It licenses or certifies and regulates 40 different types of health care providers, including hospitals, nursing homes, assisted living facilities, and home health agencies. In total, the AHCA licenses, certifies, regulates or provides exemptions for more than 48,000 providers.¹

¹ See the Agency for Health Care Administration, Division of Health Quality Assurance <http://ahca.myflorida.com/MCHQ/index.shtml> (last visited Jan. 23, 2020).

Generally applicable provisions of health care provider licensure are addressed in the Health Care Licensing Procedures Act in part II of ch. 408, F.S. Additional chapters or sections in the Florida Statutes provide specific licensure or regulatory requirements pertaining to health care providers in this state.²

Due to the many diverse issues within the bill, pertinent background information is provided within the effect of proposed changes for the reader's convenience.

III. Effect of Proposed Changes:

Birth Center Reporting

Section 1 amends s. 383.327, F.S. Birth centers are required under current law to immediately report each maternal death, newborn death, and stillbirth to the medical examiner. Changes to subsection (2) of this section require birth centers to immediately report this information to the AHCA as well. Changes to subsection (4) of this section remove the requirement that birth centers submit a report to the AHCA annually and instead require reports to be submitted at a frequency adopted by the AHCA in rule. These changes could enable the AHCA to have the most current information to review during the inspection of a birth center.

Hospital Licensure and Registries

Chapter No. 2019-136, L.O.F. (enacted by the Legislature in 2019 as CS/HB 21) removes certificate of need (CON) review requirements for hospitals over time, with the final change occurring on July 1, 2021. The Legislature also repealed s. 408.0361(5)(b), F.S., that required hospitals with adult cardiovascular programs to participate in clinical outcome reporting systems.^{3,4}

Section 2 amends s. 395.003(4), F.S., to remove the requirement that all beds not covered by any specialty-bed-need methodology be specified as general beds on the face of the hospital's license. If this subsection is not updated to reflect recent changes to CON requirements, specialty hospital beds such as neonatal intensive care beds will incorrectly be reported as general acute care beds on the face of the hospital's license.

Section 3 amends s. 395.1055, F.S., to reinstate the AHCA's authority to require hospital adult cardiac programs to participate in national reporting and quality registries. Adult diagnostic cardiac catheterization programs and Level I or Level II cardiovascular programs must participate in either the American college of Cardiology or American Heart Association registry to document quality improvement plans. Hospitals licensed for Level II adult cardiovascular services must participate in the Society for Thoracic Surgeons clinical outcome reporting systems.⁵

² See s. 408.802, F.S., for the health care provider types and applicable licensure statutes.

³ Chapter No. 2019-136, Laws of Fla.

⁴ Florida House of Representatives, *CS/HB 21 Final Bill Analysis* (June 26, 2019), available at <https://www.flsenate.gov/Session/Bill/2019/21/Analyses/h0021z1.HMR.PDF> (last visited Feb. 25, 2020).

⁵ Agency for Health Care Administration, *Analysis for Amendments to SB 1726* (February 25, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

Rural Hospitals

There are currently 28 hospitals in Florida that are recognized as meeting the definition of “rural hospital” as defined in 395.602(2)(b), F.S.⁶ The hospital must have 100 or fewer beds and an emergency room and meet one of the six additional criteria in order to be considered a rural hospital. Several of the criteria are based on the population density of up to 100 persons per square mile as well as distance from another acute care hospital. Hospitals licensed as a rural hospital during the 2010-2011 or 2011-2012 fiscal year are designated as a rural hospital through June 30, 2021.⁷

Section 4 amends s.395.602, F.S., to extend the current rural hospital designation through June 30, 2025.

Repeal of an Unenforceable Assessment

Section 5 repeals s. 395.7015, F.S., which imposes an annual assessment on ambulatory surgical centers and certain diagnostic-imaging centers that are freestanding outpatient facilities. These assessments were ruled to be unconstitutional in 2002, and are no longer collected.⁸

Section 6 amends s. 395.7016, F.S., to conform a cross-reference to this section.

Licensure Inspections for Nursing Home Facilities, Hospices, Assisted Living Facilities, and Adult Day Care Centers

Uniform licensing requirements in s. 408.811, F.S., require the biennial inspection of health care facilities unless otherwise specified in statute or in rule. Sections of the bill listed below remove the frequency required in statute for nursing home facilities, hospices, assisted living facilities, and adult day care centers.

Federal law currently requires the AHCA to inspect a nursing home facility, at a minimum, every 15 months.⁹ Section 400.19, F.S., also requires the AHCA to inspect a nursing home facility every 15 months. The AHCA is required to inspect a nursing home facility every six months for two years if the facility has been cited for a class I deficiency, has been cited for two or more

⁶ Section 395.602(2)(b), F.S., defines “rural hospital” as an acute care hospital licensed under ch. 395, F.S., having 100 or fewer licensed beds and an emergency room, which is: the sole provider within a county with a population density of up to 100 persons per square mile; an acute care hospital, in a county with a population density of up to 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county; a hospital supported by a tax district or subdistrict whose boundaries encompass a population of up to 100 persons per square mile; a hospital classified as a sole community hospital under 42 C.F.R. s. 412.92, regardless of the number of licensed beds; a hospital with a service area that has a population of up to 100 persons per square mile. As used in this subparagraph, the term “service area” means the fewest number of zip codes that account for 75 percent of the hospital’s discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Transparency at the agency; or a hospital designated as a critical access hospital, as defined in s. 408.07, F.S.

⁷ *Supra* note 5.

⁸ *Agency for Health Care Admin. v. Hameroff*, 816 So. 2d 1145, 1149-1150 (Fla. 1st DCA 2002).

⁹ 42 C.F.R. s. 488.308(a).

class II deficiencies arising from separate surveys or investigations within a 60-day period, or has had three or more substantiated complaints within a six-month period, each resulting in at least one class I or class II deficiency. Those nursing home facilities are required to pay a \$6,000 fine for the two additional inspections.

Section 7 amends s. 400.19, F.S., to remove the 15-month inspection requirement from state law and instead requires the AHCA to conduct periodic unannounced licensure inspections. This provision would require the AHCA to conduct licensure surveys every six months for a facility that has been cited for a class I or two or more class II deficiencies within a 60-day period until the facility has two consecutive licensure surveys without a class I or class II deficiency citation. The AHCA maintains current statutory authority to assess a fine of \$6,000 for the additional six month licensure survey.

Section 14 amends s. 400.605(3), F.S., to remove the requirement that the AHCA must inspect hospices annually or biennially for hospices having a three-year record of substantial compliance and instead requires the AHCA to conduct inspections and investigations of hospices as necessary to determine compliance.

Sections 48 and 49 amend ss. 429.35(2) and 429.905(2), F.S., to remove the requirement (and related provisions) that the AHCA inspect assisted living facilities biennially.

Section 50 amends s. 429.929, F.S., to remove a provision authorizing the AHCA to conduct an abbreviated biennial inspection of an adult day care center that has a record of good performance. It also removes a provision requiring the AHCA to conduct a full inspection of an adult day care center that has had one or more confirmed complaints.

Home Health Agencies

Section 400.462(12), F.S., defines the term “home health agency” as an organization that provides home health services and staffing services. An organization that provides only home health services does not meet the definition of a home health agency.

Subsection (30) of that section defines the term “staffing services” as services provided to a health care facility, school, or other business entity on a temporary or school-year basis pursuant to a written contract by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the auspices of, a licensed home health agency or who are registered with a licensed nurse registry.

Subsection (14) of that section defines “home health services” as the following services that are provided by an organization:

- Nursing care.
- Physical, occupational, respiratory, or speech therapy.
- Home health aide services.
- Dietetics and nutrition practice and nutrition counseling.
- Medical supplies, restricted to drugs and biologicals prescribed by a physician.

Subsection (22) of that section defines the term “organization” as a corporation, government or governmental subdivision or agency, partnership or association, or any other legal or commercial entity, any of which involve more than one health care professional discipline; a health care professional and a home health aide or certified nursing assistant; more than one home health aide; more than one certified nursing assistant; or a home health aide and a certified nursing assistant. The term does not include an entity that provides services using only volunteers or only individuals related by blood or marriage to the patient or client.

Section 8 amends s. 400.462, F.S., to revise the definitions of the terms “home health agency,” “home health services,” “home infusion therapy provider,” and “nurse registry” and delete the definition of the term “organization.”

- “Home health agency” is redefined to mean a person that provides one or more home health services, as opposed to an organization that provides home health services (plural) and staffing services as under current law. As a result, the word “person” (as defined in s.1.01(3), F.S.) includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations..
- “Home infusion therapy provider” is redefined to pertain to “a person,” as opposed to “an organization” that meets the definition’s criteria.
- “Home health services” is redefined to conform to elimination of the term “organization” in other definitions, and the definition of “organization” itself is eliminated since that term becomes obsolete under the bill for this section of statute.

The current definition of organization only refers to entities and does not include individual persons, which creates a potential loophole for an individual person to employ health care personnel for the provision of home health services without having to obtain a license.¹⁰ Under the bill, such an individual must obtain a license if they are not currently exempt from licensure as a home health agency pursuant to s. 400.464(5), F.S.

The AHCA has interpreted the provision of home health services to be an activity that requires licensure as a home health agency and does not believe changes to this section will impact services that require licensure.¹¹ However, it is unclear if there are unlicensed individuals that employ or may seek to employ health care personnel for the provision of home health services that would be required to obtain a license under the bill and not qualify for licensure exemption. Under the bill, such an individual would be subject to the provisions of s. 400.471(5), F.S., which requires an applicant or licensee for home health agency licensure to pay a fee for each submitted application. The fee must be established by the AHCA in rule at an amount sufficient to cover the AHCA’s costs in carrying out its responsibilities, not to exceed \$2,000 per biennium. Under this statutory authority in current law, the AHCA is imposing a \$1,705 fee for initial licensure, change of ownership, or licensure renewal.¹² See Sections IV.D. and VI.

¹⁰ Agency for Health Care Administration, *Senate Bill 1726 Agency Analysis* (on file with the Senate Committee on Health Policy).

¹¹ Email from the Agency for Health Care Administration (February 5, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

¹² 59A-8.003, F.A.C.

Section 9 amends s. 400.464, F.S., to make conforming changes and to make exemptions from licensure as a home health agency for a person that provides skilled care by health care professionals licensed solely under part I of ch. 464, F.S., (nursing); part I, part III, or part V of ch. 468, F.S., (speech therapy, occupational therapy, or respiratory therapy); or ch. 486, F.S., (physical therapy). Skilled care services are currently defined in s. 400.462(29), F.S. This exemption currently indirectly exists within the definition of “organization” that is being stricken in Section 8 of the bill. The section also clarifies that the exemption does not authorize an individual to perform home health services without the required professional license.

Section 10 amends s. 400.471(2)(g), F.S., to require applicants for change of ownership or license renewal to provide proof of accreditation and a survey demonstrating compliance with the applicable licensure requirements prior to licensure for the addition of skilled services.

Sections 11-13 amend ss. 400.492, 400.506, and 400.509, F.S., to conform provisions to changes made to the definitions section for part III of ch. 400, F.S., in Section 8 of the bill.

AHCA Reporting Requirements

Section 15 amends s. 400.60501, F.S., to delete a requirement that the AHCA develop an annual report that analyzes and evaluates the information collected under the Health Care Clinic Act. It also removes an obsolete date. Hospice outcome and quality information is currently published on FloridaHealthFinder.gov.

Section 22 amends s. 408.0611, F.S., to require the AHCA to report on its website information on the implementation of electronic prescribing rather than issuing an annual report to the Governor and the Legislature. The AHCA already updates this information quarterly on the ePrescribing dashboard of its website.¹³

Section 23 amends s. 408.062, F.S., to require the AHCA to report on its website information relating to the use of hospital emergency department services by patient acuity level and on health care quality measures rather than issuing an annual status report to the Governor and the Legislature. Most information that is required to be in the report is available on FloridaHealthFinder.gov.

Section 24 amends s. 408.063, F.S., to remove the requirement that the AHCA publish an annual comprehensive report of state health expenditures. This report currently identifies the contribution of health care dollars made by all payors and the dollars expended by the type of health care service. The AHCA indicates that this report has little value because of a three-year delay in reporting information.¹⁴

Section 35 amends s. 408.909, F.S., to delete a provision requiring the AHCA to evaluate and provide an annual assessment to the Governor and the Legislature relating to the Health Flex Plan. The Health Flex Plan program was a pilot program established to benefit low-income families who were not eligible for public assistance programs and not covered by private

¹³ Agency for Health Care Administration, *ePrescribing Clearinghouse*.
<https://ahca.myflorida.com/SCHS/ePrescribing/metrics.shtml> (last visited Jan. 24, 2020).

¹⁴ *Supra* note 10.

insurance.¹⁵ There were initially only three plans in limited service areas available for consumers. There is currently only one remaining Health Flex Plan with fewer than 300 members.¹⁶

Section 36 amends s. 408.9091, F.S., to remove the requirement that the AHCA and the Office of Insurance Regulation of the Financial Services Commission jointly submit an annual report to the Governor and the Legislature relating to the implementation of the Cover Florida Health Care Access Program. There are currently no plans participating in the Cover Florida Health Care Access Program.¹⁷ The last participating health plan terminated its Cover Florida policies in January of 2015.¹⁸

Section 42 amends s. 409.913, F.S., to move the Medicaid Program Integrity Annual Report due date from January 1, which is a national holiday, to January 15. Other changes made to this section of statute are discussed below.

Section 47 amends s. 429.19(9), F.S., to remove the requirement that the AHCA develop and disseminate a list of all assisted living facilities sanctioned or fined for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. The AHCA is required by s. 429.55(2), F.S., to create an accessible website containing this information and has done so with FloridaHealthFinder.gov.¹⁹

Health Care Clinics

Section 16 amends s. 400.9905, F.S., to provide exemptions from health care clinic licensure for Medicaid providers, for certain federally certified providers, for entities under common ownership by a mutual insurance holding company, and for certain entities that are owned by an entity that is a behavioral health service provider.

There are currently over 14 exemptions listed in the health care clinic licensure laws.²⁰ Most of these exemptions are for health care providers that are already licensed and regulated by the AHCA, an establishment or profession regulated by the Department of Health (DOH), a provider that is federally certified, a non-profit entity, or an entity with substantial financial commitment.

Comprehensive outpatient rehabilitation facilities (42 C.F.R. part 485, subpart B), outpatient physical therapy and speech-language pathology providers (42 C.F.R. part 485, subpart H), end stage renal diseases (42 C.F.R. part 494), and clinical laboratories are all federally certified providers that are regulated by the AHCA. These providers qualify for an exemption from health care clinic licensure.

Changes made in this section of the bill provide exemptions for other federally certified providers that are regulated by the AHCA, including community mental health center-partial

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

hospitalization programs (42 C.F.R. part 485, subpart J), portable X-ray providers (42 C.F.R. part 486, subpart C) and rural health care clinics (42 C.F.R. part 491, subpart A).

The Fiscal Year 2019-2020 Implementing Bill created two additional exemptions from clinic licensure for entities owned by an insurance holding company with over \$1 billion in annual sales and entities owned by a behavioral health provider in at least five states with \$90 million in annual revenues from behavioral health.²¹ These exemptions are in effect until June 30, 2020.²² Language in this section of CS/SB 1726 provides that those two exemptions will be permanent.

Providers that meet the definition of health care clinic who do not qualify for an exemption must obtain a license, and providers that participate in Medicaid must meet all requirements in applicable state laws. Medicaid recently initiated rule-making to add licensure as a health care clinic when required by law to be a pre-requisite to enrollment as a Medicaid provider. Over 20,000 providers have been identified as possibly requiring a health care clinic license to remain in Medicaid, though some will likely qualify for an exemption.²³ An estimated 13,000 may require licensure to meet Medicaid requirements by December 2020.²⁴ The AHCA asked for 13 positions to support this workload through a legislative budget request.²⁵

Section 17 amends s. 400.991(3)(c), F.S., to remove the option for a health care clinic to file a surety bond of at least \$500,000 as an alternative to submitting proof of financial ability to operate with its application for initial licensure or a change in ownership. No health care clinics have submitted the surety bond in lieu of proof of financial ability to operate.²⁶

Section 18 amends s. 400.9935(1)(i), F.S., to authorize a health care clinic's schedule of charges to group services by price level. This section of the bill revises the requirement that the schedule must be posted in the reception area of the urgent care center of a clinic to only require posting in the reception area of a clinic that meets the definition of an "urgent care center" as defined in s. 395.002(29)(b), F.S.

Deleting a Reference to a Specific Data Collection Rule

Section 21 amends s. 408.061, F.S., to remove a reference to a repealed Rule 59E-7.012, F.A.C. Rules 59E-7.011-7.020, F.A.C., were repealed and replaced with Rules 59E-7.021-7.030, F.A.C.

Low-Risk Providers and Licensure Inspections

Section 26 amends s. 408.803, F.S., to define the term "low-risk provider" as nurse registries, home medical equipment providers, and health care clinics. The AHCA has determined these specific provider types to be low-risk with infrequently cited deficiencies.²⁷ This section of the bill also conforms a provision to changes made in Section 49 of the bill.

²¹ Chapter No. 2019-116, s. 38, Laws of Fla.

²² *Id.*

²³ *Supra* note 10.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

Section 27 amends s. 408.806, F.S., to exempt low-risk providers from an initial licensure inspection as required under s. 408.811, F.S.

Section 30 amends s. 408.811, F.S., to authorize the AHCA to exempt a low-risk provider from licensure inspections if the provider or controlling interest has an excellent regulatory history with regard to deficiencies, sanctions, complaints, and other regulatory actions, as defined by the AHCA in rule. Under the bill, the AHCA is required to conduct unannounced licensure inspections for at least 10 percent of exempt low-risk providers.

The bill also authorizes the AHCA to adopt rules to waive routine inspections and inspections for relicensure or to allow for an extended period between relicensure inspections for specific providers based upon:

- A favorable regulatory history with regard to deficiencies, sanctions, complaints, and other regulatory measures.
- Outcome measures that demonstrate quality performance.
- Successful participation in a recognized quality assurance program.
- Accreditation status.
- Other measures reflective of quality and safety.
- The length of time between inspections.

With these changes, a provider will not necessarily have to meet any specific statutory requirement for the AHCA to waive the routine inspection. The AHCA's rules must base the decision to grant a waiver upon one or all of the factors listed above.

As it does with low-risk providers, the bill also requires the AHCA to conduct unannounced licensure inspections for at least 10 percent of providers that qualify for a waiver or extended period between licensure inspections.

Provisional Licenses for Health Care Facilities

Section 408.808(2), F.S., currently authorizes the AHCA to issue a provisional license for health care providers regulated under ch. 408, F.S., to a provider applying for a change of ownership or to a provider that is in litigation with the AHCA regarding the denial or revocation of its license.

Section 429.11(6), F.S., currently authorizes the AHCA to issue a provisional license for an assisted living facility when the provider is making an initial application for licensure.

Section 28 amends s. 408.808(2), F.S., to authorize the AHCA to issue a provisional license to an applicant for initial licensure as a health care provider under ch. 408, F.S., in addition to applicants for a change of ownership.

Section 46 amends s. 429.11(6), F.S., to remove provisions authorizing the AHCA to issue a provisional license to an assisted living facility because the AHCA would be authorized to issue a provisional licensed to an assisted living facility through the bill's changes to s. 408.808, F.S.

Background Screening Requirements for Health Care Providers and Employees

Seven state agencies participate in the Care Providers Background Screening Clearinghouse authorized in ch. 435, F.S. **Section 29** amends s. 408.809(2), F.S., to remove an obsolete provision relating to agencies that were once in the process of joining the Clearinghouse. All seven agencies are now fully implemented in the Clearinghouse.

Section 29 also amends s. 408.809(5), F.S., to remove an expired provision that allowed for an employee who becomes disqualified from employment because of legislation that created a new disqualifying offense, to continue to work pending the employee's request for an exemption from disqualification. That authority expired in 2014.

Federal regulations require state Medicaid programs to conduct criminal background checks including fingerprinting when required to do so under state law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of providers.²⁸ State Medicaid programs are also required to conduct a criminal background check and require the submission of a set of fingerprints in accordance with 42 C.F.R. s. 455.434 for providers designated as a high categorical risk.²⁹ The AHCA designates high categorical risk providers in the Florida Medicaid Provider Enrollment Policy handbook incorporated in Rule 59G-1.060, F.A.C.³⁰

Section 39 amends s. 409.907, F.S., to revise background screening requirements for Medicaid providers and codify federal requirements. This section of the bill requires a level 2 background screening to be conducted through the AHCA for certain persons who render services to Medicaid recipients, who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient. This change does not impose additional screening requirements on any providers licensed under part II of ch. 408, F.S. See Sections IV.D. and VI. Drivers providing transportation to Medicaid recipients through a transportation broker or a transportation network company are required to undergo a level 1 background screening through the Florida Department of Law Enforcement or, for Transportation Network Companies, an AHCA-approved equivalent background screening. The AHCA does not require level 2 screening for transportation drivers.³¹ **Section 39** clarifies that these drivers are required to undergo only the level 1 background (or equivalent) screening, not the required level 2 background screening.

Comprehensive Emergency Management Plans

Different provider types are subject to different comprehensive emergency management plan requirements in their authorizing statutes. Assisted living facilities are required to get plan

²⁸ 42 CFR s. 455.434

²⁹ 42 CFR s. 455.450

³⁰ Providers and suppliers designated as "high" categorical risk include: behavior analysis practitioners, mental health targeted case management providers, physical therapists, physician groups owned by non-physicians, prospective (newly enrolling) home health agencies and other home health service providers, prospective (newly enrolling) durable medical equipment, and prosthetics, orthotics, and supplies suppliers. Agency for Health Care Administration, *Florida Medicaid Provider Enrollment Policy* (December 2019), available at <https://ahca.myflorida.com/medicaid/review/General/59G-1.060.pdf> (last visited Feb. 25, 2020).

³¹ *Supra* note 5.

approval by local emergency management officials before they may be licensed. The AHCA indicates that some local jurisdictions refuse to review a plan until the provider is licensed.³² This makes it impossible for providers within those jurisdictions to become lawfully licensed.

Section 32 amends s. 408.821, F.S., to require providers that are required by authorizing statutes and the AHCA rule to have a comprehensive emergency management plan to:

- Submit the plan to the local emergency management agency, county health department, or the DOH within 30 days after initial licensure and change of ownership, and notify the AHCA within 30 days after submission of the plan.
- Submit the plan to the local emergency management agency, county health department, or the DOH annually and within 30 days after any significant modification, as defined by the AHCA rule, to a previously approved plan.
- Respond to the local emergency management agency, county health department, or the DOH with necessary plan revisions within 30 days after notification that plan revisions are required.
- Notify the AHCA within 30 days after approval of its plan by the local emergency management agency, county health department, or the DOH.

These changes establish consistent timeframes for the submission and review of comprehensive emergency management plans among provider types. This change allows for the licensure of a facility before its comprehensive emergency management plan is approved.

The Medicaid Program's Retrospective Review of Hospital Inpatient Admissions

The AHCA performs routine pre- and post-payment claim reviews to determine the appropriateness of Medicaid provider reimbursement.³³

Section 37 amends s. 409.905(5), F.S., to clarify that a specific provision in paragraph (a) of that subsection may not be construed to prevent the AHCA from conducting retrospective reviews in its efforts to combat Medicaid fraud and abuse and to recoup overpayments in the Medicaid Program.

The provision of current law that the bill seeks to clarify was enacted under ch. 2001-104, L.O.F. Before the enactment of that law, the AHCA had statutory authority to prior authorize inpatient hospital admissions for Medicaid patients with psychiatric and substance abuse diagnoses. However, there was no specific authority for the AHCA to prior authorize inpatient hospital admissions for any other diagnoses.³⁴

In lieu of prior authorization of inpatient hospital admissions for general acute care Medicaid services, the Medicaid Program was under contract in 2001 with a peer review organization for retrospective review of such admissions. If those retrospective reviews encountered inpatient admissions that should have been denied or inpatient services that were provided outside of

³² *Id.*

³³ *Id.*

³⁴ See Chapter 2001-104, L.O.F., available at http://laws.flrules.org/files/Ch_2001-104.pdf (last visited Jan. 30, 2020).

medical necessity, the AHCA would require the hospital to repay the Medicaid program for the associated costs.³⁵

Under ch. 2001-104, L.O.F., the Legislature amended s. 409.905(5)(a), F.S., to give the Medicaid Program authority to prior authorize nonemergency hospital inpatient admissions for individuals 21 years of age or older. The statute was also amended to allow Medicaid to require authorization of emergency and urgent-care admissions within 24 hours after Medicaid patients were admitted under such conditions.

Along with this new authority, the statute was further amended in 2001, in the same paragraph, to require the AHCA, upon implementing the prior authorization program for hospital inpatient services, to discontinue the Medicaid Program's hospital retrospective review efforts. CS/SB 1726 specifically addresses this latter provision of the 2001 law to clarify that the required discontinuation of the Medicaid Program's preexisting retrospective review program, which was being conducted in 2001 in lieu of prior authorization, may not be construed to prevent the AHCA's Office of Medicaid Program Integrity (MPI)³⁶ from conducting retrospective reviews under s. 409.913, F.S.

The Office of Medicaid Program Integrity

Section 409.913, F.S., is entitled, "Oversight of the integrity of the Medicaid program." This section of statute requires the AHCA to:

- Operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate;
- Conduct, or cause to be conducted by contract or otherwise, reviews, investigations, analyses, audits, or any combination thereof, to determine possible fraud, abuse, overpayment, or recipient neglect in the Medicaid program and shall report the findings of any overpayments in audit reports as appropriate; and
- Conduct reviews of provider exceptions to peer group norms and, using statistical methodologies, provider profiling, and analysis of billing patterns, detect and investigate abnormal or unusual increases in billing or payment of claims for Medicaid services and medically unnecessary provision of services.

Section 409.913, F.S., further provides that a Medicaid provider is subject to having goods and services that are paid for by the Medicaid program reviewed by an appropriate peer-review organization designated by the AHCA. The written findings of the applicable peer-review organization are admissible in any court or administrative proceeding as evidence of medical necessity or the lack of medical necessity.

³⁵ Senate Committee on Health Care, *Senate Staff Analysis and Economic Impact Statement for CS/SB 792* (April 5, 2001), available at http://www.flsenate.gov/Session/Bill/2001/792/Analyses/20010792SHC_2001s0792.hc.pdf (last visited Jan. 30, 2020).

³⁶ See the Office of Medicaid Program Integrity's web page at <https://ahca.myflorida.com/MCHQ/MPI/> (last visited Jan. 30, 2020).

MPI and the Medicaid Fraud Control Unit of the Department of Legal Affairs must submit a joint report to the Legislature each January, documenting the results of their work to control Medicaid fraud and abuse and to recover Medicaid overpayments during the previous fiscal year. The report for State Fiscal Year 2018-2019 indicates that overpayments of approximately \$32.7 million were identified in that fiscal year, with approximately \$13.4 million in accounts-receivable collections and reversals. MPI also prevented approximately \$385.2 million in overpayments from occurring during the fiscal year, according to the 2018-2019 report.³⁷

The bill clarifies that the Legislature's direction to the AHCA in 2001 to discontinue the Medicaid Program's hospital retrospective review efforts, upon implementing its newly-granted authority to prior authorize Medicaid hospital inpatient admissions, may not be construed to prevent MPI from conducting retrospective reviews under s. 409.913, F.S. This provision of the bill takes effect upon becoming law.³⁸

Section 38 provides that it is the intent of the Legislature that the amendment to s. 409.905(5)(a), F.S., in Section 37 of the bill, is intended to confirm and clarify existing law. This section takes effect upon becoming a law.

Reimbursement of Medicaid Providers

Class III psychiatric facilities are excluded in statute from the diagnosis related group (DRG) payment methodology. Federal law prohibits state Medicaid programs from receiving federal matching funds for services provided by facilities described in 42 CFR 435.1010 as an institution for mental diseases³⁹ (IMDs) under the fee-for-service program and therefore, the AHCA has not established the alternative methodology currently allowed under s. 409.908, F.S. However, in Medicaid managed care programs, states have slightly more flexibility; health plans may pay for services in an IMD in lieu of more costly services. For example, Florida Medicaid cannot pay for services in a crisis stabilization unit under the fee-for-service program. However, Medicaid managed care contracts allow health plans to pay for services in a crisis stabilization unit for a plan enrollee, as crisis stabilization units provide a less costly service equivalent to inpatient psychiatric hospitalization.⁴⁰

³⁷ The Agency for Health Care Administration and the Department of Legal Affairs, *Florida's Efforts to Control Medicaid Fraud & Abuse: Fiscal Year 2018-2019* (December 30, 2019) available at <https://ahca.myflorida.com/MCHQ/MPI/docs/FraudReports/FraudReport2018-19.pdf> (last visited Jan. 30, 2020).

³⁸ In February 2019, Florida's First District Court of Appeal construed the discontinuation provision in s. 409.905(5)(a), F.S., to mean that the AHCA is "barred from conducting a retrospective review of prior authorization claims" under s. 409.913, F.S., or any other existing statutory authority. See *Lee Memorial Health System Gulf Coast Medical Center v. State of Florida, Agency for Health Care Administration*, 272 So.3d 431 (Fla. 1st DCA 2019). The AHCA reports that, under this ruling: (1) The AHCA is at risk of being required to repay overpayments that have already been recouped by MPI from hospitals, and (2) MPI is prohibited from conducting any hospital retrospective audits, except those relating to suspected fraud or abuse. Email from the Agency for Health Care Administration to the Senate Committee on Healthy Policy (January 30, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services). See Section V.C.

³⁹ 42 CFR 435.1010 defines an "institution for mental diseases" as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An institution for Individuals with Intellectual Disabilities is not an institution for mental diseases.

⁴⁰ *Supra* note 5.

During the 2008 Session, the Legislature amended s. 409.908, F.S., to implement a two-year unit cost rate freeze, effective July 1, 2009, for nursing facilities, hospitals, county health departments, intermediate care facilities for the developmentally disabled, and prepaid health plans.⁴¹ The unit cost rate freeze was set to expire July 1, 2011. However, during the 2011 Session, the Legislature repealed the sunset date, capped unit costs at July 1, 2011 rates, and established reimbursement rates would be as provided in the General Appropriations Act. In effect, automatic annual Medicaid increase payments to nursing homes were capped at 2011 levels.⁴² In Fiscal Years 2018-2019 and 2019-2020, the Implementing Bill^{43,44} removed the unit cost rate freeze for one year.

Section 40 and 41 amend s. 409.908, F.S., to remove the nursing home unit cost rate freeze and remove class III psychiatric facilities from the DRG payment methodology, thereby eliminating the AHCA's authority to establish an alternative methodology to the DRG-based prospective payment system to set reimbursement rates for class III psychiatric hospitals.

Legal Fees in Medicaid Program Integrity Cases

Section 42 amends s. 409.913, F.S., to authorize the AHCA to recover legal fees in Medicaid Program Integrity and licensure cases. The AHCA has indicated that it spends significant funds defending Medicaid overpayment cases. The Division of Administrative Hearings (DOAH) ruled that s. 409.913(23)(a), F.S., does not authorize the AHCA to recover full legal fees on Medicaid Program Integrity legal cases.⁴⁵ The specific ruling came in the DOAH case number 18-5986F involving Covenant Hospice.⁴⁶ The case had an overpayment of \$637,973.10 and sanction of \$127,594.62. As of February 7, 2019, the AHCA was seeking to recover fees in the amount of \$330,186.14 and costs in the amount of \$14,466.52 as of February 7, 2019.⁴⁷ Currently, the AHCA only has the ability to collect the "costs" of \$14,466.52.⁴⁸

Multiphasic Health Testing Centers

Multiphasic health testing centers, regulated under part I of ch. 483, F.S., are facilities where, in addition to taking specimens from the human body for delivery to registered clinical laboratories for analysis, certain measurements such as height and weight determinations, blood pressure determinations, limited audio and visual tests, and electrocardiograms are also made. These additional services are not required to be provided by licensed personnel but can be provided by a medical assistant that is certified or registered through a national organization. These clinics would also fall under the definition of a health care clinic in part X of ch. 400, F.S., but are exempt since they are already regulated by the AHCA.

⁴¹ Chapter 2008-143, s. 5, Laws of Fla.

⁴² Chapter 2011-61, s. 4, Laws of Fla.

⁴³ Chapter 2018-10, s. 18-19

⁴⁴ Chapter 2019-116, s. 18-19

⁴⁵ *Agency for Health Care Administration v. Covenant Hospice, Inc.*, Case No.18-5986F (Fla. DOAH 2018).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

Section 54 repeals part I of ch. 483, F.S., relating to multiphasic health testing centers, which thereby repeals the requirements for and the licensing of multiphasic health testing centers as a provider type. Current multiphasic health testing centers would need to become licensed as health care clinics, in accordance with part X of ch. 400, F.S., unless they otherwise qualify for an exemption from health care clinic licensure.

As of January 21, 2020, there were 187 multiphasic health testing centers licensed in Florida. Of these, 69 were owned and operated by Laboratory Corporation of America and 111 were owned and operated by Quest Diagnostics, including one out-of-state center.⁴⁹ Both Laboratory Corporation of America and Quest Diagnostics also own and operate several clinical laboratories throughout the state that are regulated under the federal Clinical Laboratory Improvement Amendments (CLIA).⁵⁰ The remaining seven multiphasic health testing centers are owned by Professional Health Examiners, Inc.⁵¹ Services are provided by licensed personnel under the direction of a medical director, and the company does not bill insurance and thus would also be exempt from health care clinic licensure as would those centers owned and operated by clinical laboratories regulated under the federal CLIA.⁵²

Under current law, the AHCA assesses multiphasic health testing centers with a biennial licensure fee of \$652.64 and a biennial health care assessment fee of \$300 on multiphasic health testing centers. The AHCA collects an estimated \$89,071.84 annually (\$178,143.68 biennially) from 187 multiphasic health testing centers, roughly half of which renew each year.⁵³

Since 2011, the AHCA has imposed only six fines against multiphasic health testing centers.⁵⁴ In this timeframe, only 10 complaints were received with none substantiated while 195 deficiencies have been cited since 2011.⁵⁵

Sections 19, 25, 31, 33, and 34 amend ss. 408.033, 408.802, s. 408.820, 408.831, and 408.832, F.S., to delete references to multiphasic health testing centers or chapter 483, to conform to changes made by Section 54 of the bill, which repeals part I of ch. 483, F.S., relating to multiphasic health testing centers.

Medicaid Provider Fraud

New technology and innovative online platforms allow Medicaid patients to access doctor appointment schedules through a web portal hosted by an online service. Health care professionals may contract with such services for a fee. There is concern that this relationship may conflict with anti-kickback provisions in the Florida Medicaid law. These fee-based scheduling services can operate within other health insurance programs such as Medicare, Tricare, and commercial programs. The federal Anti-Kickback Statute⁵⁶ prohibits the knowing

⁴⁹ *Supra* note 10.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ 42 U.S.C. s. 1320a-7b(b).

and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs. The bill seeks to ensure Florida law mirrors federal law and does not apply a stricter standard than the federal Anti-Kickback Statute.⁵⁷

Section 43 amends s. 409.920(2)(a), F.S., to align the state Medicaid anti-kickback law with the federal anti-kickback law so that Medicaid recipients can utilize innovations and technological advances to access medical appointments and care, similar to services that are currently used by Medicare, TriCare, and commercial patients.

Managed Care Plan Contracts

The AHCA is currently authorized to contract with plans for Statewide Medicaid Managed Care to provide managed medical assistance (MMA), long-term care (LTC) and dental services for a period of 5-years and to extend those contracts to cover any delays during the transition to a new plan following a re-procurement.

The AHCA re-procured these contracts during 2017 and awarded contracts in spring of 2018. Pursuant to statute, those contracts are effective from December of 2018 through December of 2023. While each procurement has presented the AHCA with the opportunity to negotiate significant program gains, included additional benefits for enrollees, enhanced processes to reduce administrative burdens for providers participating in the program, as well as significantly increased quality and performance benchmarks and savings that can be redirected to reward high performing providers, a longer contract period would provide the AHCA with more time to assess program performance as negotiated during the 2017 procurement and allow the collection of additional complete data years that could be considered when the contract is next procured. In addition, a longer contract period would provide the AHCA with additional opportunities to work with stakeholders and the Legislature on substantive program design.

Sections 44 and 45 amend ss. 409.967 and s. 409.973, F.S., to require the AHCA to establish a 6-year, rather than a 5-year, contract with each Medicaid managed care plan selected through the procurement process. It also requires the AHCA to extend the term of contracts awarded to managed care plans pursuant to the invitation to negotiate published in July 2017, through December 31, 2024, effectively extending the duration of those contracts by one year.

Health Insurance Benefits

The Florida Center for Health Information and Transparency (Florida Center), housed within the AHCA, provides a comprehensive health information system (information system) that includes the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of health-related data.⁵⁸ The Florida Center identifies existing health-related data and collects data for use in the information system, including information on health care costs and financing, trends in health care prices and costs, the sources of payment for health care services, and federal, state, and local expenditures for health care.⁵⁹

⁵⁷ *Supra* note 5.

⁵⁸ Section 408.05(1), F.S.

⁵⁹ Section 408.05(2), F.S.

The Florida Center maintains www.FloridaHealthFinder.gov, which was established by law in 2016⁶⁰, to assist consumers in making informed health care decisions and lead to improvements in quality of care in Florida.

In 2019, the Legislature enacted the Patient Savings Act⁶¹ (Act), which allows (but does not mandate) health insurers and health maintenance organizations (HMOs) to create a shared savings incentive program (Shared Savings Program) to encourage insured individuals to shop for high quality, lower cost health care services and share any savings realized as a result of the insured's choice. The Act authorizes implementation of these incentive programs for plan years beginning January 1, 2020.

The Act defines a “shared savings incentive” as an optional financial incentive that may be paid to an insured for choosing certain shoppable health care services under a Shared Savings Program. When a patient obtains a shoppable health care service for less than the average price for the service, the bill requires the savings to be shared by the health insurer and the patient. A patient is entitled to a financial incentive that is no less than 25 percent of the savings that accrue to the insurer as a result of the patient's participation.

The law provides a range of methods by which a Shared Savings Program may financially reward patients who save money by shopping for health care services. Patients may receive financial incentives in the form of premium reductions, or deposits into a flexible spending account, health savings account, or health reimbursement account.⁶²

Sections 20 and 51-53 amend ss. 408.05, 627.6387, 627.6648, and 641.31076, F.S., to increase the range of services defined as “shoppable” for purposes of earning shared savings incentives under a Shared Savings Program. In addition to the specific services outlined in the Patient Savings Act, the bill extends the “shoppable” service designation to those services identified by the Florida Center as having the most significant price variation at statewide and regional levels. The bill also allows a Shared Savings Program to provide cash or a cash-equivalent reward to a program participant who earns a shared savings incentive.

Cross-references

Sections 55-60 amend ss. 20.43, 381.0034, 456.001, 456.057, 456.076, and 456.47, F.S., to conform cross-references to changes made by the bill.

Effective Date

Section 61 provides that except as otherwise expressly provided in the bill and except for this section, which will take effect upon the bill becoming a law, the bill will take effect July 1, 2020.

⁶⁰ Chapter 2016-234, Laws of Fla.; *see also* s. 408.05(3), F.S.

⁶¹ Sections 627.6387, 627.6648, and 641.31076, F.S.

⁶² Section 627.6387, F.S.

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:

Article VII, s. 19 of the State Constitution requires that a new state tax or fee, as well as an increased state tax or fee, be approved by two-thirds of the membership of each house of the Legislature and be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1) of the State 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.”

Currently, an individual could employ health care personnel for the provision of home health services without having to obtain a license. Section 6 of the bill amends s. 400.462, F.S., to require such an individual to obtain a home health agency license by paying the licensure fee required in s. 400.471(5), F.S., unless exempt from licensure pursuant to s. 400.464(5), F.S. This fee is an existing statutory fee that is not being increased. However, the bill expands the scope of licensure for home health agencies, which expands the application of the licensure fee (i.e., thereby requiring persons not subject to the fee to pay the fee).

Section 36 of the bill amends s. 409.907(8), F.S, to require a level 2 background screening to be conducted through the AHCA for certain persons who render services to Medicaid recipients, who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient. Accordingly, additional persons will be required to pay the fees for a level 2 background screening, who currently are not subject to that screening.

It is unclear if Article VII, s. 19 of the State Constitution applies to these provisions of the bill. As such, the State 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Currently, an individual could employ health care personnel for the provision of home health services without having to obtain a license. Section 8 of the bill amends s. 400.462, F.S., to require such an individual to obtain a home health agency license if they are not currently exempt from licensure as a home health agency pursuant to s. 400.464(5), F.S., and pay the licensure fee required in s. 400.471(5), F.S. The AHCA has interpreted the provision of home health services to be an activity that requires licensure as a home health agency and does not believe changes to this section will impact services that require licensure. However, it is unclear if there are unlicensed individuals that employ or may seek to employ health care personnel for the provision of home health services that would be required to obtain a license under the bill and not qualify for licensure exemption. The fee is established by the AHCA in rule at an amount sufficient to cover the AHCA's costs in carrying out its responsibilities, not to exceed \$2,000 per biennium. Under the statutory authority in current law, the AHCA is imposing a \$1,705 fee for initial licensure, change of ownership, or licensure renewal.⁶³ The number of individuals impacted by this requirement is indeterminate.

Section 39 of the bill amends s. 409.907(8), F.S. to require level 2 background screenings, in accordance with ch. 435, F.S., for individuals who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient. This does not impose additional screening requirements on any providers licensed under part II of ch. 408. According to the Florida Department of Law Enforcement (FDLE), the cost for a level 2 background screening with five years of Clearinghouse retention is \$61.25 (\$13.25 for the national criminal record check; \$24 for the state criminal record check; and \$24 paid up front for five years of state fingerprint Clearinghouse retention).⁶⁴ The number of individuals impacted by this requirement is indeterminate.⁶⁵

B. Private Sector Impact:

Under CS/SB 1726:

- The bill exempts community mental health partial-hospitalization programs, portable x-ray providers, and rural health care clinics from health care clinic licensure. Those providers will no longer be required to pay the \$2,000 biennial license renewal fee. The AHCA estimates that approximately 200 providers would qualify for the exemption.
- Low-risk Medicaid providers are exempt from health care clinic licensure. These providers are not currently required to be licensed, but licensure will be required

⁶³ *Supra* note 10.⁶⁴ Email from the Department of Law Enforcement (February 5, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

⁶⁴ Email from the Department of Law Enforcement (February 5, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

⁶⁵ *Supra* note 10.

effective July 1, 2020. The AHCA expects 28,291 providers to qualify for the exemption. Providers who qualify for the exemption would not have to pay the \$2,000 initial licensure fee.

- The bill repeals licensure for multiphasic health testing centers. As a result, multiphasic health testing centers will no longer be required to pay the biennial license renewal fee of \$952.64, although some of these centers will need to pay licensure fees to become licensed as a health care clinic. There are currently 187 multiphasic health testing centers licensed in Florida.
- See Section V.A. for additional fees that may impact individuals not currently required to pay licensure fees now required in s. 400.471.(5), F.S., as amended, and fees associated with a level 2 background screening required in s. 409.907(8), F.S., as amended. The number of individuals impacted by the new requirements is indeterminate.

C. Government Sector Impact:

Under CS/SB 1726:

- Exempting Medicaid providers from health care clinic licensure will result in a cost avoidance. The exemptions created in the bill eliminate the need for the 13 full-time equivalent employees requested in the AHCA's Fiscal Year 2020-2021 legislative budget request to process health care clinic licensure applications.⁶⁶
- The AHCA will be able to conduct retrospective reviews of hospital inpatient claims and recover all overpayments in the Medicaid program. The AHCA lost \$13,449,595.12 related to 42 cases that have been or will be closed at zero overpayment due to the court ruling on retrospective hospital audits. The AHCA would likely experience a significant positive fiscal impact from clarification, although the amount recovered from future retrospective reviews is indeterminate.
- The AHCA will be able to recover all legal fees in Medicaid Program Integrity legal cases in which the AHCA prevails. Although the AHCA's tracking system for Medicaid recovery amounts does not distinguish legal fees, the AHCA has incurred over \$300,000 in legal fees for a single case.⁶⁷ The AHCA would likely experience a significant positive fiscal impact from this, although the amount of legal costs arising from future litigation is indeterminate.
- The bill exempts certain providers from health care clinic licensure and repeals licensure for multiphasic health testing centers. As a result, a loss in annual revenue of \$489,071.84 and a commensurate workload reduction will occur from the repeal of multiphasic health testing center licensure (\$89,071.84), and the new exemptions from health care clinic licensure for community mental health partial-hospitalization program, portable x-ray providers, and rural health care clinics (\$400,000).⁶⁸

The AHCA will also experience a reduction in workload from removing requirements that the AHCA submit various reports to the Governor and the Legislature.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

VI. Technical Deficiencies:

The provisions of section 8 and 39 of the bill, amending s. 400.462 and 409.907, F.S., could result in the application of new fees or assessments.

- Section 8 amends s. 400.462, F.S., to require certain individuals to obtain a home health agency license by paying the licensure fee required in s. 400.471(5), F.S.
- Section 39 amends s. 409.907, F.S., to require level 2 background screenings, in accordance with ch. 435, F.S., for individuals who have direct access to Medicaid recipients, recipient living areas, or the financial, medical or service records of a Medicaid recipient, or who supervises the delivery of goods or services to a Medicaid recipient.

See Section IV.D. and Section V.A. A separate fee bill should be considered to address the applicable fees and assessments.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.43, 381.0034, 383.327, 395.003, 395.1055, 395.602, 395.7015, 395.7016, 400.19, 400.462, 400.464, 400.471, 400.492, 400.506, 400.509, 400.605, 400.60501, 400.9905, 400.991, 400.9935, 408.033, 408.05, 408.061, 408.0611, 408.062, 408.063, 408.802, 408.803, 408.806, 408.808, 408.809, 408.811, 408.820, 408.821, 408.831, 408.832, 408.909, 408.9091, 409.905, 409.907, 409.908, 409.913, 409.920, 409.967, 409.973, 429.11, 429.19, 429.35, 429.905, 429.929, 456.001, 456.057, 456.076, 456.47, 627.6387, 627.6648, and 641.31076.

This bill repeals the following sections of the Florida Statutes: 395.7015 and part I of chapter 483 and 19 of chapter 2019-116, Laws of Florida, relating to the abrogation of the scheduled expiration of an amendment to 408.908.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2020:

The committee substitute:

- Reinstates the AHCA's authority to require hospital adult cardiac programs to participate in national reporting and quality registries.
- Extends the current rural hospital designation to 2025 (set to expire June 30, 2021).
- Modifies surveys for nursing home with a Class I or two Class II deficiencies in 60 days, to clarify that the AHCA will continue to conduct licensure surveys every six months until a facility has two consecutive licensure surveys without a citation for a Class I or Class II deficiency. Reinstates current law and maintains the \$6,000 fine for the additional surveys.

- Replaces the term “organization” for home health agencies to align with the AHCA uniform licensing requirements.
- Clarifies the current level 1 background screening requirements for non-emergency transportation providers and brokers remain in place.
- Amends directory language to provide the statutory clarification of retrospective hospital reviews is effective upon becoming a law.
- Removes class III psychiatric facilities from (DRG) payment methodology.
- Removes the nursing home unit cost rate freeze.
- Aligns the state Medicaid anti-kickback law with the federal anti-kickback law.
- Extends the Medicaid statewide dental contracts from five years to six years.
- Requires the Florida Center to publish an annual report identifying health care services with the most significant price variation at statewide and regional levels.
- Expands the list of shoppable health care services that qualify for a shared savings incentive for patients to include services with the most significant price variation. Allows cash and cash equivalent incentives in shared savings incentives.

CS by Health Policy on January 28, 2020:

The CS:

- Changes a reference from chapter 624 to chapter 627 to revise and make permanent an exemption from health care clinic licensure for entities owned by an insurance holding company with over \$1 billion in annual sales.
- Clarifies that the Legislature’s 2001 direction to the AHCA under s. 409.905(5)(a), F.S., to discontinue the Medicaid Program’s hospital retrospective review program upon implementing its new authority (also granted in 2001) to prior authorize Medicaid hospital inpatient admissions, may not be construed to prevent MPI from conducting retrospective reviews under s. 409.913, F.S. This provision of the bill takes effect upon becoming law.
- Provides that it is the intent of the Legislature that the bill’s amendment to s. 409.905(5)(a), F.S., is intended to confirm and clarify existing law
- Requires the AHCA to establish a six-year, rather than a five-year, contract with each managed care plan selected through the procurement process. Requires the AHCA to extend the term of contracts awarded to managed care plans pursuant to the invitation to negotiate published in July 2017, through December 31, 2024.
- Changes the effective date of the bill to allow for certain sections to take effect upon becoming a law as expressly provided. Unless expressly provided, the bill takes effect on July 1, 2020.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Bean

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1 A bill to be entitled
 2 An act relating to the Agency for Health Care
 3 Administration; amending s. 383.327, F.S.; requiring
 4 birth centers to report certain deaths and stillbirths
 5 to the agency; removing a requirement that a certain
 6 report be submitted annually to the agency;
 7 authorizing the agency to prescribe by rule the
 8 frequency at which such report is submitted; amending
 9 s. 395.003, F.S.; removing a requirement that
 10 specified information be listed on licenses for
 11 certain facilities; repealing s. 395.7015, F.S.,
 12 relating to an annual assessment on health care
 13 entities; amending s. 395.7016, F.S.; conforming a
 14 provision to changes made by the act; amending s.
 15 400.19, F.S.; revising provisions requiring the agency
 16 to conduct licensure inspections of nursing homes;
 17 requiring the agency to conduct additional licensure
 18 surveys under certain circumstances; requiring the
 19 agency to assess a specified fine for such surveys;
 20 amending s. 400.462, F.S.; revising definitions;
 21 amending s. 400.464, F.S.; revising licensure
 22 requirements for home health agencies; amending s.
 23 400.471, F.S.; revising provisions related to certain
 24 application requirements for home health agencies;
 25 amending s. 400.492, F.S.; revising provisions related
 26 to services provided by home health agencies during an
 27 emergency; amending s. 400.506, F.S.; revising
 28 provisions related to licensure requirements for nurse
 29 registries; amending s. 400.509, F.S.; revising

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30 provisions related to the registration of certain
 31 service providers; amending s. 400.605, F.S.; removing
 32 a requirement that the agency conduct specified
 33 inspections of certain licensees; amending s.
 34 400.60501, F.S.; deleting an obsolete date; removing a
 35 requirement that the agency develop a specified annual
 36 report; amending s. 400.9905, F.S.; revising the
 37 definition of the term "clinic"; amending s. 400.991,
 38 F.S.; removing the option for health care clinics to
 39 file a surety bond under certain circumstances;
 40 amending s. 400.9935, F.S.; removing a requirement
 41 that certain directors conduct specified reviews;
 42 requiring certain clinics to publish and post a
 43 schedule of charges; amending s. 408.033, F.S.;
 44 conforming a provision to changes made by the act;
 45 amending s. 408.061, F.S.; revising provisions
 46 requiring health care facilities to submit specified
 47 data to the agency; amending s. 408.0611, F.S.;
 48 removing the requirement that the agency annually
 49 report to the Governor and the Legislature by a
 50 specified date on the progress of implementation of
 51 electronic prescribing; amending s. 408.062, F.S.;
 52 removing requirements that the agency annually report
 53 specified information to the Governor and Legislature
 54 by a specified date and, instead, requiring the agency
 55 to annually publish such information on its website;
 56 amending s. 408.063, F.S.; removing a requirement that
 57 the agency publish certain annual reports; amending s.
 58 408.803, F.S.; conforming a definition to changes made

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59 by the act; defining the term "low-risk provider";
 60 amending ss. 408.802, 408.820, 408.831, and 408.832,
 61 F.S.; conforming provisions to changes made by the
 62 act; amending s. 408.806, F.S.; exempting certain
 63 providers from a specified inspection; amending s.
 64 408.808, F.S.; authorizing the issuance of a
 65 provisional license to certain applicants; amending
 66 ss. 408.809 and 409.907, F.S.; revising background
 67 screening requirements for certain licensees and
 68 providers; amending s. 408.811, F.S.; authorizing the
 69 agency to grant certain providers an exemption from a
 70 specified inspection under certain circumstances;
 71 authorizing the agency to adopt rules to grant waivers
 72 of certain inspections and extended inspection periods
 73 under certain circumstances; amending s. 408.821,
 74 F.S.; revising provisions requiring licensees to have
 75 a specified plan; providing requirements for the
 76 submission of such plan; amending s. 408.909, F.S.;
 77 removing a requirement that the agency and Office of
 78 Insurance Regulation evaluate a specified program;
 79 amending s. 408.9091, F.S.; requiring the agency and
 80 office to each, instead of jointly, submit a specified
 81 annual report to the Governor and Legislature;
 82 amending s. 409.905, F.S.; providing construction for
 83 a provision that requires the agency to discontinue
 84 its hospital retrospective review program under
 85 certain circumstances; providing legislative intent;
 86 amending s. 409.913, F.S.; revising the due date for a
 87 certain annual report; deleting the requirement that

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88 certain agencies submit their annual reports jointly;
 89 amending s. 409.967, F.S.; revising the length of
 90 managed care plan contracts procured by the agency
 91 beginning during a specified timeframe; requiring the
 92 agency to extend the term of certain existing managed
 93 care plan contracts until a specified date; amending
 94 s. 429.11, F.S.; removing an authorization for the
 95 issuance of a provisional license to certain
 96 facilities; amending s. 429.19, F.S.; removing
 97 requirements that the agency develop and disseminate a
 98 specified list and the Department of Children and
 99 Families disseminate such list to certain providers;
 100 amending ss. 429.35, 429.905, and 429.929, F.S.;
 101 revising provisions requiring a biennial inspection
 102 cycle for specified facilities and centers,
 103 respectively; repealing part I of ch. 483, F.S.,
 104 relating to the Florida Multiphasic Health Testing
 105 Center Law; redesignating parts II and III of ch. 483,
 106 F.S., as parts I and II, respectively; amending ss.
 107 20.43, 381.0034, 456.001, 456.057, 456.076, and
 108 456.47, F.S.; conforming cross-references; providing
 109 effective dates.

110
111 Be It Enacted by the Legislature of the State of Florida:

112
113 Section 1. Subsections (2) and (4) of section 383.327,
 114 Florida Statutes, are amended to read:
 115 383.327 Birth and death records; reports.—
 116 (2) Each maternal death, newborn death, and stillbirth

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117 shall be reported immediately to the medical examiner and the
118 agency.

119 (4) A report shall be submitted ~~annually~~ to the agency. The
120 contents of the report and the frequency with which it is
121 submitted shall be prescribed by rule of the agency.

122 Section 2. Subsection (4) of section 395.003, Florida
123 Statutes, is amended to read:

124 395.003 Licensure; denial, suspension, and revocation.—

125 (4) The agency shall issue a license that ~~which~~ specifies
126 the service categories and the number of hospital beds in each
127 bed category for which a license is received. Such information
128 shall be listed on the face of the license. ~~All beds which are~~
129 ~~not covered by any specialty bed need methodology shall be~~
130 ~~specified as general beds.~~ A licensed facility shall not operate
131 a number of hospital beds greater than the number indicated by
132 the agency on the face of the license without approval from the
133 agency under conditions established by rule.

134 Section 3. Section 395.7015, Florida Statutes, is repealed.

135 Section 4. Section 395.7016, Florida Statutes, is amended
136 to read:

137 395.7016 Annual appropriation.—The Legislature shall
138 appropriate each fiscal year from either the General Revenue
139 Fund or the Agency for Health Care Administration Tobacco
140 Settlement Trust Fund an amount sufficient to replace the funds
141 lost due to ~~reduction by chapter 2000-256, Laws of Florida, of~~
142 ~~the assessment on other health care entities under s. 395.7015,~~
143 ~~and~~ the reduction by chapter 2000-256, Laws of Florida, in the
144 assessment on hospitals under s. 395.7017 and to maintain
145 federal approval of the reduced amount of funds deposited into

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146 the Public Medical Assistance Trust Fund under s. 395.7017, as
147 state match for the state's Medicaid program.

148 Section 5. Subsection (3) of section 400.19, Florida
149 Statutes, is amended to read:

150 400.19 Right of entry and inspection.—

151 (3) The agency shall conduct periodic, every 15 months
152 ~~conduct at least one~~ unannounced licensure inspections
153 ~~inspection~~ to determine compliance by the licensee with
154 statutes, and with rules adopted promulgated under the
155 ~~provisions of~~ those statutes, governing minimum standards of
156 construction, quality and adequacy of care, and rights of
157 residents. ~~The survey shall be conducted every 6 months for the~~
158 ~~next 2 year period~~ If the facility has been cited for a class I
159 deficiency ~~or~~ has been cited for two or more class II
160 deficiencies ~~arising from separate surveys or investigations~~
161 within a 60-day period, the agency shall conduct an additional
162 licensure survey ~~or has had three or more substantiated~~
163 ~~complaints within a 6-month period, each resulting in at least~~
164 ~~one class I or class II deficiency.~~ In addition to any other
165 fees or fines in this part, the agency shall assess a fine for
166 each facility that is subject to the additional licensure survey
167 ~~6-month survey cycle.~~ The fine for the additional licensure
168 survey is \$3,000 ~~2-year period shall be \$6,000, one-half to be~~
169 ~~paid at the completion of each survey.~~ The agency may adjust
170 ~~such this~~ fine by the change in the Consumer Price Index, based
171 on the 12 months immediately preceding the increase, to cover
172 the cost of the additional surveys. The agency shall verify
173 through subsequent inspection that any deficiency identified
174 during inspection is corrected. However, the agency may verify

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175 the correction of a class III or class IV deficiency unrelated
 176 to resident rights or resident care without reinspecting the
 177 facility if adequate written documentation has been received
 178 from the facility, which provides assurance that the deficiency
 179 has been corrected. The giving or causing to be given of advance
 180 notice of such unannounced inspections by an employee of the
 181 agency to any unauthorized person shall constitute cause for
 182 suspension of not fewer than 5 working days according to ~~the~~
 183 ~~provisions of~~ chapter 110.

184 Section 6. Subsections (12), (14), (17), (21), and (22) of
 185 section 400.462, Florida Statutes, are amended to read:

186 400.462 Definitions.—As used in this part, the term:

187 (12) "Home health agency" means a person or an entity ~~an~~
 188 ~~organization~~ that provides one or more home health services and
 189 ~~staffing services~~.

190 (14) "Home health services" means health and medical
 191 services and medical supplies furnished ~~by an organization~~ to an
 192 individual in the individual's home or place of residence. The
 193 term includes ~~organizations that provide one or more of the~~
 194 following:

195 (a) Nursing care.

196 (b) Physical, occupational, respiratory, or speech therapy.

197 (c) Home health aide services.

198 (d) Dietetics and nutrition practice and nutrition
 199 counseling.

200 (e) Medical supplies, restricted to drugs and biologicals
 201 prescribed by a physician.

202 (17) "Home infusion therapy provider" means a person or an
 203 entity ~~an organization~~ that employs, contracts with, or refers a

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204 licensed professional who has received advanced training and
 205 experience in intravenous infusion therapy and who administers
 206 infusion therapy to a patient in the patient's home or place of
 207 residence.

208 (21) "Nurse registry" means any person or entity that
 209 procures, offers, promises, or attempts to secure health-care-
 210 related contracts for registered nurses, licensed practical
 211 nurses, certified nursing assistants, home health aides,
 212 companions, or homemakers, who are compensated by fees as
 213 independent contractors, including, but not limited to,
 214 contracts for the provision of services to patients and
 215 contracts to provide private duty or staffing services to health
 216 care facilities licensed under chapter 395, this chapter, or
 217 chapter 429 or other business entities.

218 ~~(22) "Organization" means a corporation, government or~~
 219 ~~governmental subdivision or agency, partnership or association,~~
 220 ~~or any other legal or commercial entity, any of which involve~~
 221 ~~more than one health care professional discipline; a health care~~
 222 ~~professional and a home health aide or certified nursing~~
 223 ~~assistant; more than one home health aide; more than one~~
 224 ~~certified nursing assistant; or a home health aide and a~~
 225 ~~certified nursing assistant. The term does not include an entity~~
 226 ~~that provides services using only volunteers or only individuals~~
 227 ~~related by blood or marriage to the patient or client.~~

228 Section 7. Subsections (1), (4), and (5) of section
 229 400.464, Florida Statutes, are amended to read:

230 400.464 Home health agencies to be licensed; expiration of
 231 license; exemptions; unlawful acts; penalties.—

232 (1) The requirements of part II of chapter 408 apply to the

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233 provision of services that require licensure pursuant to this
 234 part and part II of chapter 408 and entities licensed or
 235 registered by or applying for such licensure or registration
 236 from the Agency for Health Care Administration pursuant to this
 237 part. A license issued by the agency is required in order to
 238 operate a home health agency in this state. A license issued on
 239 or after July 1, 2018, must specify the home health services the
 240 ~~licensee organization~~ is authorized to perform and indicate
 241 whether such specified services are considered skilled care. The
 242 provision or advertising of services that require licensure
 243 pursuant to this part without such services being specified on
 244 the face of the license issued on or after July 1, 2018,
 245 constitutes unlicensed activity as prohibited under s. 408.812.

246 (4) (a) A licensee ~~An organization~~ that offers or advertises
 247 to the public any service for which licensure or registration is
 248 required under this part must include in the advertisement the
 249 license number or registration number issued to the licensee
 250 ~~organization~~ by the agency. The agency shall assess a fine of
 251 not less than \$100 to any licensee or registrant who fails to
 252 include the license or registration number when submitting the
 253 advertisement for publication, broadcast, or printing. The fine
 254 for a second or subsequent offense is \$500. The holder of a
 255 license issued under this part may not advertise or indicate to
 256 the public that it holds a home health agency or nurse registry
 257 license other than the one it has been issued.

258 (b) The operation or maintenance of an unlicensed home
 259 health agency or the performance of any home health services in
 260 violation of this part is declared a nuisance, inimical to the
 261 public health, welfare, and safety. The agency or any state

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262 attorney may, in addition to other remedies provided in this
 263 part, bring an action for an injunction to restrain such
 264 violation, or to enjoin the future operation or maintenance of
 265 the home health agency or the provision of home health services
 266 in violation of this part or part II of chapter 408, until
 267 compliance with this part or the rules adopted under this part
 268 has been demonstrated to the satisfaction of the agency.

269 (c) A person or entity that ~~who~~ violates paragraph (a) is
 270 subject to an injunctive proceeding under s. 408.816. A
 271 violation of paragraph (a) or s. 408.812 is a deceptive and
 272 unfair trade practice and constitutes a violation of the Florida
 273 Deceptive and Unfair Trade Practices Act under part II of
 274 chapter 501.

275 (d) A person or entity that ~~who~~ violates ~~the provisions of~~
 276 paragraph (a) commits a misdemeanor of the second degree,
 277 punishable as provided in s. 775.082 or s. 775.083. Any person
 278 or entity that ~~who~~ commits a second or subsequent violation
 279 commits a misdemeanor of the first degree, punishable as
 280 provided in s. 775.082 or s. 775.083. Each day of continuing
 281 violation constitutes a separate offense.

282 (e) Any person or entity that ~~who~~ owns, operates, or
 283 maintains an unlicensed home health agency and who, after
 284 receiving notification from the agency, fails to cease operation
 285 and apply for a license under this part commits a misdemeanor of
 286 the second degree, punishable as provided in s. 775.082 or s.
 287 775.083. Each day of continued operation is a separate offense.

288 (f) Any home health agency that fails to cease operation
 289 after agency notification may be fined in accordance with s.
 290 408.812.

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291 (5) The following are exempt from ~~the licensure~~ as a home
 292 health agency under requirements of this part:
 293 (a) A home health agency operated by the Federal
 294 Government.
 295 (b) Home health services provided by a state agency, either
 296 directly or through a contractor with:
 297 1. The Department of Elderly Affairs.
 298 2. The Department of Health, a community health center, or
 299 a rural health network that furnishes home visits for the
 300 purpose of providing environmental assessments, case management,
 301 health education, personal care services, family planning, or
 302 followup treatment, or for the purpose of monitoring and
 303 tracking disease.
 304 3. Services provided to persons with developmental
 305 disabilities, as defined in s. 393.063.
 306 4. Companion and sitter organizations that were registered
 307 under s. 400.509(1) on January 1, 1999, and were authorized to
 308 provide personal services under a developmental services
 309 provider certificate on January 1, 1999, may continue to provide
 310 such services to past, present, and future clients of the
 311 organization who need such services, notwithstanding the
 312 provisions of this act.
 313 5. The Department of Children and Families.
 314 (c) A health care professional, whether or not
 315 incorporated, who is licensed under chapter 457; chapter 458;
 316 chapter 459; part I of chapter 464; chapter 467; part I, part
 317 III, part V, or part X of chapter 468; chapter 480; chapter 486;
 318 chapter 490; or chapter 491; and who is acting alone within the
 319 scope of his or her professional license to provide care to

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320 patients in their homes.
 321 (d) A home health aide or certified nursing assistant who
 322 is acting in his or her individual capacity, within the
 323 definitions and standards of his or her occupation, and who
 324 provides hands-on care to patients in their homes.
 325 (e) An individual who acts alone, in his or her individual
 326 capacity, and who is not employed by or affiliated with a
 327 licensed home health agency or registered with a licensed nurse
 328 registry. This exemption does not entitle an individual to
 329 perform home health services without the required professional
 330 license.
 331 (f) The delivery of instructional services in home dialysis
 332 and home dialysis supplies and equipment.
 333 (g) The delivery of nursing home services for which the
 334 nursing home is licensed under part II of this chapter, to serve
 335 its residents in its facility.
 336 (h) The delivery of assisted living facility services for
 337 which the assisted living facility is licensed under part I of
 338 chapter 429, to serve its residents in its facility.
 339 (i) The delivery of hospice services for which the hospice
 340 is licensed under part IV of this chapter, to serve hospice
 341 patients admitted to its service.
 342 (j) A hospital that provides services for which it is
 343 licensed under chapter 395.
 344 (k) The delivery of community residential services for
 345 which the community residential home is licensed under chapter
 346 419, to serve the residents in its facility.
 347 (l) A not-for-profit, community-based agency that provides
 348 early intervention services to infants and toddlers.

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349 (m) Certified rehabilitation agencies and comprehensive
350 outpatient rehabilitation facilities that are certified under
351 Title 18 of the Social Security Act.

352 (n) The delivery of adult family-care home services for
353 which the adult family-care home is licensed under part II of
354 chapter 429, to serve the residents in its facility.

355 (o) A person or entity that provides skilled care by health
356 care professionals licensed solely under part I of chapter 464;
357 part I, part III, or part V of chapter 468; or chapter 486.

358 (p) A person or entity that provides services using only
359 volunteers or only individuals related by blood or marriage to
360 the patient or client.

361 Section 8. Paragraph (g) of subsection (2) of section
362 400.471, Florida Statutes, is amended to read:

363 400.471 Application for license; fee.—

364 (2) In addition to the requirements of part II of chapter
365 408, the initial applicant, the applicant for a change of
366 ownership, and the applicant for the addition of skilled care
367 services must file with the application satisfactory proof that
368 the home health agency is in compliance with this part and
369 applicable rules, including:

370 (g) In the case of an application for initial licensure, an
371 application for a change of ownership, or an application for the
372 addition of skilled care services, documentation of
373 accreditation, or an application for accreditation, from an
374 accrediting organization that is recognized by the agency as
375 having standards comparable to those required by this part and
376 part II of chapter 408. A home health agency that does not
377 provide skilled care is exempt from this paragraph.

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378 Notwithstanding s. 408.806, ~~the an initial~~ applicant must
379 provide proof of accreditation that is not conditional or
380 provisional and a survey demonstrating compliance with the
381 requirements of this part, part II of chapter 408, and
382 applicable rules from an accrediting organization that is
383 recognized by the agency as having standards comparable to those
384 required by this part and part II of chapter 408 within 120 days
385 after the date of the agency's receipt of the application for
386 licensure. Such accreditation must be continuously maintained by
387 the home health agency to maintain licensure. The agency shall
388 accept, in lieu of its own periodic licensure survey, the
389 submission of the survey of an accrediting organization that is
390 recognized by the agency if the accreditation of the licensed
391 home health agency is not provisional and if the licensed home
392 health agency authorizes release of, and the agency receives the
393 report of, the accrediting organization.

394 Section 9. Section 400.492, Florida Statutes, is amended to
395 read:

396 400.492 Provision of services during an emergency.—Each
397 home health agency shall prepare and maintain a comprehensive
398 emergency management plan that is consistent with the standards
399 adopted by national or state accreditation organizations and
400 consistent with the local special needs plan. The plan shall be
401 updated annually and shall provide for continuing home health
402 services during an emergency that interrupts patient care or
403 services in the patient's home. The plan shall include the means
404 by which the home health agency will continue to provide staff
405 to perform the same type and quantity of services to their
406 patients who evacuate to special needs shelters that were being

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407 provided to those patients prior to evacuation. The plan shall
 408 describe how the home health agency establishes and maintains an
 409 effective response to emergencies and disasters, including:
 410 notifying staff when emergency response measures are initiated;
 411 providing for communication between staff members, county health
 412 departments, and local emergency management agencies, including
 413 a backup system; identifying resources necessary to continue
 414 essential care or services or referrals to other health care
 415 providers ~~organizations~~ subject to written agreement; and
 416 prioritizing and contacting patients who need continued care or
 417 services.

418 (1) Each patient record for patients who are listed in the
 419 registry established pursuant to s. 252.355 shall include a
 420 description of how care or services will be continued in the
 421 event of an emergency or disaster. The home health agency shall
 422 discuss the emergency provisions with the patient and the
 423 patient's caregivers, including where and how the patient is to
 424 evacuate, procedures for notifying the home health agency in the
 425 event that the patient evacuates to a location other than the
 426 shelter identified in the patient record, and a list of
 427 medications and equipment which must either accompany the
 428 patient or will be needed by the patient in the event of an
 429 evacuation.

430 (2) Each home health agency shall maintain a current
 431 prioritized list of patients who need continued services during
 432 an emergency. The list shall indicate how services shall be
 433 continued in the event of an emergency or disaster for each
 434 patient and if the patient is to be transported to a special
 435 needs shelter, and shall indicate if the patient is receiving

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436 skilled nursing services and the patient's medication and
 437 equipment needs. The list shall be furnished to county health
 438 departments and to local emergency management agencies, upon
 439 request.

440 (3) Home health agencies shall not be required to continue
 441 to provide care to patients in emergency situations that are
 442 beyond their control and that make it impossible to provide
 443 services, such as when roads are impassable or when patients do
 444 not go to the location specified in their patient records. Home
 445 health agencies may establish links to local emergency
 446 operations centers to determine a mechanism by which to approach
 447 specific areas within a disaster area in order for the agency to
 448 reach its clients. Home health agencies shall demonstrate a good
 449 faith effort to comply with the requirements of this subsection
 450 by documenting attempts of staff to follow procedures outlined
 451 in the home health agency's comprehensive emergency management
 452 plan, and by the patient's record, which support a finding that
 453 the provision of continuing care has been attempted for those
 454 patients who have been identified as needing care by the home
 455 health agency and registered under s. 252.355, in the event of
 456 an emergency or disaster under subsection (1).

457 (4) Notwithstanding the provisions of s. 400.464(2) or any
 458 other provision of law to the contrary, a home health agency may
 459 provide services in a special needs shelter located in any
 460 county.

461 Section 10. Subsection (4) and paragraph (a) of subsection
 462 (5) of section 400.506, Florida Statutes, are amended to read:
 463 400.506 Licensure of nurse registries; requirements;
 464 penalties.-

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465 (4) A licensee who ~~person that~~ provides, offers, or
 466 advertises to the public any service for which licensure is
 467 required under this section must include in such advertisement
 468 the license number issued to the licensee ~~it~~ by the Agency for
 469 Health Care Administration. The agency shall assess a fine of
 470 not less than \$100 against any licensee who fails to include the
 471 license number when submitting the advertisement for
 472 publication, broadcast, or printing. The fine for a second or
 473 subsequent offense is \$500.

474 (5) (a) In addition to the requirements of s. 408.812, any
 475 person or entity that ~~who~~ owns, operates, or maintains an
 476 unlicensed nurse registry and who, after receiving notification
 477 from the agency, fails to cease operation and apply for a
 478 license under this part commits a misdemeanor of the second
 479 degree, punishable as provided in s. 775.082 or s. 775.083. Each
 480 day of continued operation is a separate offense.

481 Section 11. Subsections (1), (2), (4), and (5) of section
 482 400.509, Florida Statutes, are amended to read:

483 400.509 Registration of particular service providers exempt
 484 from licensure; certificate of registration; regulation of
 485 registrants.—

486 (1) Any person or entity ~~organization~~ that provides
 487 companion services or homemaker services and does not provide a
 488 home health service to a person is exempt from licensure under
 489 this part. However, any person or entity ~~organization~~ that
 490 provides companion services or homemaker services must register
 491 with the agency. A person or an entity ~~An organization~~ under
 492 contract with the Agency for Persons with Disabilities which
 493 provides companion services only for persons with a

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494 developmental disability, as defined in s. 393.063, is exempt
 495 from registration.

496 (2) The requirements of part II of chapter 408 apply to the
 497 provision of services that require registration or licensure
 498 pursuant to this section and part II of chapter 408 and entities
 499 registered by or applying for such registration from the Agency
 500 for Health Care Administration pursuant to this section. Each
 501 applicant for registration and each registrant must comply with
 502 all provisions of part II of chapter 408. Registration or a
 503 license issued by the agency is required for a person or an
 504 entity to provide ~~the operation of an organization that provides~~
 505 companion services or homemaker services.

506 (4) Each registrant must obtain the employment or contract
 507 history of persons who are employed by or under contract with
 508 the person or entity ~~organization~~ and who will have contact at
 509 any time with patients or clients in their homes by:

510 (a) Requiring such persons to submit an employment or
 511 contractual history to the registrant; and

512 (b) Verifying the employment or contractual history, unless
 513 through diligent efforts such verification is not possible. The
 514 agency shall prescribe by rule the minimum requirements for
 515 establishing that diligent efforts have been made.

516
 517 There is no monetary liability on the part of, and no cause of
 518 action for damages arises against, a former employer of a
 519 prospective employee of or prospective independent contractor
 520 with a registrant who reasonably and in good faith communicates
 521 his or her honest opinions about the former employee's or
 522 contractor's job performance. This subsection does not affect

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523 the official immunity of an officer or employee of a public
524 corporation.

525 (5) A person or an entity that offers or advertises to the
526 public a service for which registration is required must include
527 in its advertisement the registration number issued by the
528 Agency for Health Care Administration.

529 Section 12. Subsection (3) of section 400.605, Florida
530 Statutes, is amended to read:

531 400.605 Administration; forms; fees; rules; inspections;
532 fines.-

533 (3) In accordance with s. 408.811, the agency shall conduct
534 ~~annual inspections of all licensees, except that licensure~~
535 ~~inspections may be conducted biennially for hospices having a 3-~~
536 ~~year record of substantial compliance. The agency shall conduct~~
537 such inspections and investigations as are necessary in order to
538 determine the state of compliance with ~~the provisions of this~~
539 part, part II of chapter 408, and applicable rules.

540 Section 13. Section 400.60501, Florida Statutes, is amended
541 to read:

542 400.60501 Outcome measures; adoption of federal quality
543 measures; public reporting; ~~annual report.-~~

544 (1) ~~No later than December 31, 2019,~~ The agency shall adopt
545 the national hospice outcome measures and survey data in 42
546 C.F.R. part 418 to determine the quality and effectiveness of
547 hospice care for hospices licensed in the state.

548 (2) The agency shall+

549 ~~(a)~~ make available to the public the national hospice
550 outcome measures and survey data in a format that is
551 comprehensible by a layperson and that allows a consumer to

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552 compare such measures of one or more hospices.

553 ~~(b) Develop an annual report that analyzes and evaluates~~
554 ~~the information collected under this act and any other data~~
555 ~~collection or reporting provisions of law.~~

556 Section 14. Subsection (4) of section 400.9905, Florida
557 Statutes, is amended to read:

558 400.9905 Definitions.-

559 (4) "Clinic" means an entity where health care services are
560 provided to individuals and which tenders charges for
561 reimbursement for such services, including a mobile clinic and a
562 portable equipment provider. As used in this part, the term does
563 not include and the licensure requirements of this part do not
564 apply to:

565 (a) Entities licensed or registered by the state under
566 chapter 395; entities licensed or registered by the state and
567 providing only health care services within the scope of services
568 authorized under their respective licenses under ss. 383.30-
569 383.332, chapter 390, chapter 394, chapter 397, this chapter
570 except part X, chapter 429, chapter 463, chapter 465, chapter
571 466, chapter 478, chapter 484, or chapter 651; end-stage renal
572 disease providers authorized under 42 C.F.R. part 405, subpart
573 U; providers certified and providing only health care services
574 within the scope of services authorized under their respective
575 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
576 H, or subpart J; providers certified and providing only health
577 care services within the scope of services authorized under
578 their respective certifications under 42 C.F.R. part 486,
579 subpart C; providers certified and providing only health care
580 services within the scope of services authorized under their

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581 respective certifications under 42 C.F.R. part 491, subpart A;
 582 providers certified by the Centers for Medicare and Medicaid
 583 services under the federal Clinical Laboratory Improvement
 584 Amendments and the federal rules adopted thereunder; or any
 585 entity that provides neonatal or pediatric hospital-based health
 586 care services or other health care services by licensed
 587 practitioners solely within a hospital licensed under chapter
 588 395.

589 (b) Entities that own, directly or indirectly, entities
 590 licensed or registered by the state pursuant to chapter 395;
 591 entities that own, directly or indirectly, entities licensed or
 592 registered by the state and providing only health care services
 593 within the scope of services authorized pursuant to their
 594 respective licenses under ss. 383.30-383.332, chapter 390,
 595 chapter 394, chapter 397, this chapter except part X, chapter
 596 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
 597 484, or chapter 651; end-stage renal disease providers
 598 authorized under 42 C.F.R. part 405, subpart U; providers
 599 certified and providing only health care services within the
 600 scope of services authorized under their respective
 601 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
 602 H, or subpart J; providers certified and providing only health
 603 care services within the scope of services authorized under
 604 their respective certifications under 42 C.F.R. part 486,
 605 subpart C; providers certified and providing only health care
 606 services within the scope of services authorized under their
 607 respective certifications under 42 C.F.R. part 491, subpart A;
 608 providers certified by the Centers for Medicare and Medicaid
 609 services under the federal Clinical Laboratory Improvement

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610 Amendments and the federal rules adopted thereunder; or any
 611 entity that provides neonatal or pediatric hospital-based health
 612 care services by licensed practitioners solely within a hospital
 613 licensed under chapter 395.

614 (c) Entities that are owned, directly or indirectly, by an
 615 entity licensed or registered by the state pursuant to chapter
 616 395; entities that are owned, directly or indirectly, by an
 617 entity licensed or registered by the state and providing only
 618 health care services within the scope of services authorized
 619 pursuant to their respective licenses under ss. 383.30-383.332,
 620 chapter 390, chapter 394, chapter 397, this chapter except part
 621 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
 622 478, chapter 484, or chapter 651; end-stage renal disease
 623 providers authorized under 42 C.F.R. part 405, subpart U;
 624 providers certified and providing only health care services
 625 within the scope of services authorized under their respective
 626 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
 627 H, or subpart J; providers certified and providing only health
 628 care services within the scope of services authorized under
 629 their respective certifications under 42 C.F.R. part 486,
 630 subpart C; providers certified and providing only health care
 631 services within the scope of services authorized under their
 632 respective certifications under 42 C.F.R. part 491, subpart A;
 633 providers certified by the Centers for Medicare and Medicaid
 634 services under the federal Clinical Laboratory Improvement
 635 Amendments and the federal rules adopted thereunder; or any
 636 entity that provides neonatal or pediatric hospital-based health
 637 care services by licensed practitioners solely within a hospital
 638 under chapter 395.

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639 (d) Entities that are under common ownership, directly or
 640 indirectly, with an entity licensed or registered by the state
 641 pursuant to chapter 395; entities that are under common
 642 ownership, directly or indirectly, with an entity licensed or
 643 registered by the state and providing only health care services
 644 within the scope of services authorized pursuant to their
 645 respective licenses under ss. 383.30-383.332, chapter 390,
 646 chapter 394, chapter 397, this chapter except part X, chapter
 647 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
 648 484, or chapter 651; end-stage renal disease providers
 649 authorized under 42 C.F.R. part 405, subpart U; providers
 650 certified and providing only health care services within the
 651 scope of services authorized under their respective
 652 certifications under 42 C.F.R. part 485, subpart B, ~~or~~ subpart
 653 H, or subpart J; providers certified and providing only health
 654 care services within the scope of services authorized under
 655 their respective certifications under 42 C.F.R. part 486,
 656 subpart C; providers certified and providing only health care
 657 services within the scope of services authorized under their
 658 respective certifications under 42 C.F.R. part 491, subpart A;
 659 providers certified by the Centers for Medicare and Medicaid
 660 services under the federal Clinical Laboratory Improvement
 661 Amendments and the federal rules adopted thereunder; or any
 662 entity that provides neonatal or pediatric hospital-based health
 663 care services by licensed practitioners solely within a hospital
 664 licensed under chapter 395.

665 (e) An entity that is exempt from federal taxation under 26
 666 U.S.C. s. 501(c) (3) or (4), an employee stock ownership plan
 667 under 26 U.S.C. s. 409 that has a board of trustees at least

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668 two-thirds of which are Florida-licensed health care
 669 practitioners and provides only physical therapy services under
 670 physician orders, any community college or university clinic,
 671 and any entity owned or operated by the federal or state
 672 government, including agencies, subdivisions, or municipalities
 673 thereof.

674 (f) A sole proprietorship, group practice, partnership, or
 675 corporation that provides health care services by physicians
 676 covered by s. 627.419, that is directly supervised by one or
 677 more of such physicians, and that is wholly owned by one or more
 678 of those physicians or by a physician and the spouse, parent,
 679 child, or sibling of that physician.

680 (g) A sole proprietorship, group practice, partnership, or
 681 corporation that provides health care services by licensed
 682 health care practitioners under chapter 457, chapter 458,
 683 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 684 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
 685 chapter 490, chapter 491, or part I, part III, part X, part
 686 XIII, or part XIV of chapter 468, or s. 464.012, and that is
 687 wholly owned by one or more licensed health care practitioners,
 688 or the licensed health care practitioners set forth in this
 689 paragraph and the spouse, parent, child, or sibling of a
 690 licensed health care practitioner if one of the owners who is a
 691 licensed health care practitioner is supervising the business
 692 activities and is legally responsible for the entity's
 693 compliance with all federal and state laws. However, a health
 694 care practitioner may not supervise services beyond the scope of
 695 the practitioner's license, except that, for the purposes of
 696 this part, a clinic owned by a licensee in s. 456.053(3) (b)

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697 which provides only services authorized pursuant to s.
698 456.053(3)(b) may be supervised by a licensee specified in s.
699 456.053(3)(b).

700 (h) Clinical facilities affiliated with an accredited
701 medical school at which training is provided for medical
702 students, residents, or fellows.

703 (i) Entities that provide only oncology or radiation
704 therapy services by physicians licensed under chapter 458 or
705 chapter 459 or entities that provide oncology or radiation
706 therapy services by physicians licensed under chapter 458 or
707 chapter 459 which are owned by a corporation whose shares are
708 publicly traded on a recognized stock exchange.

709 (j) Clinical facilities affiliated with a college of
710 chiropractic accredited by the Council on Chiropractic Education
711 at which training is provided for chiropractic students.

712 (k) Entities that provide licensed practitioners to staff
713 emergency departments or to deliver anesthesia services in
714 facilities licensed under chapter 395 and that derive at least
715 90 percent of their gross annual revenues from the provision of
716 such services. Entities claiming an exemption from licensure
717 under this paragraph must provide documentation demonstrating
718 compliance.

719 (l) Orthotic, prosthetic, pediatric cardiology, or
720 perinatology clinical facilities or anesthesia clinical
721 facilities that are not otherwise exempt under paragraph (a) or
722 paragraph (k) and that are a publicly traded corporation or are
723 wholly owned, directly or indirectly, by a publicly traded
724 corporation. As used in this paragraph, a publicly traded
725 corporation is a corporation that issues securities traded on an

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726 exchange registered with the United States Securities and
727 Exchange Commission as a national securities exchange.

728 (m) Entities that are owned by a corporation that has \$250
729 million or more in total annual sales of health care services
730 provided by licensed health care practitioners where one or more
731 of the persons responsible for the operations of the entity is a
732 health care practitioner who is licensed in this state and who
733 is responsible for supervising the business activities of the
734 entity and is responsible for the entity's compliance with state
735 law for purposes of this part.

736 (n) Entities that employ 50 or more licensed health care
737 practitioners licensed under chapter 458 or chapter 459 where
738 the billing for medical services is under a single tax
739 identification number. The application for exemption under this
740 subsection shall contain information that includes: the name,
741 residence, and business address and phone number of the entity
742 that owns the practice; a complete list of the names and contact
743 information of all the officers and directors of the
744 corporation; the name, residence address, business address, and
745 medical license number of each licensed Florida health care
746 practitioner employed by the entity; the corporate tax
747 identification number of the entity seeking an exemption; a
748 listing of health care services to be provided by the entity at
749 the health care clinics owned or operated by the entity and a
750 certified statement prepared by an independent certified public
751 accountant which states that the entity and the health care
752 clinics owned or operated by the entity have not received
753 payment for health care services under personal injury
754 protection insurance coverage for the preceding year. If the

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755 agency determines that an entity which is exempt under this
756 subsection has received payments for medical services under
757 personal injury protection insurance coverage, the agency may
758 deny or revoke the exemption from licensure under this
759 subsection.

760 (o) Entities that are, directly or indirectly, under the
761 common ownership of or that are subject to common control by a
762 mutual insurance holding company, as defined in s. 628.703, with
763 an entity licensed or certified under chapter 627 or chapter 641
764 which has \$1 billion or more in total annual sales in this
765 state.

766 (p) Entities that are owned by an entity that is a
767 behavioral health service provider in at least 5 states other
768 than Florida and that, together with its affiliates, has \$90
769 million or more in total annual revenues associated with the
770 provision of behavioral health services and where one or more of
771 the persons responsible for the operations of the entity is a
772 health care practitioner who is licensed in this state and who
773 is responsible for supervising the business activities of the
774 entity and who is responsible for the entity's compliance with
775 state law for purposes of this part.

776 (q) Medicaid providers.

777

778 Notwithstanding this subsection, an entity shall be deemed a
779 clinic and must be licensed under this part in order to receive
780 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
781 627.730-627.7405, unless exempted under s. 627.736(5)(h).

782 Section 15. Paragraph (c) of subsection (3) of section
783 400.991, Florida Statutes, is amended to read:

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784 400.991 License requirements; background screenings;
785 prohibitions.-

786 (3) In addition to the requirements of part II of chapter
787 408, the applicant must file with the application satisfactory
788 proof that the clinic is in compliance with this part and
789 applicable rules, including:

790 (c) Proof of financial ability to operate as required under
791 ss. 408.8065(1) and 408.810(8) s. 408.810(8). ~~As an alternative~~
792 ~~to submitting proof of financial ability to operate as required~~
793 ~~under s. 408.810(8), the applicant may file a surety bond of at~~
794 ~~least \$500,000 which guarantees that the clinic will act in full~~
795 ~~conformity with all legal requirements for operating a clinic,~~
796 ~~payable to the agency. The agency may adopt rules to specify~~
797 ~~related requirements for such surety bond.~~

798 Section 16. Paragraph (i) of subsection (1) of section
799 400.9935, Florida Statutes, is amended to read:

800 400.9935 Clinic responsibilities.-

801 (1) Each clinic shall appoint a medical director or clinic
802 director who shall agree in writing to accept legal
803 responsibility for the following activities on behalf of the
804 clinic. The medical director or the clinic director shall:

805 (i) Ensure that the clinic publishes a schedule of charges
806 for the medical services offered to patients. The schedule must
807 include the prices charged to an uninsured person paying for
808 such services by cash, check, credit card, or debit card. The
809 schedule may group services by price levels, listing services in
810 each price level. The schedule must be posted in a conspicuous
811 place in the reception area of any clinic that is an the urgent
812 care center as defined in s. 395.002(29)(b) and must include,

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813 but is not limited to, the 50 services most frequently provided
 814 by the clinic. ~~The schedule may group services by three price~~
 815 ~~levels, listing services in each price level.~~ The posting may be
 816 a sign that must be at least 15 square feet in size or through
 817 an electronic messaging board that is at least 3 square feet in
 818 size. The failure of a clinic, including a clinic that is an
 819 urgent care center, to publish and post a schedule of charges as
 820 required by this section shall result in a fine of not more than
 821 \$1,000, per day, until the schedule is published and posted.

822 Section 17. Paragraph (a) of subsection (2) of section
 823 408.033, Florida Statutes, is amended to read:

824 408.033 Local and state health planning.—

825 (2) FUNDING.—

826 (a) The Legislature intends that the cost of local health
 827 councils be borne by assessments on selected health care
 828 facilities subject to facility licensure by the Agency for
 829 Health Care Administration, including abortion clinics, assisted
 830 living facilities, ambulatory surgical centers, birth centers,
 831 home health agencies, hospices, hospitals, intermediate care
 832 facilities for the developmentally disabled, nursing homes, and
 833 health care clinics, ~~and multiphasic testing centers~~ and by
 834 assessments on organizations subject to certification by the
 835 agency pursuant to chapter 641, part III, including health
 836 maintenance organizations and prepaid health clinics. Fees
 837 assessed may be collected prospectively at the time of licensure
 838 renewal and prorated for the licensure period.

839 Section 18. Paragraph (a) of subsection (1) of section
 840 408.061, Florida Statutes, is amended to read:

841 408.061 Data collection; uniform systems of financial

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842 reporting; information relating to physician charges;
 843 confidential information; immunity.—

844 (1) The agency shall require the submission by health care
 845 facilities, health care providers, and health insurers of data
 846 necessary to carry out the agency's duties and to facilitate
 847 transparency in health care pricing data and quality measures.
 848 Specifications for data to be collected under this section shall
 849 be developed by the agency and applicable contract vendors, with
 850 the assistance of technical advisory panels including
 851 representatives of affected entities, consumers, purchasers, and
 852 such other interested parties as may be determined by the
 853 agency.

854 (a) Data submitted by health care facilities, including the
 855 facilities as defined in chapter 395, shall include, but are not
 856 limited to, ~~+~~ case-mix data, patient admission and discharge
 857 data, hospital emergency department data which shall include the
 858 number of patients treated in the emergency department of a
 859 licensed hospital reported by patient acuity level, data on
 860 hospital-acquired infections as specified by rule, data on
 861 complications as specified by rule, data on readmissions as
 862 specified by rule, including patient- ~~with patient~~ and provider-
 863 specific identifiers ~~included~~, actual charge data by diagnostic
 864 groups or other bundled groupings as specified by rule,
 865 financial data, accounting data, operating expenses, expenses
 866 incurred for rendering services to patients who cannot or do not
 867 pay, interest charges, depreciation expenses based on the
 868 expected useful life of the property and equipment involved, and
 869 demographic data. The agency shall adopt nationally recognized
 870 risk adjustment methodologies or software consistent with the

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871 standards of the Agency for Healthcare Research and Quality and
 872 as selected by the agency for all data submitted as required by
 873 this section. Data may be obtained from documents including such
 874 ~~as~~, but not limited to, leases, contracts, debt instruments,
 875 itemized patient statements or bills, medical record abstracts,
 876 and related diagnostic information. ~~Reported~~ Data elements shall
 877 be reported electronically in accordance with the inpatient data
 878 reporting instructions as prescribed by agency rule 59E-7.012,
 879 ~~Florida Administrative Code~~. Data submitted shall be certified
 880 by the chief executive officer or an appropriate and duly
 881 authorized representative or employee of the licensed facility
 882 that the information submitted is true and accurate.

883 Section 19. Subsection (4) of section 408.0611, Florida
 884 Statutes, is amended to read:

885 408.0611 Electronic prescribing clearinghouse.—

886 (4) Pursuant to s. 408.061, the agency shall monitor the
 887 implementation of electronic prescribing by health care
 888 practitioners, health care facilities, and pharmacies. ~~By~~
 889 ~~January 31 of each year,~~ The agency shall report annually on its
 890 website on the progress of implementation of electronic
 891 prescribing ~~to the Governor and the Legislature~~. Information
 892 reported pursuant to this subsection must ~~shall~~ include federal
 893 and private sector electronic prescribing initiatives and, to
 894 the extent that data is readily available from organizations
 895 that operate electronic prescribing networks, the number of
 896 health care practitioners using electronic prescribing and the
 897 number of prescriptions electronically transmitted.

898 Section 20. Paragraphs (i) and (j) of subsection (1) of
 899 section 408.062, Florida Statutes, are amended to read:

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900 408.062 Research, analyses, studies, and reports.—

901 (1) The agency shall conduct research, analyses, and
 902 studies relating to health care costs and access to and quality
 903 of health care services as access and quality are affected by
 904 changes in health care costs. Such research, analyses, and
 905 studies shall include, but not be limited to:

906 (i) The use of emergency department services by patient
 907 acuity level ~~and the implication of increasing hospital cost by~~
 908 ~~providing nonurgent care in emergency departments~~. The agency
 909 shall publish annually on its website information ~~submit an~~
 910 ~~annual report~~ based on this monitoring and assessment ~~to the~~
 911 ~~Governor, the Speaker of the House of Representatives, the~~
 912 ~~President of the Senate, and the substantive legislative~~
 913 ~~committees, due January 1.~~

914 (j) The making available on its Internet website, and in a
 915 hard-copy format upon request, of patient charge, volumes,
 916 length of stay, and performance indicators collected from health
 917 care facilities pursuant to s. 408.061(1)(a) for specific
 918 medical conditions, surgeries, and procedures provided in
 919 inpatient and outpatient facilities as determined by the agency.
 920 In making the determination of specific medical conditions,
 921 surgeries, and procedures to include, the agency shall consider
 922 such factors as volume, severity of the illness, urgency of
 923 admission, individual and societal costs, and whether the
 924 condition is acute or chronic. Performance outcome indicators
 925 shall be risk adjusted or severity adjusted, as applicable,
 926 using nationally recognized risk adjustment methodologies or
 927 software consistent with the standards of the Agency for
 928 Healthcare Research and Quality and as selected by the agency.

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929 The website shall also provide an interactive search that allows
 930 consumers to view and compare the information for specific
 931 facilities, a map that allows consumers to select a county or
 932 region, definitions of all of the data, descriptions of each
 933 procedure, and an explanation about why the data may differ from
 934 facility to facility. Such public data shall be updated
 935 quarterly. The agency shall publish annually on its website
 936 information ~~submit an annual status report~~ on the collection of
 937 data and publication of health care quality measures ~~to the~~
 938 ~~Governor, the Speaker of the House of Representatives, the~~
 939 ~~President of the Senate, and the substantive legislative~~
 940 ~~committees, due January 1.~~

941 Section 21. Subsection (5) of section 408.063, Florida
 942 Statutes, is amended to read:

943 408.063 Dissemination of health care information.—

944 ~~(5) The agency shall publish annually a comprehensive~~
 945 ~~report of state health expenditures. The report shall identify:~~

946 ~~(a) The contribution of health care dollars made by all~~
 947 ~~payors.~~

948 ~~(b) The dollars expended by type of health care service in~~
 949 ~~Florida.~~

950 Section 22. Section 408.802, Florida Statutes, is amended
 951 to read:

952 408.802 Applicability.—~~The provisions of~~ This part applies
 953 apply to the provision of services that require licensure as
 954 defined in this part and to the following entities licensed,
 955 registered, or certified by the agency, as described in chapters
 956 112, 383, 390, 394, 395, 400, 429, 440, ~~483~~, and 765:

957 (1) Laboratories authorized to perform testing under the

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958 Drug-Free Workplace Act, as provided under ss. 112.0455 and
 959 440.102.

960 (2) Birth centers, as provided under chapter 383.

961 (3) Abortion clinics, as provided under chapter 390.

962 (4) Crisis stabilization units, as provided under parts I
 963 and IV of chapter 394.

964 (5) Short-term residential treatment facilities, as
 965 provided under parts I and IV of chapter 394.

966 (6) Residential treatment facilities, as provided under
 967 part IV of chapter 394.

968 (7) Residential treatment centers for children and
 969 adolescents, as provided under part IV of chapter 394.

970 (8) Hospitals, as provided under part I of chapter 395.

971 (9) Ambulatory surgical centers, as provided under part I
 972 of chapter 395.

973 (10) Nursing homes, as provided under part II of chapter
 974 400.

975 (11) Assisted living facilities, as provided under part I
 976 of chapter 429.

977 (12) Home health agencies, as provided under part III of
 978 chapter 400.

979 (13) Nurse registries, as provided under part III of
 980 chapter 400.

981 (14) Companion services or homemaker services providers, as
 982 provided under part III of chapter 400.

983 (15) Adult day care centers, as provided under part III of
 984 chapter 429.

985 (16) Hospices, as provided under part IV of chapter 400.

986 (17) Adult family-care homes, as provided under part II of

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987 chapter 429.

988 (18) Homes for special services, as provided under part V

989 of chapter 400.

990 (19) Transitional living facilities, as provided under part

991 XI of chapter 400.

992 (20) Prescribed pediatric extended care centers, as

993 provided under part VI of chapter 400.

994 (21) Home medical equipment providers, as provided under

995 part VII of chapter 400.

996 (22) Intermediate care facilities for persons with

997 developmental disabilities, as provided under part VIII of

998 chapter 400.

999 (23) Health care services pools, as provided under part IX

1000 of chapter 400.

1001 (24) Health care clinics, as provided under part X of

1002 chapter 400.

1003 ~~(25) Multiphasic health testing centers, as provided under~~

1004 ~~part I of chapter 483.~~

1005 (25)(26) Organ, tissue, and eye procurement organizations,

1006 as provided under part V of chapter 765.

1007 Section 23. Present subsections (10) through (14) of

1008 section 408.803, Florida Statutes, are redesignated as

1009 subsections (11) through (15), respectively, a new subsection

1010 (10) is added to that section, and subsection (3) of that

1011 section is amended, to read:

1012 408.803 Definitions.—As used in this part, the term:

1013 (3) "Authorizing statute" means the statute authorizing the

1014 licensed operation of a provider listed in s. 408.802 and

1015 includes chapters 112, 383, 390, 394, 395, 400, 429, 440, ~~483~~,

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1016 and 765.

1017 (10) "Low-risk provider" means nurse registries, home

1018 medical equipment providers, and health care clinics.

1019 Section 24. Paragraph (b) of subsection (7) of section

1020 408.806, Florida Statutes, is amended to read:

1021 408.806 License application process.—

1022 (7)

1023 (b) An initial inspection is not required for companion

1024 services or homemaker services providers, as provided under part

1025 III of chapter 400, ~~or~~ for health care services pools, as

1026 provided under part IX of chapter 400, or for low-risk providers

1027 as provided under s. 408.811.

1028 Section 25. Subsection (2) of section 408.808, Florida

1029 Statutes, is amended to read:

1030 408.808 License categories.—

1031 (2) PROVISIONAL LICENSE.—An applicant against whom a

1032 proceeding denying or revoking a license is pending at the time

1033 of license renewal may be issued a provisional license effective

1034 until final action not subject to further appeal. A provisional

1035 license may also be issued to an applicant for initial licensure

1036 or applying for a change of ownership. A provisional license

1037 must be limited in duration to a specific period of time, up to

1038 12 months, as determined by the agency.

1039 Section 26. Subsections (2) and (5) of section 408.809,

1040 Florida Statutes, are amended to read:

1041 408.809 Background screening; prohibited offenses.—

1042 (2) Every 5 years following his or her licensure,

1043 employment, or entry into a contract in a capacity that under

1044 subsection (1) would require level 2 background screening under

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1045 chapter 435, each such person must submit to level 2 background
 1046 rescreening as a condition of retaining such license or
 1047 continuing in such employment or contractual status. For any
 1048 such rescreening, the agency shall request the Department of Law
 1049 Enforcement to forward the person's fingerprints to the Federal
 1050 Bureau of Investigation for a national criminal history record
 1051 check unless the person's fingerprints are enrolled in the
 1052 Federal Bureau of Investigation's national retained print arrest
 1053 notification program. If the fingerprints of such a person are
 1054 not retained by the Department of Law Enforcement under s.
 1055 943.05(2)(g) and (h), the person must submit fingerprints
 1056 electronically to the Department of Law Enforcement for state
 1057 processing, and the Department of Law Enforcement shall forward
 1058 the fingerprints to the Federal Bureau of Investigation for a
 1059 national criminal history record check. The fingerprints shall
 1060 be retained by the Department of Law Enforcement under s.
 1061 943.05(2)(g) and (h) and enrolled in the national retained print
 1062 arrest notification program when the Department of Law
 1063 Enforcement begins participation in the program. The cost of the
 1064 state and national criminal history records checks required by
 1065 level 2 screening may be borne by the licensee or the person
 1066 fingerprinted. ~~Until a specified agency is fully implemented in~~
 1067 ~~the clearinghouse created under s. 435.12,~~ The agency may accept
 1068 as satisfying the requirements of this section proof of
 1069 compliance with level 2 screening standards submitted within the
 1070 previous 5 years to meet any provider or professional licensure
 1071 requirements of the agency, ~~the Department of Health, the~~
 1072 ~~Department of Elderly Affairs, the Agency for Persons with~~
 1073 ~~Disabilities, the Department of Children and Families, or the~~

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1074 Department of Financial Services for an applicant for a
 1075 certificate of authority or provisional certificate of authority
 1076 to operate a continuing care retirement community under chapter
 1077 651, provided that:

1078 (a) The screening standards and disqualifying offenses for
 1079 the prior screening are equivalent to those specified in s.
 1080 435.04 and this section;

1081 (b) The person subject to screening has not had a break in
 1082 service from a position that requires level 2 screening for more
 1083 than 90 days; and

1084 (c) Such proof is accompanied, under penalty of perjury, by
 1085 an attestation of compliance with chapter 435 and this section
 1086 using forms provided by the agency.

1087 ~~(5) A person who serves as a controlling interest of, is~~
 1088 ~~employed by, or contracts with a licensee on July 31, 2010, who~~
 1089 ~~has been screened and qualified according to standards specified~~
 1090 ~~in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015,~~
 1091 ~~in compliance with the following schedule. If, upon rescreening,~~
 1092 ~~such person has a disqualifying offense that was not a~~
 1093 ~~disqualifying offense at the time of the last screening, but is~~
 1094 ~~a current disqualifying offense and was committed before the~~
 1095 ~~last screening, he or she may apply for an exemption from the~~
 1096 ~~appropriate licensing agency and, if agreed to by the employer,~~
 1097 ~~may continue to perform his or her duties until the licensing~~
 1098 ~~agency renders a decision on the application for exemption if~~
 1099 ~~the person is eligible to apply for an exemption and the~~
 1100 ~~exemption request is received by the agency within 30 days after~~
 1101 ~~receipt of the rescreening results by the person. The~~
 1102 ~~rescreening schedule shall be:~~

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1103 ~~(a) Individuals for whom the last screening was conducted~~
 1104 ~~on or before December 31, 2004, must be rescreened by July 31,~~
 1105 ~~2013.~~

1106 ~~(b) Individuals for whom the last screening conducted was~~
 1107 ~~between January 1, 2005, and December 31, 2008, must be~~
 1108 ~~rescreened by July 31, 2014.~~

1109 ~~(c) Individuals for whom the last screening conducted was~~
 1110 ~~between January 1, 2009, through July 31, 2011, must be~~
 1111 ~~rescreened by July 31, 2015.~~

1112 Section 27. Subsection (1) of section 408.811, Florida
 1113 Statutes, is amended to read:

1114 408.811 Right of inspection; copies; inspection reports;
 1115 plan for correction of deficiencies.-

1116 (1) An authorized officer or employee of the agency may
 1117 make or cause to be made any inspection or investigation deemed
 1118 necessary by the agency to determine the state of compliance
 1119 with this part, authorizing statutes, and applicable rules. The
 1120 right of inspection extends to any business that the agency has
 1121 reason to believe is being operated as a provider without a
 1122 license, but inspection of any business suspected of being
 1123 operated without the appropriate license may not be made without
 1124 the permission of the owner or person in charge unless a warrant
 1125 is first obtained from a circuit court. Any application for a
 1126 license issued under this part, authorizing statutes, or
 1127 applicable rules constitutes permission for an appropriate
 1128 inspection to verify the information submitted on or in
 1129 connection with the application.

1130 (a) All inspections shall be unannounced, except as
 1131 specified in s. 408.806.

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1132 (b) Inspections for relicensure shall be conducted
 1133 biennially unless otherwise specified by this section,
 1134 authorizing statutes, or applicable rules.

1135 (c) The agency may exempt a low-risk provider from
 1136 licensure inspection if the provider or controlling interest has
 1137 an excellent regulatory history with regard to deficiencies,
 1138 sanctions, complaints, and other regulatory actions, as defined
 1139 by rule. The agency shall continue to conduct unannounced
 1140 licensure inspections for at least 10 percent of exempt low-risk
 1141 providers to verify compliance.

1142 (d) The agency may adopt rules to waive a routine
 1143 inspection, including inspection for relicensure, or allow for
 1144 an extended period between relicensure inspections for specific
 1145 providers based upon:

1146 1. A favorable regulatory history with regard to
 1147 deficiencies, sanctions, complaints, and other regulatory
 1148 measures.

1149 2. Outcome measures that demonstrate quality performance.

1150 3. Successful participation in a recognized quality
 1151 assurance program.

1152 4. Accreditation status.

1153 5. Other measures reflective of quality and safety.

1154 6. The length of time between inspections.

1155
 1156 The agency shall continue to conduct unannounced licensure
 1157 inspections for at least 10 percent of providers that qualify
 1158 for a waiver or extended period between relicensure inspections.

1159 (e) The agency maintains the authority to conduct an
 1160 inspection of any provider at any time to determine regulatory

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1161 compliance.

1162 Section 28. Subsection (24) of section 408.820, Florida
1163 Statutes, is amended to read:

1164 408.820 Exemptions.—Except as prescribed in authorizing
1165 statutes, the following exemptions shall apply to specified
1166 requirements of this part:

1167 ~~(24) Multiphasic health testing centers, as provided under~~
1168 ~~part I of chapter 483, are exempt from s. 408.810(5)–(10).~~

1169 Section 29. Subsections (1) and (2) of section 408.821,
1170 Florida Statutes, are amended to read:

1171 408.821 Emergency management planning; emergency
1172 operations; inactive license.—

1173 (1) A licensee required by authorizing statutes and agency
1174 rule to have a comprehensive an emergency management operations
1175 plan must designate a safety liaison to serve as the primary
1176 contact for emergency operations. Such licensee shall submit its
1177 comprehensive emergency management plan to the local emergency
1178 management agency, county health department, or Department of
1179 Health as follows:

1180 (a) Submit the plan within 30 days after initial licensure
1181 and change of ownership, and notify the agency within 30 days
1182 after submission of the plan.

1183 (b) Submit the plan annually and within 30 days after any
1184 significant modification, as defined by agency rule, to a
1185 previously approved plan.

1186 (c) Respond with necessary plan revisions within 30 days
1187 after notification that plan revisions are required.

1188 (d) Notify the agency within 30 days after approval of its
1189 plan by the local emergency management agency, county health

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1190 department, or Department of Health.

1191 (2) An entity subject to this part may temporarily exceed
1192 its licensed capacity to act as a receiving provider in
1193 accordance with an approved comprehensive emergency management
1194 ~~operations~~ plan for up to 15 days. While in an overcapacity
1195 status, each provider must furnish or arrange for appropriate
1196 care and services to all clients. In addition, the agency may
1197 approve requests for overcapacity in excess of 15 days, which
1198 approvals may be based upon satisfactory justification and need
1199 as provided by the receiving and sending providers.

1200 Section 30. Subsection (3) of section 408.831, Florida
1201 Statutes, is amended to read:

1202 408.831 Denial, suspension, or revocation of a license,
1203 registration, certificate, or application.—

1204 (3) This section provides standards of enforcement
1205 applicable to all entities licensed or regulated by the Agency
1206 for Health Care Administration. This section controls over any
1207 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
1208 400, 408, 429, 468, ~~483~~, and 765 or rules adopted pursuant to
1209 those chapters.

1210 Section 31. Section 408.832, Florida Statutes, is amended
1211 to read:

1212 408.832 Conflicts.—In case of conflict between the
1213 provisions of this part and the authorizing statutes governing
1214 the licensure of health care providers by the Agency for Health
1215 Care Administration found in s. 112.0455 and chapters 383, 390,
1216 394, 395, 400, 429, 440, ~~483~~, and 765, the provisions of this
1217 part shall prevail.

1218 Section 32. Subsection (9) of section 408.909, Florida

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1219 Statutes, is amended to read:

1220 408.909 Health flex plans.—

1221 ~~(9) PROGRAM EVALUATION.—The agency and the office shall~~
 1222 ~~evaluate the pilot program and its effect on the entities that~~
 1223 ~~seek approval as health flex plans, on the number of enrollees,~~
 1224 ~~and on the scope of the health care coverage offered under a~~
 1225 ~~health flex plan; shall provide an assessment of the health flex~~
 1226 ~~plans and their potential applicability in other settings; shall~~
 1227 ~~use health flex plans to gather more information to evaluate~~
 1228 ~~low-income consumer driven benefit packages; and shall, by~~
 1229 ~~January 15, 2016, and annually thereafter, jointly submit a~~
 1230 ~~report to the Governor, the President of the Senate, and the~~
 1231 ~~Speaker of the House of Representatives.~~

1232 Section 33. Paragraph (d) of subsection (10) of section
 1233 408.9091, Florida Statutes, is amended to read:

1234 408.9091 Cover Florida Health Care Access Program.—

1235 (10) PROGRAM EVALUATION.—The agency and the office shall:

1236 ~~(d) Jointly submit by March 1, annually, a report to the~~
 1237 ~~Governor, the President of the Senate, and the Speaker of the~~
 1238 ~~House of Representatives which provides the information~~
 1239 ~~specified in paragraphs (a)–(c) and recommendations relating to~~
 1240 ~~the successful implementation and administration of the program.~~

1241 Section 34. Effective upon becoming a law, paragraph (a) of
 1242 subsection (5) of section 409.905, Florida Statutes, is amended
 1243 to read:

1244 409.905 Mandatory Medicaid services.—The agency may make
 1245 payments for the following services, which are required of the
 1246 state by Title XIX of the Social Security Act, furnished by
 1247 Medicaid providers to recipients who are determined to be

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1248 eligible on the dates on which the services were provided. Any
 1249 service under this section shall be provided only when medically
 1250 necessary and in accordance with state and federal law.
 1251 Mandatory services rendered by providers in mobile units to
 1252 Medicaid recipients may be restricted by the agency. Nothing in
 1253 this section shall be construed to prevent or limit the agency
 1254 from adjusting fees, reimbursement rates, lengths of stay,
 1255 number of visits, number of services, or any other adjustments
 1256 necessary to comply with the availability of moneys and any
 1257 limitations or directions provided for in the General
 1258 Appropriations Act or chapter 216.

1259 (5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for
 1260 all covered services provided for the medical care and treatment
 1261 of a recipient who is admitted as an inpatient by a licensed
 1262 physician or dentist to a hospital licensed under part I of
 1263 chapter 395. However, the agency shall limit the payment for
 1264 inpatient hospital services for a Medicaid recipient 21 years of
 1265 age or older to 45 days or the number of days necessary to
 1266 comply with the General Appropriations Act.

1267 (a)1. The agency may implement reimbursement and
 1268 utilization management reforms in order to comply with any
 1269 limitations or directions in the General Appropriations Act,
 1270 which may include, but are not limited to: prior authorization
 1271 for inpatient psychiatric days; prior authorization for
 1272 nonemergency hospital inpatient admissions for individuals 21
 1273 years of age and older; authorization of emergency and urgent-
 1274 care admissions within 24 hours after admission; enhanced
 1275 utilization and concurrent review programs for highly utilized
 1276 services; reduction or elimination of covered days of service;

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1277 adjusting reimbursement ceilings for variable costs; adjusting
1278 reimbursement ceilings for fixed and property costs; and
1279 implementing target rates of increase.

1280 2. The agency may limit prior authorization for hospital
1281 inpatient services to selected diagnosis-related groups, based
1282 on an analysis of the cost and potential for unnecessary
1283 hospitalizations represented by certain diagnoses. Admissions
1284 for normal delivery and newborns are exempt from requirements
1285 for prior authorization.

1286 3. In implementing the provisions of this section related
1287 to prior authorization, the agency shall ensure that the process
1288 for authorization is accessible 24 hours per day, 7 days per
1289 week and authorization is automatically granted when not denied
1290 within 4 hours after the request. Authorization procedures must
1291 include steps for review of denials.

1292 4. Upon implementing the prior authorization program for
1293 hospital inpatient services, the agency shall discontinue its
1294 hospital retrospective review program. However, this
1295 subparagraph may not be construed to prevent the agency from
1296 conducting retrospective reviews under s. 409.913.

1297 Section 35. It is the intent of the Legislature that
1298 section 409.905(5)(a), Florida Statutes, as amended by this act,
1299 confirms and clarifies existing law.

1300 Section 36. Subsection (8) of section 409.907, Florida
1301 Statutes, is amended to read:

1302 409.907 Medicaid provider agreements.—The agency may make
1303 payments for medical assistance and related services rendered to
1304 Medicaid recipients only to an individual or entity who has a
1305 provider agreement in effect with the agency, who is performing

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1306 services or supplying goods in accordance with federal, state,
1307 and local law, and who agrees that no person shall, on the
1308 grounds of handicap, race, color, or national origin, or for any
1309 other reason, be subjected to discrimination under any program
1310 or activity for which the provider receives payment from the
1311 agency.

1312 (8)(a) A level 2 background screening pursuant to chapter
1313 435 must be conducted through the agency on each of the
1314 following:

1315 1. The ~~Each~~ provider, or each principal of the provider if
1316 the provider is a corporation, partnership, association, or
1317 other entity, ~~seeking to participate in the Medicaid program~~
1318 ~~must submit a complete set of his or her fingerprints to the~~
1319 ~~agency for the purpose of conducting a criminal history record~~
1320 ~~check.~~

1321 2. Principals of the provider, who include any officer,
1322 director, billing agent, managing employee, or affiliated
1323 person, or any partner or shareholder who has an ownership
1324 interest equal to 5 percent or more in the provider. However,
1325 for a hospital licensed under chapter 395 or a nursing home
1326 licensed under chapter 400, principals of the provider are those
1327 who meet the definition of a controlling interest under s.
1328 408.803. A director of a not-for-profit corporation or
1329 organization is not a principal for purposes of a background
1330 investigation required by this section if the director: serves
1331 solely in a voluntary capacity for the corporation or
1332 organization, does not regularly take part in the day-to-day
1333 operational decisions of the corporation or organization,
1334 receives no remuneration from the not-for-profit corporation or

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1335 organization for his or her service on the board of directors,
 1336 has no financial interest in the not-for-profit corporation or
 1337 organization, and has no family members with a financial
 1338 interest in the not-for-profit corporation or organization; and
 1339 if the director submits an affidavit, under penalty of perjury,
 1340 to this effect to the agency and the not-for-profit corporation
 1341 or organization submits an affidavit, under penalty of perjury,
 1342 to this effect to the agency as part of the corporation's or
 1343 organization's Medicaid provider agreement application.

1344 3. Any person who participates or seeks to participate in
 1345 the Florida Medicaid program by way of rendering services to
 1346 Medicaid recipients or having direct access to Medicaid
 1347 recipients, recipient living areas, or the financial, medical,
 1348 or service records of a Medicaid recipient or who supervises the
 1349 delivery of goods or services to a Medicaid recipient. This
 1350 subparagraph does not impose additional screening requirements
 1351 on any providers licensed under part II of chapter 408.

1352 (b) Notwithstanding paragraph (a) the above, the agency may
 1353 require a background check for any person reasonably suspected
 1354 by the agency to have been convicted of a crime.

1355 (c)(a) Paragraph (a) This subsection does not apply to:

1356 1. A unit of local government, except that requirements of
 1357 this subsection apply to nongovernmental providers and entities
 1358 contracting with the local government to provide Medicaid
 1359 services. The actual cost of the state and national criminal
 1360 history record checks must be borne by the nongovernmental
 1361 provider or entity; or

1362 2. Any business that derives more than 50 percent of its
 1363 revenue from the sale of goods to the final consumer, and the

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1364 business or its controlling parent is required to file a form
 1365 10-K or other similar statement with the Securities and Exchange
 1366 Commission or has a net worth of \$50 million or more.

1367 (d)(b) Background screening shall be conducted in
 1368 accordance with chapter 435 and s. 408.809. The cost of the
 1369 state and national criminal record check shall be borne by the
 1370 provider.

1371 Section 37. Section 409.913, Florida Statutes, is amended
 1372 to read:

1373 409.913 Oversight of the integrity of the Medicaid
 1374 program.—The agency shall operate a program to oversee the
 1375 activities of Florida Medicaid recipients, and providers and
 1376 their representatives, to ensure that fraudulent and abusive
 1377 behavior and neglect of recipients occur to the minimum extent
 1378 possible, and to recover overpayments and impose sanctions as
 1379 appropriate. Each January 15 ~~January 1~~, the agency and the
 1380 Medicaid Fraud Control Unit of the Department of Legal Affairs
 1381 shall submit reports ~~a joint report~~ to the Legislature
 1382 documenting the effectiveness of the state's efforts to control
 1383 Medicaid fraud and abuse and to recover Medicaid overpayments
 1384 during the previous fiscal year. The report must describe the
 1385 number of cases opened and investigated each year; the sources
 1386 of the cases opened; the disposition of the cases closed each
 1387 year; the amount of overpayments alleged in preliminary and
 1388 final audit letters; the number and amount of fines or penalties
 1389 imposed; any reductions in overpayment amounts negotiated in
 1390 settlement agreements or by other means; the amount of final
 1391 agency determinations of overpayments; the amount deducted from
 1392 federal claiming as a result of overpayments; the amount of

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1393 overpayments recovered each year; the amount of cost of
 1394 investigation recovered each year; the average length of time to
 1395 collect from the time the case was opened until the overpayment
 1396 is paid in full; the amount determined as uncollectible and the
 1397 portion of the uncollectible amount subsequently reclaimed from
 1398 the Federal Government; the number of providers, by type, that
 1399 are terminated from participation in the Medicaid program as a
 1400 result of fraud and abuse; and all costs associated with
 1401 discovering and prosecuting cases of Medicaid overpayments and
 1402 making recoveries in such cases. The report must also document
 1403 actions taken to prevent overpayments and the number of
 1404 providers prevented from enrolling in or reenrolling in the
 1405 Medicaid program as a result of documented Medicaid fraud and
 1406 abuse and must include policy recommendations necessary to
 1407 prevent or recover overpayments and changes necessary to prevent
 1408 and detect Medicaid fraud. All policy recommendations in the
 1409 report must include a detailed fiscal analysis, including, but
 1410 not limited to, implementation costs, estimated savings to the
 1411 Medicaid program, and the return on investment. The agency must
 1412 submit the policy recommendations and fiscal analyses in the
 1413 report to the appropriate estimating conference, pursuant to s.
 1414 216.137, by February 15 of each year. The agency and the
 1415 Medicaid Fraud Control Unit of the Department of Legal Affairs
 1416 each must include detailed unit-specific performance standards,
 1417 benchmarks, and metrics in the report, including projected cost
 1418 savings to the state Medicaid program during the following
 1419 fiscal year.

1420 (1) For the purposes of this section, the term:

1421 (a) "Abuse" means:

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1422 1. Provider practices that are inconsistent with generally
 1423 accepted business or medical practices and that result in an
 1424 unnecessary cost to the Medicaid program or in reimbursement for
 1425 goods or services that are not medically necessary or that fail
 1426 to meet professionally recognized standards for health care.

1427 2. Recipient practices that result in unnecessary cost to
 1428 the Medicaid program.

1429 (b) "Complaint" means an allegation that fraud, abuse, or
 1430 an overpayment has occurred.

1431 (c) "Fraud" means an intentional deception or
 1432 misrepresentation made by a person with the knowledge that the
 1433 deception results in unauthorized benefit to herself or himself
 1434 or another person. The term includes any act that constitutes
 1435 fraud under applicable federal or state law.

1436 (d) "Medical necessity" or "medically necessary" means any
 1437 goods or services necessary to palliate the effects of a
 1438 terminal condition, or to prevent, diagnose, correct, cure,
 1439 alleviate, or preclude deterioration of a condition that
 1440 threatens life, causes pain or suffering, or results in illness
 1441 or infirmity, which goods or services are provided in accordance
 1442 with generally accepted standards of medical practice. For
 1443 purposes of determining Medicaid reimbursement, the agency is
 1444 the final arbiter of medical necessity. Determinations of
 1445 medical necessity must be made by a licensed physician employed
 1446 by or under contract with the agency and must be based upon
 1447 information available at the time the goods or services are
 1448 provided.

1449 (e) "Overpayment" includes any amount that is not
 1450 authorized to be paid by the Medicaid program whether paid as a

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1451 result of inaccurate or improper cost reporting, improper
1452 claiming, unacceptable practices, fraud, abuse, or mistake.

1453 (f) "Person" means any natural person, corporation,
1454 partnership, association, clinic, group, or other entity,
1455 whether or not such person is enrolled in the Medicaid program
1456 or is a provider of health care.

1457 (2) The agency shall conduct, or cause to be conducted by
1458 contract or otherwise, reviews, investigations, analyses,
1459 audits, or any combination thereof, to determine possible fraud,
1460 abuse, overpayment, or recipient neglect in the Medicaid program
1461 and shall report the findings of any overpayments in audit
1462 reports as appropriate. At least 5 percent of all audits shall
1463 be conducted on a random basis. As part of its ongoing fraud
1464 detection activities, the agency shall identify and monitor, by
1465 contract or otherwise, patterns of overutilization of Medicaid
1466 services based on state averages. The agency shall track
1467 Medicaid provider prescription and billing patterns and evaluate
1468 them against Medicaid medical necessity criteria and coverage
1469 and limitation guidelines adopted by rule. Medical necessity
1470 determination requires that service be consistent with symptoms
1471 or confirmed diagnosis of illness or injury under treatment and
1472 not in excess of the patient's needs. The agency shall conduct
1473 reviews of provider exceptions to peer group norms and shall,
1474 using statistical methodologies, provider profiling, and
1475 analysis of billing patterns, detect and investigate abnormal or
1476 unusual increases in billing or payment of claims for Medicaid
1477 services and medically unnecessary provision of services.

1478 (3) The agency may conduct, or may contract for, prepayment
1479 review of provider claims to ensure cost-effective purchasing;

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1480 to ensure that billing by a provider to the agency is in
1481 accordance with applicable provisions of all Medicaid rules,
1482 regulations, handbooks, and policies and in accordance with
1483 federal, state, and local law; and to ensure that appropriate
1484 care is rendered to Medicaid recipients. Such prepayment reviews
1485 may be conducted as determined appropriate by the agency,
1486 without any suspicion or allegation of fraud, abuse, or neglect,
1487 and may last for up to 1 year. Unless the agency has reliable
1488 evidence of fraud, misrepresentation, abuse, or neglect, claims
1489 shall be adjudicated for denial or payment within 90 days after
1490 receipt of complete documentation by the agency for review. If
1491 there is reliable evidence of fraud, misrepresentation, abuse,
1492 or neglect, claims shall be adjudicated for denial of payment
1493 within 180 days after receipt of complete documentation by the
1494 agency for review.

1495 (4) Any suspected criminal violation identified by the
1496 agency must be referred to the Medicaid Fraud Control Unit of
1497 the Office of the Attorney General for investigation. The agency
1498 and the Attorney General shall enter into a memorandum of
1499 understanding, which must include, but need not be limited to, a
1500 protocol for regularly sharing information and coordinating
1501 casework. The protocol must establish a procedure for the
1502 referral by the agency of cases involving suspected Medicaid
1503 fraud to the Medicaid Fraud Control Unit for investigation, and
1504 the return to the agency of those cases where investigation
1505 determines that administrative action by the agency is
1506 appropriate. Offices of the Medicaid program integrity program
1507 and the Medicaid Fraud Control Unit of the Department of Legal
1508 Affairs, shall, to the extent possible, be collocated. The

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1509 agency and the Department of Legal Affairs shall periodically
 1510 conduct joint training and other joint activities designed to
 1511 increase communication and coordination in recovering
 1512 overpayments.

1513 (5) A Medicaid provider is subject to having goods and
 1514 services that are paid for by the Medicaid program reviewed by
 1515 an appropriate peer-review organization designated by the
 1516 agency. The written findings of the applicable peer-review
 1517 organization are admissible in any court or administrative
 1518 proceeding as evidence of medical necessity or the lack thereof.

1519 (6) Any notice required to be given to a provider under
 1520 this section is presumed to be sufficient notice if sent to the
 1521 address last shown on the provider enrollment file. It is the
 1522 responsibility of the provider to furnish and keep the agency
 1523 informed of the provider's current address. United States Postal
 1524 Service proof of mailing or certified or registered mailing of
 1525 such notice to the provider at the address shown on the provider
 1526 enrollment file constitutes sufficient proof of notice. Any
 1527 notice required to be given to the agency by this section must
 1528 be sent to the agency at an address designated by rule.

1529 (7) When presenting a claim for payment under the Medicaid
 1530 program, a provider has an affirmative duty to supervise the
 1531 provision of, and be responsible for, goods and services claimed
 1532 to have been provided, to supervise and be responsible for
 1533 preparation and submission of the claim, and to present a claim
 1534 that is true and accurate and that is for goods and services
 1535 that:

1536 (a) Have actually been furnished to the recipient by the
 1537 provider prior to submitting the claim.

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1538 (b) Are Medicaid-covered goods or services that are
 1539 medically necessary.

1540 (c) Are of a quality comparable to those furnished to the
 1541 general public by the provider's peers.

1542 (d) Have not been billed in whole or in part to a recipient
 1543 or a recipient's responsible party, except for such copayments,
 1544 coinsurance, or deductibles as are authorized by the agency.

1545 (e) Are provided in accord with applicable provisions of
 1546 all Medicaid rules, regulations, handbooks, and policies and in
 1547 accordance with federal, state, and local law.

1548 (f) Are documented by records made at the time the goods or
 1549 services were provided, demonstrating the medical necessity for
 1550 the goods or services rendered. Medicaid goods or services are
 1551 excessive or not medically necessary unless both the medical
 1552 basis and the specific need for them are fully and properly
 1553 documented in the recipient's medical record.

1554 The agency shall deny payment or require repayment for goods or
 1555 services that are not presented as required in this subsection.

1556 (8) The agency shall not reimburse any person or entity for
 1557 any prescription for medications, medical supplies, or medical
 1558 services if the prescription was written by a physician or other
 1559 prescribing practitioner who is not enrolled in the Medicaid
 1560 program. This section does not apply:

1561 (a) In instances involving bona fide emergency medical
 1562 conditions as determined by the agency;

1563 (b) To a provider of medical services to a patient in a
 1564 hospital emergency department, hospital inpatient or outpatient
 1565 setting, or nursing home;

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1567 (c) To bona fide pro bono services by preapproved non-
 1568 Medicaid providers as determined by the agency;
 1569 (d) To prescribing physicians who are board-certified
 1570 specialists treating Medicaid recipients referred for treatment
 1571 by a treating physician who is enrolled in the Medicaid program;
 1572 (e) To prescriptions written for dually eligible Medicare
 1573 beneficiaries by an authorized Medicare provider who is not
 1574 enrolled in the Medicaid program;
 1575 (f) To other physicians who are not enrolled in the
 1576 Medicaid program but who provide a medically necessary service
 1577 or prescription not otherwise reasonably available from a
 1578 Medicaid-enrolled physician; or
 1579 (9) A Medicaid provider shall retain medical, professional,
 1580 financial, and business records pertaining to services and goods
 1581 furnished to a Medicaid recipient and billed to Medicaid for a
 1582 period of 5 years after the date of furnishing such services or
 1583 goods. The agency may investigate, review, or analyze such
 1584 records, which must be made available during normal business
 1585 hours. However, 24-hour notice must be provided if patient
 1586 treatment would be disrupted. The provider must keep the agency
 1587 informed of the location of the provider's Medicaid-related
 1588 records. The authority of the agency to obtain Medicaid-related
 1589 records from a provider is neither curtailed nor limited during
 1590 a period of litigation between the agency and the provider.
 1591 (10) Payments for the services of billing agents or persons
 1592 participating in the preparation of a Medicaid claim shall not
 1593 be based on amounts for which they bill nor based on the amount
 1594 a provider receives from the Medicaid program.
 1595 (11) The agency shall deny payment or require repayment for

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1596 inappropriate, medically unnecessary, or excessive goods or
 1597 services from the person furnishing them, the person under whose
 1598 supervision they were furnished, or the person causing them to
 1599 be furnished.
 1600 (12) The complaint and all information obtained pursuant to
 1601 an investigation of a Medicaid provider, or the authorized
 1602 representative or agent of a provider, relating to an allegation
 1603 of fraud, abuse, or neglect are confidential and exempt from the
 1604 provisions of s. 119.07(1):
 1605 (a) Until the agency takes final agency action with respect
 1606 to the provider and requires repayment of any overpayment, or
 1607 imposes an administrative sanction;
 1608 (b) Until the Attorney General refers the case for criminal
 1609 prosecution;
 1610 (c) Until 10 days after the complaint is determined without
 1611 merit; or
 1612 (d) At all times if the complaint or information is
 1613 otherwise protected by law.
 1614 (13) The agency shall terminate participation of a Medicaid
 1615 provider in the Medicaid program and may seek civil remedies or
 1616 impose other administrative sanctions against a Medicaid
 1617 provider, if the provider or any principal, officer, director,
 1618 agent, managing employee, or affiliated person of the provider,
 1619 or any partner or shareholder having an ownership interest in
 1620 the provider equal to 5 percent or greater, has been convicted
 1621 of a criminal offense under federal law or the law of any state
 1622 relating to the practice of the provider's profession, or a
 1623 criminal offense listed under s. 408.809(4), s. 409.907(10), or
 1624 s. 435.04(2). If the agency determines that the provider did not

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1625 participate or acquiesce in the offense, termination will not be
 1626 imposed. If the agency effects a termination under this
 1627 subsection, the agency shall take final agency action.

1628 (14) If the provider has been suspended or terminated from
 1629 participation in the Medicaid program or the Medicare program by
 1630 the Federal Government or any state, the agency must immediately
 1631 suspend or terminate, as appropriate, the provider's
 1632 participation in this state's Medicaid program for a period no
 1633 less than that imposed by the Federal Government or any other
 1634 state, and may not enroll such provider in this state's Medicaid
 1635 program while such foreign suspension or termination remains in
 1636 effect. The agency shall also immediately suspend or terminate,
 1637 as appropriate, a provider's participation in this state's
 1638 Medicaid program if the provider participated or acquiesced in
 1639 any action for which any principal, officer, director, agent,
 1640 managing employee, or affiliated person of the provider, or any
 1641 partner or shareholder having an ownership interest in the
 1642 provider equal to 5 percent or greater, was suspended or
 1643 terminated from participating in the Medicaid program or the
 1644 Medicare program by the Federal Government or any state. This
 1645 sanction is in addition to all other remedies provided by law.

1646 (15) The agency shall seek a remedy provided by law,
 1647 including, but not limited to, any remedy provided in
 1648 subsections (13) and (16) and s. 812.035, if:

1649 (a) The provider's license has not been renewed, or has
 1650 been revoked, suspended, or terminated, for cause, by the
 1651 licensing agency of any state;

1652 (b) The provider has failed to make available or has
 1653 refused access to Medicaid-related records to an auditor,

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1654 investigator, or other authorized employee or agent of the
 1655 agency, the Attorney General, a state attorney, or the Federal
 1656 Government;

1657 (c) The provider has not furnished or has failed to make
 1658 available such Medicaid-related records as the agency has found
 1659 necessary to determine whether Medicaid payments are or were due
 1660 and the amounts thereof;

1661 (d) The provider has failed to maintain medical records
 1662 made at the time of service, or prior to service if prior
 1663 authorization is required, demonstrating the necessity and
 1664 appropriateness of the goods or services rendered;

1665 (e) The provider is not in compliance with provisions of
 1666 Medicaid provider publications that have been adopted by
 1667 reference as rules in the Florida Administrative Code; with
 1668 provisions of state or federal laws, rules, or regulations; with
 1669 provisions of the provider agreement between the agency and the
 1670 provider; or with certifications found on claim forms or on
 1671 transmittal forms for electronically submitted claims that are
 1672 submitted by the provider or authorized representative, as such
 1673 provisions apply to the Medicaid program;

1674 (f) The provider or person who ordered, authorized, or
 1675 prescribed the care, services, or supplies has furnished, or
 1676 ordered or authorized the furnishing of, goods or services to a
 1677 recipient which are inappropriate, unnecessary, excessive, or
 1678 harmful to the recipient or are of inferior quality;

1679 (g) The provider has demonstrated a pattern of failure to
 1680 provide goods or services that are medically necessary;

1681 (h) The provider or an authorized representative of the
 1682 provider, or a person who ordered, authorized, or prescribed the

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1683 goods or services, has submitted or caused to be submitted false
 1684 or a pattern of erroneous Medicaid claims;

1685 (i) The provider or an authorized representative of the
 1686 provider, or a person who has ordered, authorized, or prescribed
 1687 the goods or services, has submitted or caused to be submitted a
 1688 Medicaid provider enrollment application, a request for prior
 1689 authorization for Medicaid services, a drug exception request,
 1690 or a Medicaid cost report that contains materially false or
 1691 incorrect information;

1692 (j) The provider or an authorized representative of the
 1693 provider has collected from or billed a recipient or a
 1694 recipient's responsible party improperly for amounts that should
 1695 not have been so collected or billed by reason of the provider's
 1696 billing the Medicaid program for the same service;

1697 (k) The provider or an authorized representative of the
 1698 provider has included in a cost report costs that are not
 1699 allowable under a Florida Title XIX reimbursement plan after the
 1700 provider or authorized representative had been advised in an
 1701 audit exit conference or audit report that the costs were not
 1702 allowable;

1703 (l) The provider is charged by information or indictment
 1704 with fraudulent billing practices or an offense referenced in
 1705 subsection (13). The sanction applied for this reason is limited
 1706 to suspension of the provider's participation in the Medicaid
 1707 program for the duration of the indictment unless the provider
 1708 is found guilty pursuant to the information or indictment;

1709 (m) The provider or a person who ordered, authorized, or
 1710 prescribed the goods or services is found liable for negligent
 1711 practice resulting in death or injury to the provider's patient;

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1712 (n) The provider fails to demonstrate that it had available
 1713 during a specific audit or review period sufficient quantities
 1714 of goods, or sufficient time in the case of services, to support
 1715 the provider's billings to the Medicaid program;

1716 (o) The provider has failed to comply with the notice and
 1717 reporting requirements of s. 409.907;

1718 (p) The agency has received reliable information of patient
 1719 abuse or neglect or of any act prohibited by s. 409.920; or

1720 (q) The provider has failed to comply with an agreed-upon
 1721 repayment schedule.

1722

1723 A provider is subject to sanctions for violations of this
 1724 subsection as the result of actions or inactions of the
 1725 provider, or actions or inactions of any principal, officer,
 1726 director, agent, managing employee, or affiliated person of the
 1727 provider, or any partner or shareholder having an ownership
 1728 interest in the provider equal to 5 percent or greater, in which
 1729 the provider participated or acquiesced.

1730 (16) The agency shall impose any of the following sanctions
 1731 or disincentives on a provider or a person for any of the acts
 1732 described in subsection (15):

1733 (a) Suspension for a specific period of time of not more
 1734 than 1 year. Suspension precludes participation in the Medicaid
 1735 program, which includes any action that results in a claim for
 1736 payment to the Medicaid program for furnishing, supervising a
 1737 person who is furnishing, or causing a person to furnish goods
 1738 or services.

1739 (b) Termination for a specific period of time ranging from
 1740 more than 1 year to 20 years. Termination precludes

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1741 participation in the Medicaid program, which includes any action
 1742 that results in a claim for payment to the Medicaid program for
 1743 furnishing, supervising a person who is furnishing, or causing a
 1744 person to furnish goods or services.

1745 (c) Imposition of a fine of up to \$5,000 for each
 1746 violation. Each day that an ongoing violation continues, such as
 1747 refusing to furnish Medicaid-related records or refusing access
 1748 to records, is considered a separate violation. Each instance of
 1749 improper billing of a Medicaid recipient; each instance of
 1750 including an unallowable cost on a hospital or nursing home
 1751 Medicaid cost report after the provider or authorized
 1752 representative has been advised in an audit exit conference or
 1753 previous audit report of the cost unallowability; each instance
 1754 of furnishing a Medicaid recipient goods or professional
 1755 services that are inappropriate or of inferior quality as
 1756 determined by competent peer judgment; each instance of
 1757 knowingly submitting a materially false or erroneous Medicaid
 1758 provider enrollment application, request for prior authorization
 1759 for Medicaid services, drug exception request, or cost report;
 1760 each instance of inappropriate prescribing of drugs for a
 1761 Medicaid recipient as determined by competent peer judgment; and
 1762 each false or erroneous Medicaid claim leading to an overpayment
 1763 to a provider is considered a separate violation.

1764 (d) Immediate suspension, if the agency has received
 1765 information of patient abuse or neglect or of any act prohibited
 1766 by s. 409.920. Upon suspension, the agency must issue an
 1767 immediate final order under s. 120.569(2)(n).

1768 (e) A fine, not to exceed \$10,000, for a violation of
 1769 paragraph (15)(i).

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1770 (f) Imposition of liens against provider assets, including,
 1771 but not limited to, financial assets and real property, not to
 1772 exceed the amount of fines or recoveries sought, upon entry of
 1773 an order determining that such moneys are due or recoverable.

1774 (g) Prepayment reviews of claims for a specified period of
 1775 time.

1776 (h) Comprehensive followup reviews of providers every 6
 1777 months to ensure that they are billing Medicaid correctly.

1778 (i) Corrective-action plans that remain in effect for up to
 1779 3 years and that are monitored by the agency every 6 months
 1780 while in effect.

1781 (j) Other remedies as permitted by law to effect the
 1782 recovery of a fine or overpayment.

1783
 1784 If a provider voluntarily relinquishes its Medicaid provider
 1785 number or an associated license, or allows the associated
 1786 licensure to expire after receiving written notice that the
 1787 agency is conducting, or has conducted, an audit, survey,
 1788 inspection, or investigation and that a sanction of suspension
 1789 or termination will or would be imposed for noncompliance
 1790 discovered as a result of the audit, survey, inspection, or
 1791 investigation, the agency shall impose the sanction of
 1792 termination for cause against the provider. The agency's
 1793 termination with cause is subject to hearing rights as may be
 1794 provided under chapter 120. The Secretary of Health Care
 1795 Administration may make a determination that imposition of a
 1796 sanction or disincentive is not in the best interest of the
 1797 Medicaid program, in which case a sanction or disincentive may
 1798 not be imposed.

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1799 (17) In determining the appropriate administrative sanction
1800 to be applied, or the duration of any suspension or termination,
1801 the agency shall consider:

1802 (a) The seriousness and extent of the violation or
1803 violations.

1804 (b) Any prior history of violations by the provider
1805 relating to the delivery of health care programs which resulted
1806 in either a criminal conviction or in administrative sanction or
1807 penalty.

1808 (c) Evidence of continued violation within the provider's
1809 management control of Medicaid statutes, rules, regulations, or
1810 policies after written notification to the provider of improper
1811 practice or instance of violation.

1812 (d) The effect, if any, on the quality of medical care
1813 provided to Medicaid recipients as a result of the acts of the
1814 provider.

1815 (e) Any action by a licensing agency respecting the
1816 provider in any state in which the provider operates or has
1817 operated.

1818 (f) The apparent impact on access by recipients to Medicaid
1819 services if the provider is suspended or terminated, in the best
1820 judgment of the agency.

1821
1822 The agency shall document the basis for all sanctioning actions
1823 and recommendations.

1824 (18) The agency may take action to sanction, suspend, or
1825 terminate a particular provider working for a group provider,
1826 and may suspend or terminate Medicaid participation at a
1827 specific location, rather than or in addition to taking action

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1828 against an entire group.

1829 (19) The agency shall establish a process for conducting
1830 followup reviews of a sampling of providers who have a history
1831 of overpayment under the Medicaid program. This process must
1832 consider the magnitude of previous fraud or abuse and the
1833 potential effect of continued fraud or abuse on Medicaid costs.

1834 (20) In making a determination of overpayment to a
1835 provider, the agency must use accepted and valid auditing,
1836 accounting, analytical, statistical, or peer-review methods, or
1837 combinations thereof. Appropriate statistical methods may
1838 include, but are not limited to, sampling and extension to the
1839 population, parametric and nonparametric statistics, tests of
1840 hypotheses, and other generally accepted statistical methods.
1841 Appropriate analytical methods may include, but are not limited
1842 to, reviews to determine variances between the quantities of
1843 products that a provider had on hand and available to be
1844 purveyed to Medicaid recipients during the review period and the
1845 quantities of the same products paid for by the Medicaid program
1846 for the same period, taking into appropriate consideration sales
1847 of the same products to non-Medicaid customers during the same
1848 period. In meeting its burden of proof in any administrative or
1849 court proceeding, the agency may introduce the results of such
1850 statistical methods as evidence of overpayment.

1851 (21) When making a determination that an overpayment has
1852 occurred, the agency shall prepare and issue an audit report to
1853 the provider showing the calculation of overpayments. The
1854 agency's determination must be based solely upon information
1855 available to it before issuance of the audit report and, in the
1856 case of documentation obtained to substantiate claims for

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1857 Medicaid reimbursement, based solely upon contemporaneous
1858 records. The agency may consider addenda or modifications to a
1859 note that was made contemporaneously with the patient care
1860 episode if the addenda or modifications are germane to the note.

1861 (22) The audit report, supported by agency work papers,
1862 showing an overpayment to a provider constitutes evidence of the
1863 overpayment. A provider may not present or elicit testimony on
1864 direct examination or cross-examination in any court or
1865 administrative proceeding, regarding the purchase or acquisition
1866 by any means of drugs, goods, or supplies; sales or divestment
1867 by any means of drugs, goods, or supplies; or inventory of
1868 drugs, goods, or supplies, unless such acquisition, sales,
1869 divestment, or inventory is documented by written invoices,
1870 written inventory records, or other competent written
1871 documentary evidence maintained in the normal course of the
1872 provider's business. A provider may not present records to
1873 contest an overpayment or sanction unless such records are
1874 contemporaneous and, if requested during the audit process, were
1875 furnished to the agency or its agent upon request. This
1876 limitation does not apply to Medicaid cost report audits. This
1877 limitation does not preclude consideration by the agency of
1878 addenda or modifications to a note if the addenda or
1879 modifications are made before notification of the audit, the
1880 addenda or modifications are germane to the note, and the note
1881 was made contemporaneously with a patient care episode.
1882 Notwithstanding the applicable rules of discovery, all
1883 documentation to be offered as evidence at an administrative
1884 hearing on a Medicaid overpayment or an administrative sanction
1885 must be exchanged by all parties at least 14 days before the

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1886 administrative hearing or be excluded from consideration.

1887 (23) (a) In an audit, ~~or~~ investigation, or enforcement
1888 action taken for ~~or~~ a violation committed by a provider which is
1889 conducted pursuant to this section, the agency is entitled to
1890 recover all investigative and legal costs incurred as a result
1891 of such audit, investigation, or enforcement action. The costs
1892 associated with an investigation, audit, or enforcement action
1893 may include, but are not limited to, salaries and benefits of
1894 personnel, costs related to the time spent by an attorney and
1895 other personnel working on the case, and any other expenses
1896 incurred by the agency or contractor which are associated with
1897 the case, including any, and expert witness costs and attorney
1898 fees incurred on behalf of the agency or contractor if the
1899 agency's findings were not contested by the provider or, if
1900 contested, the agency ultimately prevailed.

1901 (b) The agency has the burden of documenting the costs,
1902 which include salaries and employee benefits and out-of-pocket
1903 expenses. The amount of costs that may be recovered must be
1904 reasonable in relation to the seriousness of the violation and
1905 must be set taking into consideration the financial resources,
1906 earning ability, and needs of the provider, who has the burden
1907 of demonstrating such factors.

1908 (c) The provider may pay the costs over a period to be
1909 determined by the agency if the agency determines that an
1910 extreme hardship would result to the provider from immediate
1911 full payment. Any default in payment of costs may be collected
1912 by any means authorized by law.

1913 (24) If the agency imposes an administrative sanction
1914 pursuant to subsection (13), subsection (14), or subsection

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1915 (15), except paragraphs (15) (e) and (o), upon any provider or
 1916 any principal, officer, director, agent, managing employee, or
 1917 affiliated person of the provider who is regulated by another
 1918 state entity, the agency shall notify that other entity of the
 1919 imposition of the sanction within 5 business days. Such
 1920 notification must include the provider's or person's name and
 1921 license number and the specific reasons for sanction.

1922 (25) (a) The agency shall withhold Medicaid payments, in
 1923 whole or in part, to a provider upon receipt of reliable
 1924 evidence that the circumstances giving rise to the need for a
 1925 withholding of payments involve fraud, willful
 1926 misrepresentation, or abuse under the Medicaid program, or a
 1927 crime committed while rendering goods or services to Medicaid
 1928 recipients. If it is determined that fraud, willful
 1929 misrepresentation, abuse, or a crime did not occur, the payments
 1930 withheld must be paid to the provider within 14 days after such
 1931 determination. Amounts not paid within 14 days accrue interest
 1932 at the rate of 10 percent per year, beginning after the 14th
 1933 day.

1934 (b) The agency shall deny payment, or require repayment, if
 1935 the goods or services were furnished, supervised, or caused to
 1936 be furnished by a person who has been suspended or terminated
 1937 from the Medicaid program or Medicare program by the Federal
 1938 Government or any state.

1939 (c) Overpayments owed to the agency bear interest at the
 1940 rate of 10 percent per year from the date of final determination
 1941 of the overpayment by the agency, and payment arrangements must
 1942 be made within 30 days after the date of the final order, which
 1943 is not subject to further appeal.

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1944 (d) The agency, upon entry of a final agency order, a
 1945 judgment or order of a court of competent jurisdiction, or a
 1946 stipulation or settlement, may collect the moneys owed by all
 1947 means allowable by law, including, but not limited to, notifying
 1948 any fiscal intermediary of Medicare benefits that the state has
 1949 a superior right of payment. Upon receipt of such written
 1950 notification, the Medicare fiscal intermediary shall remit to
 1951 the state the sum claimed.

1952 (e) The agency may institute amnesty programs to allow
 1953 Medicaid providers the opportunity to voluntarily repay
 1954 overpayments. The agency may adopt rules to administer such
 1955 programs.

1956 (26) The agency may impose administrative sanctions against
 1957 a Medicaid recipient, or the agency may seek any other remedy
 1958 provided by law, including, but not limited to, the remedies
 1959 provided in s. 812.035, if the agency finds that a recipient has
 1960 engaged in solicitation in violation of s. 409.920 or that the
 1961 recipient has otherwise abused the Medicaid program.

1962 (27) When the Agency for Health Care Administration has
 1963 made a probable cause determination and alleged that an
 1964 overpayment to a Medicaid provider has occurred, the agency,
 1965 after notice to the provider, shall:

1966 (a) Withhold, and continue to withhold during the pendency
 1967 of an administrative hearing pursuant to chapter 120, any
 1968 medical assistance reimbursement payments until such time as the
 1969 overpayment is recovered, unless within 30 days after receiving
 1970 notice thereof the provider:

- 1971 1. Makes repayment in full; or
- 1972 2. Establishes a repayment plan that is satisfactory to the

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1973 Agency for Health Care Administration.

1974 (b) Withhold, and continue to withhold during the pendency
1975 of an administrative hearing pursuant to chapter 120, medical
1976 assistance reimbursement payments if the terms of a repayment
1977 plan are not adhered to by the provider.

1978 (28) Venue for all Medicaid program integrity cases lies in
1979 Leon County, at the discretion of the agency.

1980 (29) Notwithstanding other provisions of law, the agency
1981 and the Medicaid Fraud Control Unit of the Department of Legal
1982 Affairs may review a provider's Medicaid-related and non-
1983 Medicaid-related records in order to determine the total output
1984 of a provider's practice to reconcile quantities of goods or
1985 services billed to Medicaid with quantities of goods or services
1986 used in the provider's total practice.

1987 (30) The agency shall terminate a provider's participation
1988 in the Medicaid program if the provider fails to reimburse an
1989 overpayment or pay an agency-imposed fine that has been
1990 determined by final order, not subject to further appeal, within
1991 30 days after the date of the final order, unless the provider
1992 and the agency have entered into a repayment agreement.

1993 (31) If a provider requests an administrative hearing
1994 pursuant to chapter 120, such hearing must be conducted within
1995 90 days following assignment of an administrative law judge,
1996 absent exceptionally good cause shown as determined by the
1997 administrative law judge or hearing officer. Upon issuance of a
1998 final order, the outstanding balance of the amount determined to
1999 constitute the overpayment and fines is due. If a provider fails
2000 to make payments in full, fails to enter into a satisfactory
2001 repayment plan, or fails to comply with the terms of a repayment

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2002 plan or settlement agreement, the agency shall withhold
2003 reimbursement payments for Medicaid services until the amount
2004 due is paid in full.

2005 (32) Duly authorized agents and employees of the agency
2006 shall have the power to inspect, during normal business hours,
2007 the records of any pharmacy, wholesale establishment, or
2008 manufacturer, or any other place in which drugs and medical
2009 supplies are manufactured, packed, packaged, made, stored, sold,
2010 or kept for sale, for the purpose of verifying the amount of
2011 drugs and medical supplies ordered, delivered, or purchased by a
2012 provider. The agency shall provide at least 2 business days'
2013 prior notice of any such inspection. The notice must identify
2014 the provider whose records will be inspected, and the inspection
2015 shall include only records specifically related to that
2016 provider.

2017 (33) In accordance with federal law, Medicaid recipients
2018 convicted of a crime pursuant to 42 U.S.C. s. 1320a-7b may be
2019 limited, restricted, or suspended from Medicaid eligibility for
2020 a period not to exceed 1 year, as determined by the agency head
2021 or designee.

2022 (34) To deter fraud and abuse in the Medicaid program, the
2023 agency may limit the number of Schedule II and Schedule III
2024 refill prescription claims submitted from a pharmacy provider.
2025 The agency shall limit the allowable amount of reimbursement of
2026 prescription refill claims for Schedule II and Schedule III
2027 pharmaceuticals if the agency or the Medicaid Fraud Control Unit
2028 determines that the specific prescription refill was not
2029 requested by the Medicaid recipient or authorized representative
2030 for whom the refill claim is submitted or was not prescribed by

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2031 the recipient's medical provider or physician. Any such refill
2032 request must be consistent with the original prescription.

2033 (35) The Office of Program Policy Analysis and Government
2034 Accountability shall provide a report to the President of the
2035 Senate and the Speaker of the House of Representatives on a
2036 biennial basis, beginning January 31, 2006, on the agency's
2037 efforts to prevent, detect, and deter, as well as recover funds
2038 lost to, fraud and abuse in the Medicaid program.

2039 (36) The agency may provide to a sample of Medicaid
2040 recipients or their representatives through the distribution of
2041 explanations of benefits information about services reimbursed
2042 by the Medicaid program for goods and services to such
2043 recipients, including information on how to report inappropriate
2044 or incorrect billing to the agency or other law enforcement
2045 entities for review or investigation, information on how to
2046 report criminal Medicaid fraud to the Medicaid Fraud Control
2047 Unit's toll-free hotline number, and information about the
2048 rewards available under s. 409.9203. The explanation of benefits
2049 may not be mailed for Medicaid independent laboratory services
2050 as described in s. 409.905(7) or for Medicaid certified match
2051 services as described in ss. 409.9071 and 1011.70.

2052 (37) The agency shall post on its website a current list of
2053 each Medicaid provider, including any principal, officer,
2054 director, agent, managing employee, or affiliated person of the
2055 provider, or any partner or shareholder having an ownership
2056 interest in the provider equal to 5 percent or greater, who has
2057 been terminated for cause from the Medicaid program or
2058 sanctioned under this section. The list must be searchable by a
2059 variety of search parameters and provide for the creation of

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2060 formatted lists that may be printed or imported into other
2061 applications, including spreadsheets. The agency shall update
2062 the list at least monthly.

2063 (38) In order to improve the detection of health care
2064 fraud, use technology to prevent and detect fraud, and maximize
2065 the electronic exchange of health care fraud information, the
2066 agency shall:

2067 (a) Compile, maintain, and publish on its website a
2068 detailed list of all state and federal databases that contain
2069 health care fraud information and update the list at least
2070 biannually;

2071 (b) Develop a strategic plan to connect all databases that
2072 contain health care fraud information to facilitate the
2073 electronic exchange of health information between the agency,
2074 the Department of Health, the Department of Law Enforcement, and
2075 the Attorney General's Office. The plan must include recommended
2076 standard data formats, fraud identification strategies, and
2077 specifications for the technical interface between state and
2078 federal health care fraud databases;

2079 (c) Monitor innovations in health information technology,
2080 specifically as it pertains to Medicaid fraud prevention and
2081 detection; and

2082 (d) Periodically publish policy briefs that highlight
2083 available new technology to prevent or detect health care fraud
2084 and projects implemented by other states, the private sector, or
2085 the Federal Government which use technology to prevent or detect
2086 health care fraud.

2087 Section 38. Subsection (1) of section 409.967, Florida
2088 Statutes, is amended to read:

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2089 409.967 Managed care plan accountability.-
 2090 (1) Beginning with the contract procurement process
 2091 initiated during the 2023 calendar year, the agency shall
 2092 establish a 6-year ~~5-year~~ contract with each managed care plan
 2093 selected through the procurement process described in s.
 2094 409.966. A plan contract may not be renewed; however, the agency
 2095 may extend the term of a plan contract to cover any delays
 2096 during the transition to a new plan. The agency shall extend
 2097 until December 31, 2024, the term of existing plan contracts
 2098 awarded pursuant to the invitation to negotiate published in
 2099 July 2017.

2100 Section 39. Subsection (6) of section 429.11, Florida
 2101 Statutes, is amended to read:
 2102 429.11 Initial application for license; provisional
 2103 license.-
 2104 ~~(6) In addition to the license categories available in s.~~
 2105 ~~408.808, a provisional license may be issued to an applicant~~
 2106 ~~making initial application for licensure or making application~~
 2107 ~~for a change of ownership. A provisional license shall be~~
 2108 ~~limited in duration to a specific period of time not to exceed 6~~
 2109 ~~months, as determined by the agency.~~

2110 Section 40. Subsection (9) of section 429.19, Florida
 2111 Statutes, is amended to read:
 2112 429.19 Violations; imposition of administrative fines;
 2113 grounds.-
 2114 ~~(9) The agency shall develop and disseminate an annual list~~
 2115 ~~of all facilities sanctioned or fined for violations of state~~
 2116 ~~standards, the number and class of violations involved, the~~
 2117 ~~penalties imposed, and the current status of cases. The list~~

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2118 ~~shall be disseminated, at no charge, to the Department of~~
 2119 ~~Elderly Affairs, the Department of Health, the Department of~~
 2120 ~~Children and Families, the Agency for Persons with Disabilities,~~
 2121 ~~the area agencies on aging, the Florida Statewide Advocacy~~
 2122 ~~Council, the State Long Term Care Ombudsman Program, and state~~
 2123 ~~and local ombudsman councils. The Department of Children and~~
 2124 ~~Families shall disseminate the list to service providers under~~
 2125 ~~contract to the department who are responsible for referring~~
 2126 ~~persons to a facility for residency. The agency may charge a fee~~
 2127 ~~commensurate with the cost of printing and postage to other~~
 2128 ~~interested parties requesting a copy of this list. This~~
 2129 ~~information may be provided electronically or through the~~
 2130 ~~agency's Internet site.~~

2131 Section 41. Subsection (2) of section 429.35, Florida
 2132 Statutes, is amended to read:
 2133 429.35 Maintenance of records; reports.-
 2134 (2) Within 60 days after the date of an ~~the~~ biennial
 2135 inspection conducted ~~visit required~~ under s. 408.811 or within
 2136 30 days after the date of an ~~any~~ interim visit, the agency shall
 2137 forward the results of the inspection to the local ombudsman
 2138 council in the district where the facility is located; to at
 2139 least one public library or, in the absence of a public library,
 2140 the county seat in the county in which the inspected assisted
 2141 living facility is located; and, when appropriate, to the
 2142 district Adult Services and Mental Health Program Offices.

2143 Section 42. Subsection (2) of section 429.905, Florida
 2144 Statutes, is amended to read:
 2145 429.905 Exemptions; monitoring of adult day care center
 2146 programs colocated with assisted living facilities or licensed

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2147 nursing home facilities.-

2148 (2) A licensed assisted living facility, a licensed
2149 hospital, or a licensed nursing home facility may provide
2150 services during the day which include, but are not limited to,
2151 social, health, therapeutic, recreational, nutritional, and
2152 respite services, to adults who are not residents. Such a
2153 facility need not be licensed as an adult day care center;
2154 however, the agency must monitor the facility during the regular
2155 inspection ~~and at least biennially~~ to ensure adequate space and
2156 sufficient staff. If an assisted living facility, a hospital, or
2157 a nursing home holds itself out to the public as an adult day
2158 care center, it must be licensed as such and meet all standards
2159 prescribed by statute and rule. For the purpose of this
2160 subsection, the term "day" means any portion of a 24-hour day.

2161 Section 43. Section 429.929, Florida Statutes, is amended
2162 to read:

2163 429.929 Rules establishing standards.-

2164 ~~(1)~~ The agency shall adopt rules to implement this part.
2165 The rules must include reasonable and fair standards. Any
2166 conflict between these standards and those that may be set forth
2167 in local, county, or municipal ordinances shall be resolved in
2168 favor of those having statewide effect. Such standards must
2169 relate to:

2170 (1)(a) The maintenance of adult day care centers with
2171 respect to plumbing, heating, lighting, ventilation, and other
2172 building conditions, including adequate meeting space, to ensure
2173 the health, safety, and comfort of participants and protection
2174 from fire hazard. Such standards may not conflict with chapter
2175 553 and must be based upon the size of the structure and the

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2176 number of participants.

2177 ~~(2)(b)~~ The number and qualifications of all personnel
2178 employed by adult day care centers who have responsibilities for
2179 the care of participants.

2180 ~~(3)(c)~~ All sanitary conditions within adult day care
2181 centers and their surroundings, including water supply, sewage
2182 disposal, food handling, and general hygiene, and maintenance of
2183 sanitary conditions, to ensure the health and comfort of
2184 participants.

2185 (4)(d) Basic services provided by adult day care centers.

2186 ~~(5)(e)~~ Supportive and optional services provided by adult
2187 day care centers.

2188 (6)(f) Data and information relative to participants and
2189 programs of adult day care centers, including, but not limited
2190 to, the physical and mental capabilities and needs of the
2191 participants, the availability, frequency, and intensity of
2192 basic services and of supportive and optional services provided,
2193 the frequency of participation, the distances traveled by
2194 participants, the hours of operation, the number of referrals to
2195 other centers or elsewhere, and the incidence of illness.

2196 ~~(7)(g)~~ Components of a comprehensive emergency management
2197 plan, developed in consultation with the Department of Health
2198 and the Division of Emergency Management.

2199 ~~(2) Pursuant to this part, s. 408.811, and applicable~~
2200 ~~rules, the agency may conduct an abbreviated biennial inspection~~
2201 ~~of key quality-of-care standards, in lieu of a full inspection,~~
2202 ~~of a center that has a record of good performance. However, the~~
2203 ~~agency must conduct a full inspection of a center that has had~~
2204 ~~one or more confirmed complaints within the licensure period~~

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2205 ~~immediately preceding the inspection or which has a serious~~
 2206 ~~problem identified during the abbreviated inspection. The agency~~
 2207 ~~shall develop the key quality-of-care standards, taking into~~
 2208 ~~consideration the comments and recommendations of provider~~
 2209 ~~groups. These standards shall be included in rules adopted by~~
 2210 ~~the agency.~~

2211 Section 44. Part I of chapter 483, Florida Statutes, is
 2212 repealed, and part II and part III of that chapter are
 2213 redesignated as part I and part II, respectively.

2214 Section 45. Paragraph (g) of subsection (3) of section
 2215 20.43, Florida Statutes, is amended to read:

2216 20.43 Department of Health.—There is created a Department
 2217 of Health.

2218 (3) The following divisions of the Department of Health are
 2219 established:

2220 (g) Division of Medical Quality Assurance, which is
 2221 responsible for the following boards and professions established
 2222 within the division:

- 2223 1. The Board of Acupuncture, created under chapter 457.
- 2224 2. The Board of Medicine, created under chapter 458.
- 2225 3. The Board of Osteopathic Medicine, created under chapter
2226 459.
- 2227 4. The Board of Chiropractic Medicine, created under
2228 chapter 460.
- 2229 5. The Board of Podiatric Medicine, created under chapter
2230 461.
- 2231 6. Naturopathy, as provided under chapter 462.
- 2232 7. The Board of Optometry, created under chapter 463.
- 2233 8. The Board of Nursing, created under part I of chapter

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- 2234 464.
- 2235 9. Nursing assistants, as provided under part II of chapter
2236 464.
- 2237 10. The Board of Pharmacy, created under chapter 465.
- 2238 11. The Board of Dentistry, created under chapter 466.
- 2239 12. Midwifery, as provided under chapter 467.
- 2240 13. The Board of Speech-Language Pathology and Audiology,
2241 created under part I of chapter 468.
- 2242 14. The Board of Nursing Home Administrators, created under
2243 part II of chapter 468.
- 2244 15. The Board of Occupational Therapy, created under part
2245 III of chapter 468.
- 2246 16. Respiratory therapy, as provided under part V of
2247 chapter 468.
- 2248 17. Dietetics and nutrition practice, as provided under
2249 part X of chapter 468.
- 2250 18. The Board of Athletic Training, created under part XIII
2251 of chapter 468.
- 2252 19. The Board of Orthotists and Prosthetists, created under
2253 part XIV of chapter 468.
- 2254 20. Electrolysis, as provided under chapter 478.
- 2255 21. The Board of Massage Therapy, created under chapter
2256 480.
- 2257 22. The Board of Clinical Laboratory Personnel, created
2258 under part I ~~part II~~ of chapter 483.
- 2259 23. Medical physicists, as provided under part II ~~part III~~
2260 of chapter 483.
- 2261 24. The Board of Opticianry, created under part I of
2262 chapter 484.

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2263 25. The Board of Hearing Aid Specialists, created under
 2264 part II of chapter 484.

2265 26. The Board of Physical Therapy Practice, created under
 2266 chapter 486.

2267 27. The Board of Psychology, created under chapter 490.

2268 28. School psychologists, as provided under chapter 490.

2269 29. The Board of Clinical Social Work, Marriage and Family
 2270 Therapy, and Mental Health Counseling, created under chapter
 2271 491.

2272 30. Emergency medical technicians and paramedics, as
 2273 provided under part III of chapter 401.

2274 Section 46. Subsection (3) of section 381.0034, Florida
 2275 Statutes, is amended to read:

2276 381.0034 Requirement for instruction on HIV and AIDS.-
 2277 (3) The department shall require, as a condition of
 2278 granting a license under chapter 467 or part I ~~part II~~ of
 2279 chapter 483, that an applicant making initial application for
 2280 licensure complete an educational course acceptable to the
 2281 department on human immunodeficiency virus and acquired immune
 2282 deficiency syndrome. Upon submission of an affidavit showing
 2283 good cause, an applicant who has not taken a course at the time
 2284 of licensure shall be allowed 6 months to complete this
 2285 requirement.

2286 Section 47. Subsection (4) of section 456.001, Florida
 2287 Statutes, is amended to read:

2288 456.001 Definitions.-As used in this chapter, the term:

2289 (4) "Health care practitioner" means any person licensed
 2290 under chapter 457; chapter 458; chapter 459; chapter 460;
 2291 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;

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2292 chapter 466; chapter 467; part I, part II, part III, part V,
 2293 part X, part XIII, or part XIV of chapter 468; chapter 478;
 2294 chapter 480; part I or part II ~~part II or part III~~ of chapter
 2295 483; chapter 484; chapter 486; chapter 490; or chapter 491.

2296 Section 48. Paragraphs (h) and (i) of subsection (2) of
 2297 section 456.057, Florida Statutes, are amended to read:

2298 456.057 Ownership and control of patient records; report or
 2299 copies of records to be furnished; disclosure of information.-
 2300 (2) As used in this section, the terms "records owner,"
 2301 "health care practitioner," and "health care practitioner's
 2302 employer" do not include any of the following persons or
 2303 entities; furthermore, the following persons or entities are not
 2304 authorized to acquire or own medical records, but are authorized
 2305 under the confidentiality and disclosure requirements of this
 2306 section to maintain those documents required by the part or
 2307 chapter under which they are licensed or regulated:

2308 (h) Clinical laboratory personnel licensed under part I
 2309 ~~part II~~ of chapter 483.

2310 (i) Medical physicists licensed under part II ~~part III~~ of
 2311 chapter 483.

2312 Section 49. Paragraph (j) of subsection (1) of section
 2313 456.076, Florida Statutes, is amended to read:

2314 456.076 Impaired practitioner programs.-
 2315 (1) As used in this section, the term:

2316 (j) "Practitioner" means a person licensed, registered,
 2317 certified, or regulated by the department under part III of
 2318 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
 2319 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
 2320 chapter 466; chapter 467; part I, part II, part III, part V,

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2321 part X, part XIII, or part XIV of chapter 468; chapter 478;
2322 chapter 480; ~~part I or part II~~ ~~part II or part III~~ of chapter
2323 483; chapter 484; chapter 486; chapter 490; or chapter 491; or
2324 an applicant for a license, registration, or certification under
2325 the same laws.

2326 Section 50. Paragraph (b) of subsection (1) of section
2327 456.47, Florida Statutes, is amended to read:

2328 456.47 Use of telehealth to provide services.—

2329 (1) DEFINITIONS.—As used in this section, the term:

2330 (b) "Telehealth provider" means any individual who provides
2331 health care and related services using telehealth and who is
2332 licensed or certified under s. 393.17; part III of chapter 401;
2333 chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;
2334 chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;
2335 part I, part III, part IV, part V, part X, part XIII, or part
2336 XIV of chapter 468; chapter 478; chapter 480; part I or part II
2337 ~~part II or part III~~ of chapter 483; chapter 484; chapter 486;
2338 chapter 490; or chapter 491; who is licensed under a multistate
2339 health care licensure compact of which Florida is a member
2340 state; or who is registered under and complies with subsection
2341 (4).

2342 Section 51. Except as otherwise expressly provided in this
2343 act and except for this section, which shall become effective
2344 upon this act becoming a law, this act shall take effect July 1,
2345 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2020

I respectfully request that **Senate Bill # 1726**, relating to Agency for Health Care Administration, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 26, 2020

I respectfully request that **Senate Bill # 1726**, relating to Agency for Health Care Administration, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-20
Meeting Date

SB 1726
Bill Number (if applicable)

Topic Agency for Health Care Administration

Amendment Barcode (if applicable)

Name Dr. Steve Coleman

Job Title Public Policy Director

Address 3116 Capital Circle, N.E., Suite 2

Phone 904-235-7155

Tallahassee FL 32308
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Association for Behavior Analysis

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/CS/SB 1870

INTRODUCER: Appropriations Committee; Banking and Insurance Committee; Innovation, Industry, and Technology Committee; and Senators Hutson and Harrell

SUBJECT: Technology Innovation

DATE: March 5, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|---------------|
| 1. | <u>Wiehle/Baird</u> | <u>Imhof</u> | <u>IT</u> | <u>Fav/CS</u> |
| 2. | <u>Johnson</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 3. | <u>Smith</u> | <u>Kynoch</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1870 abolishes the Division of State Technology within the Department of Management Services (DMS), reestablishes the Division of Telecommunications, and replaces the State Data Center with the Florida Digital Service, which is charged with proposing innovative solutions that securely modernizes state government, achieving value through digital transformation and interoperability, and supporting the cloud-first policy. The bill requires the Florida Digital Service (FDS) to develop a comprehensive enterprise architecture that addresses how information technology infrastructure may be modernized to achieve cloud-first objectives and to develop a data dictionary and data catalog for the enterprise. “Enterprise” means state agencies, including the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services.

The bill provides the following provisions for the Cabinet agencies:

- May adopt alternative standards in lieu of the enterprise architecture standards. If the Cabinet agency adopts an alternative standard, the agency must provide a written notification including an explanation of how they will support open data interoperability to the Governor, the President of the Senate, and the Speaker of the House of Representative.
- Clarifies that nothing within this section of law requires the Cabinet agency to integrate with information technology outside of its own department or with the FDS.
- The FDS may not retrieve or disclose any data without a shared-data agreement in place between the department and Cabinet agency.

The bill directs the FDS to document and submit use cases in collaboration with agencies and, contingent on an appropriation, assist with the deployment of new interoperability applications or solutions, including but not limited to:

- The Department of Health, Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Elderly Affairs, and the Department of Children and Families; or
- Support military members, veterans, and their families.

Furthermore, the bill creates the Financial Technology Sandbox, within the Office of Financial Regulation (OFR), to license financial technology innovators to test new products and services within the areas of a regulatory sandbox using exceptions of specified general law and waivers of the corresponding rule requirements under defined conditions in the consumer finance, payment instruments sellers, and money transmitter programs.

The bill appropriates \$50,000 in nonrecurring funds for Fiscal Year 2020-2021 from the Administrative Trust Fund to the OFR to implement the provisions of section 559.592, Florida Statutes, relating to the Financial Technology Sandbox.

SB 2500, the Fiscal Year 2020-2021 General Appropriations Act, provides \$850,000 to the Department of Management Services for software to support the data catalog.

Except as otherwise provided (the sandbox provisions), the bill takes effect July 1, 2020.

II. Present Situation:

Department of Management Services (DMS)

Information Technology (IT) Management

The DMS¹ oversees IT² governance and security for the executive branch of state government. The Division of State Technology (DST), within the DMS, implements duties and policies of the DMS in this area.³ The head of DST is appointed by the Secretary of Management Services⁴ and serves as the state chief information officer (CIO).⁵ The CIO must have at least 10 years of executive level experience in the public or private sector.⁶ Since the creation of the Division of State Technology on July 1, 2019, a state CIO has not been appointed. The DST “provides the State with guidance and strategic direction on a variety of transformational technologies, such as

¹ Section 20.22, F.S.

² The term “information technology” means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. s. 282.0041(14), F.S.

³ Section 20.22(2)(a), F.S.

⁴ The Secretary of Management Services serves as the head of DMS. The Secretary is appointed by the Governor, subject to confirmation by the Senate. s. 20.22(1), F.S.

⁵ Section 20.22(2)(b), F.S.

⁶ *Id.*

cybersecurity and data analytics, while also providing the following critical services: voice, data, software, and much more.”⁷ The duties of DMS and DST include:

- Developing IT policy for the management of the state’s IT resources including state’s data center and telecommunications network;
- Establishing IT architecture standards and assisting state agencies⁸ in complying with those standards;
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects;
- Performing project oversight of all state agency IT projects that have a total cost of \$10 million or more, as well as cabinet agency IT projects that have a total cost of \$25 million or more, and are funded in the General Appropriations Act or any other law;
- Recommending potential methods for standardizing data across state agencies;
- Recommending open data⁹ technical standards and terminologies for use by state agencies;
- Establishing best practices for the procurement of IT products and cloud-computing services in order to reduce costs, increase the quality of data center services and telecommunication services, or improve government services; and
- Establishing a policy for all IT-related state contracts, including state term contracts for IT commodities, consultant services, and staff augmentation services.¹⁰

State Data Center and the Cloud-First Policy

In 2008, the Legislature created the State Data Center (SDC) system, established two primary data centers,¹¹ and required consolidation of agency data centers into the primary data centers by 2019,¹² which was completed in FY 2013-14. In 2014, the two primary data centers were merged to create the SDC within the then-existing Agency for State Technology.¹³ In 2019, the Legislature abolished the Agency for State Technology and moved the SDC to the Division of State Technology within DMS. DST is required to provide operational management and oversight of the SDC.¹⁴

The SDC relies heavily on the use of state-owned equipment installed at the SDC facility located at the Capital Circle Office Center in Tallahassee for the provision of data center services. The SDC is required to do the following:

- Offer, develop, and support the services and applications defined in service-level agreements executed with its customer entities;¹⁵

⁷ *State Technology*, FLORIDA DEPARTMENT OF MANAGEMENT SERVICES, https://www.dms.myflorida.com/business_operations/state_technology (last visited Jan. 27, 2020).

⁸ See s. 282.0041(27), F.S.

⁹ The term “open data” means data collected or created by a state agency and structured in a way that enables the data to be fully discoverable and usable by the public. The term does not include data that are restricted from public distribution based on federal or state privacy, confidentiality, and security laws and regulations or data for which a state agency is statutorily authorized to assess a fee for its distribution. Section 282.0041(18), F.S.

¹⁰ Section 282.0051, F.S.

¹¹ The Northwood Shared Resource Center and the Southwood Shared Resource Center. Sections. 282.204-282.205, F.S. (2008).

¹² Ch. 2008-116, L.O.F.

¹³ Ch. 2014-221, L.O.F.

¹⁴ Section 282.201, F.S.

¹⁵ A “customer entity” means an entity that obtains services from DMS. s. 282.0041(7), F.S.

- Maintain performance of the state data center by ensuring proper data backup, data backup recovery, disaster recovery, and appropriate security, power, cooling, fire suppression, and capacity;
- Develop and implement business continuity and disaster recovery plans, and annually conduct a live exercise of each plan;
- Enter into a service-level agreement with each customer entity to provide the required type and level of service or services;
- Assume administrative access rights to resources and equipment, including servers, network components, and other devices, consolidated into the SDC;
- Show preference, in its procurement process, for cloud-computing solutions that minimize or do not require the purchasing, financing, or leasing of SDC infrastructure, and that meet the needs of customer agencies, reduce costs, and that meet or exceed the applicable state and federal laws, regulations, and standards for IT security; and
- Assist customer entities in transitioning from state data center services to third-party cloud-computing services procured by a customer entity.

A state agency is prohibited, unless exempted¹⁶ elsewhere in law, from:

- Creating a new agency computing facility or data center;
- Expanding the capability to support additional computer equipment in an existing agency computing facility or data center; or
- Terminating services with the SDC without giving written notice of intent to terminate 180 days before termination.¹⁷

Cloud computing is “a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.”¹⁸ In 2019, the Legislature mandated that each agency adopt a cloud-first policy that first considers cloud computing solutions in its technology sourcing strategy for technology initiatives or upgrades whenever possible or feasible.¹⁹ Each agency must, just like the SDC, show a preference for cloud-computing solutions in its procurement process and adopt formal procedures for the evaluation of cloud-computing options for existing applications, technology initiatives, or upgrades.²⁰

¹⁶ The following entities are exempt from the use of the SDC: the Department of Law Enforcement, the Department of the Lottery’s Gaming System, Systems Design and Development in the Office of Policy and Budget, regional traffic management centers, the Office of Toll Operations of the Department of Transportation, the State Board of Administration, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Florida Housing Finance Corporation. S. 282.201(2), F.S.

¹⁷ Section 282.201(3), F.S.

¹⁸ *Special Publication 800-145*, National Institute of Standards and Technology, <https://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf> (last visited Jan. 27, 2020). The term “cloud computing” has the same meaning as provided in Special Publication 800-145 issued by the National Institute of Standards and Technology (NIST). s. 282.0041(5), F.S.

¹⁹ Section 282.206(1), F.S.

²⁰ Section 282.206(2) and (3), F.S.

IT Security

The IT Security Act²¹ establishes requirements for the security of state data and IT resources. The DMS must designate a state chief information security officer (CISO) to oversee state IT security.²² The CISO must have expertise in security and risk management for communications and IT resources.²³ The DST is charged with the following duties regarding IT security:

- Establishing standards and processes consistent with generally accepted best practices for IT security, including cybersecurity;
- Adopting rules that safeguard an agency's data, information, and IT resources to ensure availability, confidentiality, and integrity and to mitigate risks;
- Developing, and annually updating, a statewide IT security strategic plan that includes security goals and objectives for the strategic issues of IT security policy, risk management, training, incident management, and disaster recovery planning.²⁴

The IT Security Act requires the heads of state agencies to designate an information security manager to administer the IT security program of the state agency.²⁵ In part, the heads of state agencies are also required to annually submit to DMS the state agency's strategic and operational IT security plans; conduct, and update every three years, a comprehensive risk assessment; and ensure that periodic internal audits and evaluations of the agency's IT security program for the data, information, and IT resources of the state agency are conducted.²⁶

Telecommunication Services

The DST is also responsible for providing the state enterprise telecommunications system known as the SUNCOM Network. SUNCOM includes voice, data, radio, wiring and cabling, and conferencing service to state agencies, local governments, educational institutions, libraries, and non-profit organizations.²⁷ The DST also leads Emergency Support Functions (ESF 2)²⁸ and E-rate²⁹ and houses the Bureau of Public Safety, which provides Enhanced 911³⁰ and radio communications services to the state's public safety entities.³¹

Financial Technology

Financial technology, often referred to as "FinTech," encompasses a wide array of innovation in the financial services industry. FinTech is technology-enabled innovation in financial services that could result in new business models, applications, processes or products with an associated

²¹ Section 282.318, F.S., is cited as the "Information Technology Security Act."

²² Section 282.318(3), F.S.

²³ *Id.*

²⁴ Section 282.318(3), F.S.

²⁵ Section 282.318(4)(a), F.S.

²⁶ Section 282.318(4), F.S.

²⁷ Section 282.702, F.S.

²⁸ The DMS, as lead agency for ESF 2 under the direction of the Division of emergency Management, is the first point of contact for telecommunications service providers for equipment and services coordination to provide communications support statewide before, during, and after emergencies.

²⁹ E-Rate is a federal program created to ensure that schools and libraries have affordable access to advance telecommunications services.

³⁰ Section 365.171, F.S.

³¹ Sections 282.709 and 282.7101, F.S.

material effect on the provision of financial services.³² Technological innovation holds great promise for the provision of financial services, with the potential to increase market access, the range of product offerings, and convenience while also lowering costs to clients.³³ Greater competition and diversity in lending, payments, insurance, trading, and other areas of financial services can create a more efficient and resilient financial system.³⁴ Catalysts of FinTech innovations include technology, regulation, and evolving consumer preferences, including customization.³⁵

FinTech innovation is often thought to be synonymous with disruption of the traditional financial services market structure and its providers, such as financial institutions. However, to date, the relationship between incumbent financial institutions and FinTech firms appears to be largely complementary and cooperative in nature.³⁶ FinTech firms have generally not had sufficient access to the low-cost funding or the customer base necessary to pose a serious competitive threat to established financial institutions in mature financial market segments.³⁷ Partnering allows FinTech firms to operate while still being relatively small and, depending on the jurisdiction and the business model, unburdened by some financial regulation while still benefitting from access to incumbents' client base.³⁸ At the same time, incumbents benefit from access to innovative technologies that provide a competitive edge.³⁹ Yet there are exceptions to this trend, as some FinTech firms have established inroads in credit provision and payments.⁴⁰

Regulatory Sandboxes

Rapid Fintech development has brought with it regulatory uncertainty. Some suggest that regulatory relief and testing can be important when it comes to bringing innovative products to market.⁴¹ A well-designed and executed sandbox can facilitate innovation, protect consumers, and safeguard the financial systems.⁴² When approving pilots or issuing regulatory relief, some have suggested agencies adopt a data-driven approach, which incorporates information sharing and the ability to monitor experiments, to ensure the regulators can draw lessons from the sandbox.⁴³ Further, regulatory sandboxes can provide a Fintech business with valuable market insights while maintaining compliance, as well as greater knowledge of the laws surrounding its product or service, and the opportunity to begin building a relationship with a regulator.⁴⁴

³² Financial Stability Board, *FinTech and market structure in financial services: Market developments and potential financial stability implications* (Feb. 14, 2019), <https://www.fsb.org/2019/02/fintech-and-market-structure-in-financial-services-market-developments-and-potential-financial-stability-implications/> (last visited Feb. 14, 2020).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Quan, Dan, *A Few Thoughts on Regulatory Sandboxes*, Center for Monetary and Financial Alternatives, Cato Institute, at <https://pacscenter.stanford.edu/a-few-thoughts-on-regulatory-sandboxes/> (last viewed Feb. 14, 2020).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Virtual Currency Report, *Fintech Regulatory Sandboxes: Update on Arizona's Sandbox and Other Developments*, (Feb. 11, 2019), JDSUPRA, at <https://www.jdsupra.com/legalnews/fintech-regulatory-sandboxes-update-on-85915/> (last viewed Feb. 14, 2020).

Arizona Regulatory Sandbox

Arizona was the first state to enact⁴⁵ and launch a regulatory sandbox (sandbox) program.⁴⁶ The program is established under the Attorney General's Office to foster innovation by enabling a business to obtain limited access to the Arizona market to test innovative financial products or services.⁴⁷ Some of the products or services approved for Arizona's sandbox include:

- A financial services "club" using money transmission services in connection with the sale of digital assets aimed at providing a cash management solution for licensed medical marijuana providers.
- A business model for income-sharing agreements that provide qualified consumers with a fixed amount of money in exchange for a percentage of the consumer's future income over a scheduled period of time, subject to contingencies involving periods of unemployment or lowered income.
- A consumer-lending platform that enables small business partners to provide lending options at the point of sale for consumers seeking to finance household related projects.⁴⁸

Office of Financial Regulation

The Office of Financial Regulation (OFR) regulates financial institutions, finance companies, money services businesses, and the securities industry.⁴⁹ The Financial Services Commission (commission), composed of the Governor, Chief Financial Officer, Attorney General, and the Commissioner of Agriculture and Consumer Services, serves as the agency head of the OFR for purposes of rulemaking under ss. 120.536 through 120.565, F.S.⁵⁰

Money Services Businesses

Money services businesses include payment instrument sellers, money transmitters, check cashers, foreign currency exchangers, and deferred presentment providers, pursuant to ch. 560, F.S., the Money Services Business Act. Money services businesses (MSBs) are regulated under two license categories.⁵¹ Money transmitters and payment instrument issuers⁵² are regulated under part II of ch. 560, F.S., while check cashers⁵³ and foreign currency

⁴⁵ House Bill 2434, 2018 Second Regular Session, approved by the Governor March 22, 2018.

⁴⁶ Press, Daniel, *Arizona Becomes First State to Establish FinTech Sandbox* (Mar. 24, 2018) at <https://cei.org/blog/arizona-becomes-first-state-establish-fintech-sandbox> (last viewed Feb. 15, 2020).

⁴⁷ Arizona Attorney General, Mark Brnovich, *Arizona's Fintech Sandbox, Frequently Asked Questions* at <https://www.azag.gov/fintech/faq> (last viewed Feb. 10, 2020).

⁴⁸ Arizona Attorney General, Mark Brnovich, *Sandbox participants* at <https://www.azag.gov/fintech/participants> (last viewed Feb. 15, 2020).

⁴⁹ Section 20.121(3)(a)2., F.S.

⁵⁰ *Id.*

⁵¹ Section 560.104, F.S., provides that banks, credit unions, trust companies, offices of an international banking corporation, or other financial depository institutions organized under the laws of any state of the United States are exempt from the provisions of ch. 560, F.S.

⁵² A person licensed as a money transmitter or payment instrument seller may also engage in the activities authorized for check cashers and foreign currency exchangers without paying additional licensing fees. See s. 560.204(2), F.S.

⁵³ "Check casher" means a person who sells currency in exchange for payment instruments received, except for travelers checks. Section 560.103(6), F.S.

exchangers⁵⁴ are regulated under part III. An applicant for licensure as a money services business must:

- Demonstrate the character and general fitness to command the confidence of the public and warrant the belief that the money services business shall operate lawfully and fairly;
- Be legally authorized to do business in this state;
- Be registered as a money services business with the federal Financial Crimes Enforcement Network;⁵⁵ and
- Have an anti-money laundering program, which meets the requirements of 31 C.F.R. 1022.210.⁵⁶

Pursuant to the Florida Control of Money Laundering in Money Services Business Act, a MSB must maintain certain records of each transaction involving currency or payment instruments in order to deter the use of a money services business to conceal proceeds from criminal activity and to ensure the availability of such records for criminal, tax, or regulatory investigations or proceedings.⁵⁷ A MSB must keep records of each transaction occurring in this state which it knows to involve currency or other payment instruments having a value greater than \$10,000; to involve the proceeds of specified unlawful activity; or to be designed to evade the reporting requirements of ch. 896, F.S., or the Florida Control of Money Laundering in Money Services Business Act.⁵⁸ The OFR may take administrative action against a MSB for failure to maintain or produce documents required by ch. 560, F.S., or federal anti-money laundering laws.⁵⁹ The OFR may also take administrative action against an MSB for other violations of federal anti-money laundering laws such as failure to file suspicious activity reports.⁶⁰

A money transmitter “receives currency,⁶¹ monetary value,⁶² or payment instruments⁶³ for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country.”⁶⁴ A payment instrument seller sells, issues, provides, or delivers a payment instrument.⁶⁵ A money transmitter or payment instrument seller must:

⁵⁴ “Foreign currency exchanger” means a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government. s. 560.103(17), F.S.

⁵⁵ See 31 C.F.R. 1010.100 and 31 C.F.R. 1022.380. These provisions define money service businesses subject to registration with the Financial Crimes Enforcement Network (FinCEN).

⁵⁶ Section 560.1401, F.S.

⁵⁷ Section 560.123, F.S.

⁵⁸ *Id.*

⁵⁹ Section 560.114, F.S.

⁶⁰ *Id.*

⁶¹ “Currency” means the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes, and Federal Reserve notes. Currency also includes official foreign bank notes. Section 560.103(11), F.S.

⁶² “Monetary value” means a medium of exchange, whether or not redeemable in currency. s. 560.103(21), F.S.

⁶³ “Payment instrument” means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. s. 560.103(29), F.S.

⁶⁴ Section 560.103(23), F.S.

⁶⁵ Section 560.103(30) and (34).

- Have a net worth of at least \$100,000 and an additional net worth of \$10,000 per location in this state, up to a maximum of \$2 million.⁶⁶
- Have a corporate surety bond in an amount between \$50,000 and \$2 million depending on the financial condition, number of locations, and anticipated volume of the licensee.⁶⁷ In lieu of a corporate surety bond, the licensee may deposit collateral such as cash or interest-bearing stocks and bonds with a federally insured financial institution.⁶⁸
- Possess permissible investments, such as cash and certificates of deposit, with an aggregate market value of at least the aggregate face amount of all outstanding money transmissions and payment instruments issued or sold by the licensee or an authorized vendor in the United States with exceptions.⁶⁹
- Maintain specified records for at least five years.⁷⁰

An applicant for licensure under part II, of ch. 560, F.S., must submit a nonrefundable fee of \$375 with the application form.⁷¹ Applicants are subject to a background check and other specified requirements.⁷²

Federal Regulation

The Financial Crimes Enforcement Network of the U.S. Department of Treasury (FinCEN) is charged with safeguarding the U.S. financial system from the abuses of money laundering, terrorist financing, and other financial crimes.⁷³ To that end, the FinCEN administers the Bank Secrecy Act (BSA).⁷⁴ The BSA regulations requires financial institutions, which includes money services businesses, to establish an anti-money laundering program, verify customer identity, maintain certain records, and file suspicious activity reports and currency transaction reports that have been determined to have a high degree of usefulness in criminal, tax, and regulatory investigations, as well as in certain intelligence and counter-terrorism matters.⁷⁵ Generally, an MSB is required to register with FinCEN, regardless of whether the MSB is licensed with the state, if it conducts more than \$1,000 in business with one person in one or more transactions on the same day, in one or more of the following services: money orders, traveler's checks, check cashing, currency dealing or exchange.⁷⁶ However, if a business provides money transfer services in any amount, the business is required to be registered.⁷⁷

⁶⁶ Section 560.209, F.S.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Section 560.210, F.S.

⁷⁰ Sections 560.1105 and 560.211, F.S.

⁷¹ Section 560.143, F.S.

⁷² Sections 560.114, 560.141, and part II, ch. 560, F.S.

⁷³ FinCEN, *What We Do*, <https://www.fincen.gov/what-we-do> (last visited Jan. 31, 2020).

⁷⁴ The Currency and Foreign Transactions Reporting Act of 1970 (which legislative framework is commonly referred to as the "Bank Secrecy Act" or "BSA.") These statutes are codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, 18 U.S.C. 1956, 18 U.S.C. 1957, 18 U.S.C. 1960, and 31 U.S.C. 5311-5314 and 5316-5332 and notes thereto.

⁷⁵ .31 C.F.R. ss. 1010.100 and 1022.380.

⁷⁶ *Id.*

⁷⁷ *Id.*

Consumer Finance Loans

The Florida Consumer Finance Act (act)⁷⁸ authorizes licensed lenders to make secured or unsecured consumer loans of money, credit, goods, or choses in action⁷⁹ in an amount or to a value of \$25,000 with a tiered interest rate structure such that the maximum annual interest rate allowed on each tier decreases as principle amounts increase:

- 30 percent on the first \$3,000,
- 24 percent on principal above \$3,000 and up to \$4,000, and
- 18 percent on principal above \$4,000 and up to \$25,000.⁸⁰

An applicant for licensure must pay a nonrefundable biennial license fee of \$625, meet liquid asset standards, and other eligibility requirements.⁸¹ Licenses granted under the act are for a single place of business and must be renewed every two years. The act provides grounds for disciplinary action by the OFR against an applicant or a licensee.⁸²

III. Effect of Proposed Changes:

Florida Digital Service

Section 1 amends s. 20.22, F.S., to abolish the Division of State Technology, reestablishes the Division of Telecommunications and creates the Florida Digital Service “FDS”.

Section 2 amends s.110.205, F.S., to add the state chief data officer and the state chief information security officer as positions exempt from career service and allows the Department of Management Services (DMS) to set the salary and benefits in accordance with the rules of the Senior Management Services.

Section 3 amends s. 282.0041, F.S., to create or revise the following definitions:

- “Data governance” means the practice of organizing, classifying, securing, and implementing policies, procedures, and standards for the effective use of an organization’s data;
- “Electronic” means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- “Electronic credential” means an electronic representation of the identity of a person, organization, application, or device;
- “Enterprise” means the collection of state agencies. The term includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services;
- “Enterprise architecture” means a comprehensive operational framework that contemplates the needs and assets of the enterprise to support interoperability across state government;

⁷⁸ Ch. 516, F.S.

⁷⁹ Chose in action” is defined as “1. A property right in personam, such as a debt owed by another person . . . 2. The right to bring an action to recover a debt, money, or thing. 3. Personal property that one person owns but another person possesses, the owner being able to regain possession through a lawsuit.” Black’s Law Dictionary 101 (3d ed. 1996).

⁸⁰ Section 516.031 (1), F.S. In addition, consumer finance lenders are permitted to charge other fees, as provided in s. 516.031(3), F.S.

⁸¹ Section 516.03(1), F.S.

⁸² Section 516.07, F.S.

- “Interoperability” means the technical ability to share and use data across and throughout the enterprise; and
- “Open data” amends the definition to include data collected by the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services and adds reference to specific exemptions for privacy, confidentiality, security, personal health, business or trade secret information

Section 4 amends s. 282.0051, F.S., to provide the powers and duties of the FDS. The FDS is created within the DMS to propose solutions that securely modernize state government, achieve value through digital transformation and interoperability, and fully support the cloud-first policy as specified in s. 282.206, F.S.

The bill specifies the following duties and responsibilities to the FDS:

- To develop an enterprise architecture that acknowledges the unique need of each entity within the enterprise, facilitates digital interoperability, and supports cloud-first policy⁸³, and addresses how information technology (IT) infrastructure may be modernized to achieve cloud-first objectives.
- To recommend other payment mechanisms to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- To conduct, every three years starting in 2021, a market analysis to determine whether the IT resources within the enterprise are utilized in the most cost-effective and cost-efficient manner and incorporate the results into a strategic plan for continued and future information technology and information services including approaches to implement new services or technologies. The analysis and report must be submitted to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than December 31 of each year that a market analysis is conducted.
- To ensure the enterprise IT solutions are capable of utilizing an electronic credential and comply with the enterprise architecture standards.

The bill amends the date to January 1 of each even-numbered year for the DMS to provide recommendations for standardization and consolidation of IT services that support interoperability and the cloud-first policy to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill also adds a requirement for the state chief information officer to have, prior to appointment, at least five years of experience in the development of information system strategic planning and development or information technology policy, and preferably, have leadership-level experience in the design, development, and deployment of interoperable software and data solutions.

The bill adds a chief data officer with significant and substantive experience in data management, data governance, interoperability, and security.

The FDS shall do the following within funds appropriated to the FDS:

⁸³ Section 282.206, F.S.

- Create, not later than October 1, 2021, and maintain a comprehensive indexed data catalog that lists what data elements are housed within the enterprise and in which legacy system or application these data elements are located and what data is restricted from public disclosure;
- Develop and publish, not later than October 1, 2021, in collaboration with the enterprise, a data dictionary for each agency that reflects the nomenclature in the comprehensive indexed data catalog;
- Adopt, by rule, standards that support the creation and deployment of application programming interfaces to facilitate integration throughout the enterprise;
- Adopt, by rule, standards necessary to facilitate a secure ecosystem of data interoperability that is compliant with the enterprise architecture;;
- Adopt, by rule, standards that facilitate the deployment of applications or solutions to existing enterprise obligations in a controlled and phased approach; and
- After submission of documented use cases developed in conjunction with the affected agencies, assist the affected agencies with the deployment, contingent upon a specific appropriation , of new interoperable applications and solutions for:
 - The Department of Health, the Agency for Healthcare Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Elderly Affairs, and the Department of Children and Families; and
 - Support of military members, veterans, and their families.

Upon adoption of the enterprise architecture, the FDS may develop a process to:

- Receive written notice from the enterprise of procurement of an information technology project that is subject to governance by the enterprise architecture; and
- Participate in the development of specifications and recommend modifications of any procurement by state agencies that the procurement complies with the enterprise architecture.

The bill adds a requirement that the FDS may not retrieve or disclose any data without a shared data agreement in place between the department and the enterprise entity that has primary custodial responsibility of, or data-sharing responsibility for, that data.

Section 5 amends s. 282.00515, F.S., to revise the current process which requires the Cabinet agencies to either adopt the IT architecture standards established in s. 282.0051, F.S., or adopt alternative standards based on best practices and industry standards. The bill provides that, if a Cabinet agency adopts alternative standards in lieu of the enterprise architecture standards, such agency must provide a written justification, including an explanation on how the agency will achieve open data interoperability, to; the Governor, the President of the Senate, and the Speaker of the House of Representatives.t

The bill clarifies that nothing in this section of law requires the Department of Legal Affairs, the Department of Financial Services, or the Department of Agriculture and Consumer Services to integrate with information technology outside its own department or with the FDS and the FDS may not retrieve or disclose any data without a data sharing agreement in place.

Sections 6, 7, 8, 9, 10, and 11 amend ss. 282.318, 287.0591, 365.171, 365.172, 365.173, and 943.0415, F.S., respectively, to make technical, conforming changes.

Financial Technology Sandbox

Section 12 creates s. 559.952, F.S., the “Financial Technology Sandbox” (“sandbox”) effective January 1, 2021, within the Office of Financial Regulation (OFR). Subsection (2) provides that the intent of the sandbox is to allow financial technology innovators to test new products and services in a supervised, flexible regulatory sandbox, using exceptions from specified general law and waivers of the corresponding rule requirements under defined conditions. Subsection (3) creates definitions of terms, including the following:

- “Business entity” means a domestic corporation or other organized domestic entity with a physical presence, other than that of a registered office or agent or virtual mailbox, in this state.
- “Commission” means the Financial Services Commission.
- “Consumer” means a person in this state, whether a natural person or a business entity, who purchases, uses, receives, or enters into an agreement to purchase, use, or receive an innovative financial product or service made available through the Financial Technology Sandbox.
- “Control person,” is defined to have the same meaning as provided in s. 516.01, F.S.
- “Corresponding rule requirements” means the commission rules, or portions thereof, which implement the general laws enumerated in the bill.
- “Financial product or service” means a product or service related to a consumer finance loan, as defined in s. 516.01, F.S., or as a money transmitter or payment instrument seller, as defined in s. 560.103, F.S., including mediums of exchange that are in electronic or digital form, which is subject to general law or corresponding rule requirements in the sections enumerated in paragraph (4)(a) and to general law or corresponding rule requirements in the sections enumerated in paragraph (4)(a) and which is under the jurisdiction of the office.
- “Financial Technology Sandbox” means the program which allows a licensee to make an innovative financial product or service available to consumers as a person who makes and collects consumer finance loans, as defined in s. 516.01, F.S., or as a money transmitter or payment instrument seller, as defined in s. 560.103, F.S., during a sandbox period through an exception to general laws or a waiver of rule requirements, or portions thereof.
- “Innovative” means new or emerging technology, or new uses of existing technology, which provides a product, service, business model, or delivery mechanism to the public and which is not known to have a comparable offering in this state outside of the Financial Technology Sandbox.
- “Licensee” means a business entity that has been approved by the office to participate in the Financial Technology Sandbox.
- “Office” means, unless the context clearly indicates otherwise, the Office of Financial Regulation.
- “Sandbox period” means the initial 24 month period, in which the office has authorized a licensee to make an innovative financial product or service available to consumers, and any extension granted pursuant to law.

Sandbox Application; Standards for Approval (Subsection 5)

Before filing an application to enter the sandbox, a substantially affected person may seek a declaratory statement regarding the applicability of a statute, rule, or agency order to the

petitioner's particular set of circumstances.

The Commission shall, by rule, prescribe the form and manner of the application and how the office will evaluate each application.

Before making an innovative financial product or service available to consumers in the sandbox, a business entity must file an application for licensure with the OFR. In the application, the business entity must specify the general law or rule requirements for which an exception or waiver is sought and the reasons why these requirements prevent the innovative financial product or service from being made available to consumers. The application must also contain:

- The nature of the innovative financial product or service proposed to be made available to consumers in the sandbox;
- The maximum number of consumers to whom the applicant proposes to provide the innovative financial product or service;
- The potential risk to consumers, and the methods that will be used to protect consumers and resolve complaints during the sandbox period;
- The business plan proposed by the applicant;
- Whether the applicant has the necessary personnel, adequate financial and technical expertise, and a sufficient plan to test, monitor, and assess the innovative financial product or service;
- If any control person involved in the development, operation, or management of the applicant's innovative financial product or service has pled no contest to, has been convicted or found guilty of, or is currently under investigation for, fraud, a state or federal securities violation, any property-based offense, or any crime involving moral turpitude or dishonest dealing, the application to the sandbox will be denied. A plea of no contest, a conviction, or a finding of guilt must be reported regardless of adjudication;
- A copy of the disclosures that will be provided to consumers;
- The financial responsibility of any control person; and
- Any other factor that the office determines to be relevant.

The OFR may not approve an application if the applicant had a prior sandbox application that was approved and that related to a substantially similar financial product or service, or if any control person substantially involved in the development, operation, or management of the applicant's innovative financial product or service was substantially involved with another sandbox applicant whose application was approved and whose application related to a substantially similar financial product or service, or if the applicant or any control person has failed to affirmatively demonstrate financial responsibility.

The OFR must approve or deny in writing a sandbox application within 60 days after receipt of the completed application. The OFR and the applicant may jointly agree to extend the time beyond 60 days. Consistent with this section, the OFR may impose conditions on any approval.

Upon approval of an application, the OFR must notify the licensee of their exemption from general law enumerated in the bill and corresponding rule during the sandbox period and the length of the initial sandbox period, not to exceed 24 months. The OFR must post on its website notice of the approval of the application, a summary of the innovative financial product or

service, and the contact information of the licensee making the financial product or service available.

Exceptions of General Law and Waivers of Rules (Subsection 4)

Notwithstanding any other law, the following provisions of general law and corresponding rule requirements are not applicable to the licensee during the sandbox period:

- Section 516.03(1), F.S., relating to the application of a license, to waive the authority of the OFR to request information about the applicant or control person regarding their qualifications, educational and business history, and disciplinary and criminal history. Subsection (5) of section 12 of the bill requires an applicant to provide information concerning their financial and technical expertise, as well as information, including financial responsibility, concerning any control persons. Further the bill and section 516.07, F.S., provide grounds for the denial of a licensee. Section 516.05(1) and (2), F.S., relating to the licensure requirements, to allow for waivers of the 2-year license period and provisions relating to inactive licenses. However, the requirement for the OFR to conduct a background check, required in subsection (1) is not waived.
- Section 560.109, F.S., relating to the examinations and investigations is waived only to the extent that the section requires the OFR to examine a licensee at least once every five years beyond the authorized sandbox period.
- Section 560.118(1), F.S., relating to reports, to waive the quarterly reporting requirement. The bill requires sandbox licensees to submit reports twice a year.
- Section 560.125, F.S., relating to unlicensed activities and penalties, waives subsection (1), only to the extent that subsection would prohibit a licensee from engaging in the business of a money services business during the sandbox period; and subsection (2) is waived only to the extent that subsection would prohibit a licensee from appointing an authorized vendor during the sandbox period
- Section 560.128, F.S., relating to customer contact information and license, to waive the requirements that a licensee provide contact information for the licensee and the OFR and display a license at each location.
- Section 560.141, F.S., relating to the application for a license as a money services business, waives the submission of the following information:
 - Date and state of the applicant's formation.
 - A description of the applicant's business structure.
 - If the applicant or parent is a publicly traded company, copies of all filings made with the U.S. Securities and Exchange Commission or with a similar regulator in another country within the preceding year.
 - The name of the registered agent in this state.
 - Information concerning the company organization, financial viability, and financial responsibility are required as part of the sandbox application process.
- Section 560.142, F.S., relating to the issuance of a license renewal except that the OFR may prorate, but not entirely waive, the license renewal period. The initial sandbox license period is 24 months and the OFR may grant an extension for an additional 12 months, if certain conditions are met.
- Section 560.143(2), F.S., relating to license renewal fees, only to the extent necessary for proration of the renewal fee.

- Section 560.204(1), F.S., relating to unlicensed activity, only to the extent that subsection would prohibit an applicant from engaging in, or advertising it engages in, the selling or issuing of payment instruments or in the activity of a money transmitter during the sandbox period.
- Section 560.205(2), F.S., relating to additional license application requirements, the submission of a sample form of payment instrument is waived. Section 560.208(2), F.S., relating to conduct of businesses, to waive the authority of a licensee to charge a different price for a money transmitter service based on the mode of transmission if certain conditions are met. or
- Section 560.209, F.S., relating to net worth, corporate surety bonds, and collateral deposit in lieu of bond, only to the extent that the OFR may modify, but not entirely waive, the net worth, corporate surety bond, and collateral deposit amounts required under this section. The modified amounts must be in such lower amounts that the OFR determines to be commensurate with the considerations under paragraph (5)(c) and the maximum number of consumers authorized to receive the financial product or service under this section.

Sandbox Operation (Subsection 6)

A licensee may make an innovative financial product or service available to consumers during the initial sandbox period of 24 months. The OFR may, on a case-by-case basis and after consultation with the licensee, specify the maximum number of consumers authorized to receive an innovative financial product or service. The OFR may not authorize more than 15,000 consumers to receive the financial product or service until the licensee has filed the first required biannual report. After the filing of the first report, if the licensee demonstrates adequate financial capitalization, risk management process, and management oversight, the OFR may authorize up to 25,000 consumers to receive the financial product or service.

Before a consumer purchases, uses, receives, or enters into an agreement to purchase, use, or receive an innovative financial product or service through the sandbox, the licensee must provide a written statement to the consumer that includes the following disclosures:

- The name and contact information of the person making the financial product or service available to consumers;
- That the financial product or service has been authorized to be made available to consumers for a temporary period by the office, under the laws of this state;
- That this state does not endorse the financial product or service;
- That the financial product or service is undergoing testing, may not function as intended, and may entail financial risk;
- That the person making the financial product or service available to consumers is not immune from civil liability for any losses or damages caused by the financial product or service;
- The expected end date of the sandbox period;
- The contact information for the office, and notification that suspected legal violations, complaints, or other comments related to the financial product or service may be submitted to the office; and
- Any other statements or disclosures required by rule of the commission.

The written statement must contain an acknowledgment from the consumer, which must be retained for the duration of the sandbox period by the licensee making the financial product or service available.

The OFR may enter into an agreement with a state, federal, or foreign regulatory agency to allow persons who make an innovative financial product or service available in this state through the sandbox to make their products or services available in other jurisdictions. The commission must adopt rules to implement this provision.

The OFR may examine the records of a sandbox licensee at any time, with or without notice.

Sandbox Period Extension and Conclusion (Subsection 7)

A licensee may apply for an extension of the initial sandbox period for 12 additional months. A complete application for an extension must be filed with the OFR at least 90 days before the conclusion of the initial sandbox period. The OFR must approve or deny the application for extension in writing at least 35 days before the conclusion of the initial sandbox period. In deciding to approve or deny an application for extension of the sandbox period, the office must at least consider the status of the factors previously considered in deciding to approve or deny an application to enter the sandbox. An application for an extension must cite one of the following reasons as the basis for the application and must provide all relevant supporting information that:

- Amendments to general law or rules are necessary to offer the innovative financial product or service in this state permanently; or
- An application for a license that is required in order to offer the innovative financial product or service in this state permanently has been filed with the OFR, and approval is pending.

At least 30 days before the conclusion of the initial sandbox period or the extension, whichever is later, a licensee must provide written notification to consumers regarding the conclusion of the initial sandbox period or the extension, and may not make the financial product or service available to any new consumers after the conclusion of the initial sandbox period or the extension, whichever is later, until legal authority outside of the sandbox exists to make the financial product or service available to consumers. After the conclusion of the sandbox period or the extension, whichever is later, the person who makes the innovative financial product or service available may:

- Collect and receive money owed to the person or pay money owed by the person, based on agreements with consumers made before the conclusion of the sandbox period or the extension;
- Take necessary legal action; and
- Take other actions authorized by commission rule, which are not inconsistent with this subsection.

Reporting (Subsection 8)

A person authorized to make an innovative financial product or service available to consumers must submit a report to the office twice a year, as prescribed by commission rule. The report must include financial reports and the number of consumers who have received the financial product or service.

Construction (Subsection 9)

A business entity whose sandbox application is approved under this section is deemed licensed under chapter 516, chapter 560, or both chapter 516 and 560, F.S., as applicable to the business entity's activities. The business entity is subject to any provision of chapter 516 or chapter 560, F.S., not specifically excepted under paragraph (4)(a), as the applicable to the business entity's activities, and must comply with such provisions. Notwithstanding s. 560.204(2), F.S., the business entity may not engage in part III of chapter 560, F.S.

Violations and Penalties (Subsection 10)

A licensee who makes an innovative financial product or service available to consumers in the sandbox is not immune from civil damages for acts and omissions relating to this section and is subject to all criminal statutes and any other statute not specifically excepted. The OFR may, by order, revoke or suspend authorization granted to a person to make an innovative financial product or service available to consumers if:

- The licensee has violated or refused to comply with this section, a rule of the commission, an order of the OFR, or a condition placed by the office on the approval of the person's sandbox application;
- A fact or condition exists that, if it had existed or become known at the time that the sandbox application was pending, would have warranted denial of the application or the imposition of material conditions;
- A material error, false statement, misrepresentation, or material omission was made in the sandbox application; or
- After consultation with the licensee, continued testing of the innovative financial product or service would:
 - Be likely to harm consumers; or
 - No longer serve the purposes of this section because of the financial or operational failure of the financial product or service.

Written notice of a revocation or suspension order must be served using any means authorized by law. If the notice relates to a suspension, the notice must include any condition or remedial action that the person must complete before the office lifts the suspension. The office may refer any suspected violation of law to an appropriate state or federal agency for investigation, prosecution, civil penalties, and other appropriate enforcement actions. If service of process on a person making an innovative financial product or service available to consumers in the sandbox is not feasible, service on the OFR is deemed service on such person.

Rules and Orders (Subsection 11)

The commission must adopt rules to administer this section prior to approving any sandbox application. The OFR may issue all necessary orders to enforce this section and may enforce the orders in accordance with ch. 120, F.S., or in any court of competent jurisdiction. These orders include, but are not limited to, orders for payment of restitution for harm suffered by consumers because of an innovative financial product or service.

Appropriation for the Sandbox

Section 13 provides an appropriation of \$50,000 in nonrecurring funds from the Administrative Trust Fund to the Office of Financial Regulation to implement s. 559.952, F.S., as created by this act.

Effective Date

Section 14. The creation of s. 559.952, F.S., and the appropriation to implement s. 559.952, F.S., by this act shall take effect only if SB 1872 or similar legislation takes effect and if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 1872 creates public record exemptions for certain records containing proprietary business information related to the Financial Technology Sandbox.

Section 15 provides that, except as otherwise expressly provided, the bill takes effect July 1, 2020.

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:

Entering into Reciprocal Agreements with Other States, Federal Agencies, or Foreign Regulatory Agencies

Statutory authorization to enter reciprocal agreements with other states may potentially implicate the “nondelegation doctrine.” Article III, Section 1 of the Florida Constitution states that “[t]he legislative power of the state shall be vested in a legislature of the State of Florida.” The Florida Supreme Court has held that this constitutional provision requires that “primary policy decisions shall be made by members of the legislature who

are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines....”⁸⁴

The Legislature may constitutionally transfer subordinate functions to "permit administration of legislative policy by an agency with the expertise and flexibility to deal with complex and fluid conditions."⁸⁵ However, the Legislature "may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law."⁸⁶ Further, the nondelegation doctrine precludes the Legislature from delegating its powers “absent ascertainable minimal standards and guidelines.”⁸⁷ When the Legislature delegates power to another body, it “must clearly announce adequate standards to guide in the execution of the powers delegated.”⁸⁸

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There could be a fiscal impact on businesses that have a reduced regulatory structure by inclusion into the Financial Technologies Sandbox. This could allow these businesses to be more successful or could result in the failure of the business.

C. Government Sector Impact:

Sections 1 through 11 of the Bill:

The bill will have a significant negative fiscal impact on state government expenditures. It is unclear how the Florida Digital Service (FDS), within the DMS, will be funded. The current structure of the Division of State Technology allows the Office of the State Chief Information Officer (OCIO) to be included within the state data center’s cost recovery model. The bill provides for much different duties and structure which is unlikely to be allowable under Florida’s Statewide Cost Allocation Plan. The actual structure of the FDS is not clear, but the current budget of the OCIO in SB 2500, the Senate’s General Appropriations Bill, funded through the cost recovery model is \$6,090,379. Also, the current duties of the OCIO have significantly expanded and the OCIO may not have the staffing levels to support this expanded workload. Of the \$6,090,379 provided in SB 2500, \$850,000 from the Working Capital Trust Fund is specifically appropriated for software to support the data catalog specified in this bill.

⁸⁴ *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla. 1978).

⁸⁵ *Microtel v. Fla. Pub. Serv. Comm'n*, 464 So.2d 1189, 1191 (Fla.1985) (citing *State, Dep't of Citrus v. Griffin*, 239 So.2d 577 (Fla.1970)).

⁸⁶ *Sims v. State*, 754 So.2d 657, 668 (Fla. 2000).

⁸⁷ *Dep't of Bus. Reg., Div. of Alcoholic Beverages and Tobacco v. Jones*, 474 So.2d 359, 361 (Fla. 1st DCA 1985).

⁸⁸ *Martin*, 916 So.2d at 770.

Sections 12 through 14 of the Bill:***Office of Financial Regulation (OFR)***

The OFR estimates that they will need \$50,000 in nonrecurring funds to make changes to their information technology infrastructure in order to administer the Financial Technology Sandbox program.⁸⁹

VI. Technical Deficiencies:**VII. Related Issues:****VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.22, 110.205, 282.0041, 282.0051, 282.00515, 282.318, 287.0591, 365.171, 365.172, 365.173, and 943.0415.

This bill creates section 559.952 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/CS/CS by Appropriations on March 3, 2020:**

The committee substitute:

- Adds a definition for data governance, removes definitions for credential service provider, data-call, and qualified entity, and modifies definition for open data to include references to disclosure exemptions for privacy, confidentiality, security, personal health, business or trade secret information and state public records laws.
- Removes the authority for the Florida Digital Service (FDS) to procure a credential service provider.
- Removes the authority for the FDS to enter into agreements with qualified entities to access state data for a fee, and for the revenue from the fees to be deposited into the Department of Management Services (DMS) operating trust fund.
- Amends the date for the FDS to provide recommendations for standardization or consolidation of information technology (IT) services to January 1 of each even-numbered year.
- Allows the FDS to submit recommendations for other payment mechanism to the Governor, President, and Speaker and such mechanisms can only be implemented if specifically authorized by the Legislature.

⁸⁹ Email from Office of Financial Regulation, CS/SB 1870 Fiscal Impact (Feb. 14, 2020). On file with the Banking and Insurance Committee.

- Requires the FDS to conduct a market analysis every three years and incorporate the results into a strategic plan. The analysis and plan must be submitted to the Governor, President, and Speaker by December 31 of the year the analysis was conducted.
- Add requirement that enterprise IT solutions must be capable of utilizing an electronic credential and comply with the enterprise architecture standards.
- Adds experience requirements for the Chief Information Officer (CIO) and Chief Data Officer (CDO).
- Allows the DMS to set the salary and benefits for the CIO, CDO, and Chief Information Security Officer as Senior Management Service.
- Provide deadlines for the development of a statewide data dictionary and data catalog.
- Requires the DMS to use the rulemaking process for developing and publishing statewide IT standards as it relates to architecture, data interoperability, interfaces, and the deployment of new applications and solutions to existing systems.
- Removes authority to set standards over existing solutions for digital proof of driver's licenses, authentication of voter eligibility, and integration for motor vehicle insurance cancellation.
- Amends the notification requirements for the Cabinet agencies when adopting alternative IT standards.
- Clarifies that there is no requirements in s. 282.0051, F.S., for Cabinet agencies to integrate with systems outside of their department and that the FDS may not retrieve or disclose any data without a data sharing agreement in place.
- Makes technical clarifying changes for specific exemptions in general law for the financial technology sandbox
- Adds requirement for applicants to specify the number of consumers they propose to offer their product or service to and include a draft of the proposed consumer disclosures as part of the initial application
- Requires the Office of Financial Regulation (OFR) to consider the financial responsibility of an applicant and requires the OFR to deny a license if an applicant does not comply with these requirements.
- Revises license periods to provide that the initial sandbox license is for a period of 24 months, instead of up to 24 months, and the extension licensee is for a period of 12 months, instead of up to 12 months.
- Provides that a business entity whose sandbox application is approved by the OFR is licensed under chapter 516, chapter 560, or both chapters 516 and 560, as applicable to the activities of the business entity; and is subject to any provision of chapter 516 or chapter 560 not specifically excepted, as applicable to the activities of the business entity, and must comply with such provisions.

CS/CS by Banking and Insurance on February 19, 2020:

The CS:

- Eliminates the Enterprise Architecture Advisory Council.
- Revises powers and duties of the Florida Digital Services.
- Revises the definition of the term, "enterprise," to exclude the judicial branch.

- Provides that a credential service provider and qualifying entity revenues may not be derived from any other transactions that generate revenue for the enterprise outside of the per-data-call or subscription charges.
- Provides technical, conforming changes.
- Revises the Financial Regulatory Sandbox program to limit the scope to products or services relating to a consumer finance loan or a money transmitter and payment instrument seller.
- Creates additional definitions relating to the Financial Regulatory Sandbox program.
- Eliminates the authority of the Office of Financial Regulation to enter into reciprocity agreements with other states, federal agencies, or foreign regulatory agencies to allow persons operating in sandboxes in other jurisdictions to operate in this state.
- Revises requirements for the application for licensure under the Financial Regulatory Sandbox program.
- Removes additional recordkeeping requirements for sandbox licensees.
- Appropriates \$50,000 in nonrecurring funds from the Administrative Trust Fund to the Office of Financial Regulation to implement the provisions of s. 559.952, F.S.

CS by Innovation, Industry, and Technology on February 10, 2020:

The committee substitute:

- Creates the definitions relating to the Florida Digital Service in s. 282.0041, F.S., instead of s. 282.0051, F.S.;
- Provides new definitions for “credential service provider,” “data call,” “electronic,” “electronic credential,” and “electronic credential provider”;
- Changes the definition of “enterprise” for purposes of the provisions on the Florida Digital Service’s enterprise architecture to include all entities within the executive branch of state government, plus the Justice Administrative Commission and the Public Service Commission, and Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Financial Services, and the judicial branch;
- Expands the Florida Digital Service’s oversight of and involvement in projects that have an information technology component and provides for exceptions;
- Deletes all qualifications for the state chief information officer, the state chief data officer, and the state chief information security officer;
- Deletes the provisions on the Florida Digital Service enforcing the enterprise architecture by intervening in any procurement of information technology and delaying the procurement until it complies with the enterprise architecture;
- Deletes the requirement that the enterprise architecture’s comprehensive account for all of the needs and responsibilities of a department;
- Requires the terms of the contract with a credential service provider pay for that service on a per-data call or subscription basis, with the revenues from these charges deposited into DMS’s operating trust fund for distribution, with DMS to recover all costs for implementing and administering the electronic credential solution;
- Authorizes the Florida Digital Service to “report to the legislative branch on any project within the judicial branch which does not comply with the enterprise architecture, while understanding the separation of powers”;

- Creates the Enterprise Architecture Advisory Council to meet semiannually to discuss implementation, management, and coordination of the enterprise architecture; identify potential issues and threats with specific use cases; and develop proactive solutions;
- Creates the Financial Technology Sandbox Act effective January 1, 2021;
- Provides authority for exceptions rather than waivers of certain statutory requirements;
- Deletes banking products and services from the definition of financial product or service and deletes references to blockchain technology;
- Deletes from the definition of “innovative” the requirement that the technology “has no substantially comparable, widely available analog in this state”;
- Authorizes the Office of Financial Regulation, not the Commissioner of the Office of Financial Regulation to waive a requirement or a portion thereof which is imposed by a general law or rule, and lists individual statutes which may be waived instead of entire chapters;
- Provides for declaratory statement on applicability of statutes, rules, or orders;
- Provides that the Financial Services Commission is to prescribe by rule the form and manner of the application to enter the Financial Technology Sandbox, not the Commissioner of the Office of Financial Regulation;
- Deletes a requirement that the applicant submit fingerprints for each individual filing an application and each individual who is substantially involved in the development, operation, or management of the innovative financial product or service, together with all the provisions relating to this requirement;
- Deletes a requirement that a person whose Financial Technology Sandbox application is approved post a consumer protection bond with the commissioner as security for potential losses suffered by consumers;
- Adds a limitation of 15,000 consumers to receive the financial product or service prior to filing the first activity report, with the limit increased after such filing to 25,000; and
- Adds a requirement that these reports, at a minimum, include financial reports and the number of consumers who have received the financial product or service.

B. Amendments:

None.



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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 03/04/2020 | . | |
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The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 20.22, Florida
Statutes, is amended to read:

20.22 Department of Management Services.—There is created a
Department of Management Services.

(2) The following divisions, and programs, and services
within the Department of Management Services are established:



- 11 (a) Facilities Program.
- 12 (b) The Florida Digital Service Division of State
13 ~~Technology, the director of which is appointed by the secretary~~
14 ~~of the department and shall serve as the state chief information~~
15 ~~officer. The state chief information officer must be a proven,~~
16 ~~effective administrator who must have at least 10 years of~~
17 ~~executive level experience in the public or private sector,~~
18 ~~preferably with experience in the development of information~~
19 ~~technology strategic planning and the development and~~
20 ~~implementation of fiscal and substantive information technology~~
21 ~~policy and standards.~~
- 22 (c) Workforce Program.
- 23 (d) 1. Support Program.
- 24 2. Federal Property Assistance Program.
- 25 (e) Administration Program.
- 26 (f) Division of Administrative Hearings.
- 27 (g) Division of Retirement.
- 28 (h) Division of State Group Insurance.
- 29 (i) Division of Telecommunications.
- 30 Section 2. Paragraph (e) of subsection (2) of section
31 110.205, Florida Statutes, is amended to read:
32 110.205 Career service; exemptions.—
33 (2) EXEMPT POSITIONS.—The exempt positions that are not
34 covered by this part include the following:
35 (e) The state chief information officer, the state chief
36 data officer, and the state chief information security officer.
37 ~~Unless otherwise fixed by law, The Department of Management~~
38 ~~Services shall set the salary and benefits of these positions~~
39 ~~this position~~ in accordance with the rules of the Senior



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40 Management Service.

41 Section 3. Section 282.0041, Florida Statutes, is amended
42 to read:

43 282.0041 Definitions.—As used in this chapter, the term:

44 (1) "Agency assessment" means the amount each customer
45 entity must pay annually for services from the Department of
46 Management Services and includes administrative and data center
47 services costs.

48 (2) "Agency data center" means agency space containing 10
49 or more physical or logical servers.

50 (3) "Breach" has the same meaning as provided in s.
51 501.171.

52 (4) "Business continuity plan" means a collection of
53 procedures and information designed to keep an agency's critical
54 operations running during a period of displacement or
55 interruption of normal operations.

56 (5) "Cloud computing" has the same meaning as provided in
57 Special Publication 800-145 issued by the National Institute of
58 Standards and Technology.

59 (6) "Computing facility" or "agency computing facility"
60 means agency space containing fewer than a total of 10 physical
61 or logical servers, but excluding single, logical-server
62 installations that exclusively perform a utility function such
63 as file and print servers.

64 (7) "Customer entity" means an entity that obtains services
65 from the Department of Management Services.

66 (8) "Data" means a subset of structured information in a
67 format that allows such information to be electronically
68 retrieved and transmitted.



69 (9) "Data governance" means the practice of organizing,
70 classifying, securing, and implementing policies, procedures,
71 and standards for the effective use of an organization's data.

72 (10) "Department" means the Department of Management
73 Services.

74 (11)~~(10)~~ "Disaster recovery" means the process, policies,
75 procedures, and infrastructure related to preparing for and
76 implementing recovery or continuation of an agency's vital
77 technology infrastructure after a natural or human-induced
78 disaster.

79 (12) "Electronic" means technology having electrical,
80 digital, magnetic, wireless, optical, electromagnetic, or
81 similar capabilities.

82 (13) "Electronic credential" means an electronic
83 representation of the identity of a person, an organization, an
84 application, or a device.

85 (14) "Enterprise" means state agencies and the Department
86 of Legal Affairs, the Department of Financial Services, and the
87 Department of Agriculture and Consumer Services.

88 (15) "Enterprise architecture" means a comprehensive
89 operational framework that contemplates the needs and assets of
90 the enterprise to support interoperability.

91 (16)~~(11)~~ "Enterprise information technology service" means
92 an information technology service that is used in all agencies
93 or a subset of agencies and is established in law to be
94 designed, delivered, and managed at the enterprise level.

95 (17)~~(12)~~ "Event" means an observable occurrence in a system
96 or network.

97 (18)~~(13)~~ "Incident" means a violation or imminent threat of



98 violation, whether such violation is accidental or deliberate,
99 of information technology resources, security, policies, or
100 practices. An imminent threat of violation refers to a situation
101 in which the state agency has a factual basis for believing that
102 a specific incident is about to occur.

103 (19)~~(14)~~ "Information technology" means equipment,
104 hardware, software, firmware, programs, systems, networks,
105 infrastructure, media, and related material used to
106 automatically, electronically, and wirelessly collect, receive,
107 access, transmit, display, store, record, retrieve, analyze,
108 evaluate, process, classify, manipulate, manage, assimilate,
109 control, communicate, exchange, convert, converge, interface,
110 switch, or disseminate information of any kind or form.

111 (20)~~(15)~~ "Information technology policy" means a definite
112 course or method of action selected from among one or more
113 alternatives that guide and determine present and future
114 decisions.

115 (21)~~(16)~~ "Information technology resources" has the same
116 meaning as provided in s. 119.011.

117 (22)~~(17)~~ "Information technology security" means the
118 protection afforded to an automated information system in order
119 to attain the applicable objectives of preserving the integrity,
120 availability, and confidentiality of data, information, and
121 information technology resources.

122 (23) "Interoperability" means the technical ability to
123 share and use data across and throughout the enterprise.

124 (24)~~(18)~~ "Open data" means data collected or created by a
125 state agency, the Department of Legal Affairs, the Department of
126 Financial Services, and the Department of Agriculture and



127 Consumer Services, and structured in a way that enables the data
128 to be fully discoverable and usable by the public. The term does
129 not include data that are restricted from public disclosure
130 ~~distribution~~ based on federal or state ~~privacy, confidentiality,~~
131 ~~and security~~ laws and regulations, including, but not limited
132 to, those related to privacy, confidentiality, security,
133 personal health, business or trade secret information, and
134 exemptions from state public records laws; or data for which a
135 state agency, the Department of Legal Affairs, the Department of
136 Financial Services, or the Department of Agriculture and
137 Consumer Services is statutorily authorized to assess a fee for
138 its distribution.

139 ~~(25)-(19)~~ "Performance metrics" means the measures of an
140 organization's activities and performance.

141 ~~(26)-(20)~~ "Project" means an endeavor that has a defined
142 start and end point; is undertaken to create or modify a unique
143 product, service, or result; and has specific objectives that,
144 when attained, signify completion.

145 ~~(27)-(21)~~ "Project oversight" means an independent review
146 and analysis of an information technology project that provides
147 information on the project's scope, completion timeframes, and
148 budget and that identifies and quantifies issues or risks
149 affecting the successful and timely completion of the project.

150 ~~(28)-(22)~~ "Risk assessment" means the process of identifying
151 security risks, determining their magnitude, and identifying
152 areas needing safeguards.

153 ~~(29)-(23)~~ "Service level" means the key performance
154 indicators (KPI) of an organization or service which must be
155 regularly performed, monitored, and achieved.



156 ~~(30)-(24)~~ "Service-level agreement" means a written contract
157 between the Department of Management Services and a customer
158 entity which specifies the scope of services provided, service
159 level, the duration of the agreement, the responsible parties,
160 and service costs. A service-level agreement is not a rule
161 pursuant to chapter 120.

162 ~~(31)-(25)~~ "Stakeholder" means a person, group, organization,
163 or state agency involved in or affected by a course of action.

164 ~~(32)-(26)~~ "Standards" means required practices, controls,
165 components, or configurations established by an authority.

166 ~~(33)-(27)~~ "State agency" means any official, officer,
167 commission, board, authority, council, committee, or department
168 of the executive branch of state government; the Justice
169 Administrative Commission; and the Public Service Commission.
170 The term does not include university boards of trustees or state
171 universities. As used in part I of this chapter, except as
172 otherwise specifically provided, the term does not include the
173 Department of Legal Affairs, the Department of Agriculture and
174 Consumer Services, or the Department of Financial Services.

175 ~~(34)-(28)~~ "SUNCOM Network" means the state enterprise
176 telecommunications system that provides all methods of
177 electronic or optical telecommunications beyond a single
178 building or contiguous building complex and used by entities
179 authorized as network users under this part.

180 ~~(35)-(29)~~ "Telecommunications" means the science and
181 technology of communication at a distance, including electronic
182 systems used in the transmission or reception of information.

183 ~~(36)-(30)~~ "Threat" means any circumstance or event that has
184 the potential to adversely impact a state agency's operations or



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185 assets through an information system via unauthorized access,
186 destruction, disclosure, or modification of information or
187 denial of service.

188 (37)~~(31)~~ "Variance" means a calculated value that
189 illustrates how far positive or negative a projection has
190 deviated when measured against documented estimates within a
191 project plan.

192 Section 4. Section 282.0051, Florida Statutes, is amended
193 to read:

194 282.0051 Department of Management Services; Florida Digital
195 Service; powers, duties, and functions.—

196 (1) The Florida Digital Service has been created within the
197 department to propose innovative solutions that securely
198 modernize state government, including technology and information
199 services, to achieve value through digital transformation and
200 interoperability, and to fully support the cloud-first policy as
201 specified in s. 282.206. The department, through the Florida
202 Digital Service, shall have the following powers, duties, and
203 functions:

204 (a)~~(1)~~ Develop and publish information technology policy
205 for the management of the state's information technology
206 resources.

207 (b)~~(2)~~ Develop an enterprise architecture that:

208 1. Acknowledges the unique needs of the entities within the
209 enterprise in the development and publication of standards and
210 terminologies to facilitate digital interoperability;

211 2. Supports the cloud-first policy as specified in s.
212 282.206; and

213 3. Addresses how information technology infrastructure may



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214 be modernized to achieve cloud-first objectives ~~Establish and~~
215 ~~publish information technology architecture standards to provide~~
216 ~~for the most efficient use of the state's information technology~~
217 ~~resources and to ensure compatibility and alignment with the~~
218 ~~needs of state agencies. The department shall assist state~~
219 ~~agencies in complying with the standards.~~

220 (c) ~~(3)~~ Establish project management and oversight standards
221 with which state agencies must comply when implementing
222 information technology projects. The department, acting through
223 the Florida Digital Service, shall provide training
224 opportunities to state agencies to assist in the adoption of the
225 project management and oversight standards. To support data-
226 driven decisionmaking, the standards must include, but are not
227 limited to:

228 1. ~~(a)~~ Performance measurements and metrics that objectively
229 reflect the status of an information technology project based on
230 a defined and documented project scope, cost, and schedule.

231 2. ~~(b)~~ Methodologies for calculating acceptable variances in
232 the projected versus actual scope, schedule, or cost of an
233 information technology project.

234 3. ~~(c)~~ Reporting requirements, including requirements
235 designed to alert all defined stakeholders that an information
236 technology project has exceeded acceptable variances defined and
237 documented in a project plan.

238 4. ~~(d)~~ Content, format, and frequency of project updates.

239 (d) ~~(4)~~ Perform project oversight on all state agency
240 information technology projects that have total project costs of
241 \$10 million or more and that are funded in the General
242 Appropriations Act or any other law. The department, acting



243 through the Florida Digital Service, shall report at least
244 quarterly to the Executive Office of the Governor, the President
245 of the Senate, and the Speaker of the House of Representatives
246 on any information technology project that the department
247 identifies as high-risk due to the project exceeding acceptable
248 variance ranges defined and documented in a project plan. The
249 report must include a risk assessment, including fiscal risks,
250 associated with proceeding to the next stage of the project, and
251 a recommendation for corrective actions required, including
252 suspension or termination of the project.

253 (e)~~(5)~~ Identify opportunities for standardization and
254 consolidation of information technology services that support
255 interoperability and the cloud-first policy, as specified in s.
256 282.206, and business functions and operations, including
257 administrative functions such as purchasing, accounting and
258 reporting, cash management, and personnel, and that are common
259 across state agencies. The department, acting through the
260 Florida Digital Service, shall biennially on January 1 of each
261 even-numbered year ~~April 1~~ provide recommendations for
262 standardization and consolidation to the Executive Office of the
263 Governor, the President of the Senate, and the Speaker of the
264 House of Representatives.

265 (f)~~(6)~~ Establish best practices for the procurement of
266 information technology products and cloud-computing services in
267 order to reduce costs, increase the quality of data center
268 services, or improve government services.

269 (g)~~(7)~~ Develop standards for information technology reports
270 and updates, including, but not limited to, operational work
271 plans, project spend plans, and project status reports, for use



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272 by state agencies.

273 (h)~~(8)~~ Upon request, assist state agencies in the
274 development of information technology-related legislative budget
275 requests.

276 (i)~~(9)~~ Conduct annual assessments of state agencies to
277 determine compliance with all information technology standards
278 and guidelines developed and published by the department and
279 provide results of the assessments to the Executive Office of
280 the Governor, the President of the Senate, and the Speaker of
281 the House of Representatives.

282 (j)~~(10)~~ Provide operational management and oversight of the
283 state data center established pursuant to s. 282.201, which
284 includes:

285 1.~~(a)~~ Implementing industry standards and best practices
286 for the state data center's facilities, operations, maintenance,
287 planning, and management processes.

288 2.~~(b)~~ Developing and implementing cost-recovery mechanisms
289 that recover the full direct and indirect cost of services
290 through charges to applicable customer entities. Such cost-
291 recovery mechanisms must comply with applicable state and
292 federal regulations concerning distribution and use of funds and
293 must ensure that, for any fiscal year, no service or customer
294 entity subsidizes another service or customer entity. The
295 Florida Digital Service may recommend other payment mechanisms
296 to the Executive Office of the Governor, the President of the
297 Senate, and the Speaker of the House of Representatives. Such
298 mechanism may be implemented only if specifically authorized by
299 the Legislature.

300 3.~~(c)~~ Developing and implementing appropriate operating



301 guidelines and procedures necessary for the state data center to
302 perform its duties pursuant to s. 282.201. The guidelines and
303 procedures must comply with applicable state and federal laws,
304 regulations, and policies and conform to generally accepted
305 governmental accounting and auditing standards. The guidelines
306 and procedures must include, but need not be limited to:

307 ~~a.1.~~ Implementing a consolidated administrative support
308 structure responsible for providing financial management,
309 procurement, transactions involving real or personal property,
310 human resources, and operational support.

311 ~~b.2.~~ Implementing an annual reconciliation process to
312 ensure that each customer entity is paying for the full direct
313 and indirect cost of each service as determined by the customer
314 entity's use of each service.

315 ~~c.3.~~ Providing rebates that may be credited against future
316 billings to customer entities when revenues exceed costs.

317 ~~d.4.~~ Requiring customer entities to validate that
318 sufficient funds exist in the appropriate data processing
319 appropriation category or will be transferred into the
320 appropriate data processing appropriation category before
321 implementation of a customer entity's request for a change in
322 the type or level of service provided, if such change results in
323 a net increase to the customer entity's cost for that fiscal
324 year.

325 ~~e.5.~~ By November 15 of each year, providing to the Office
326 of Policy and Budget in the Executive Office of the Governor and
327 to the chairs of the legislative appropriations committees the
328 projected costs of providing data center services for the
329 following fiscal year.



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330 f.6. Providing a plan for consideration by the Legislative
331 Budget Commission if the cost of a service is increased for a
332 reason other than a customer entity's request made pursuant to
333 sub-subparagraph d. subparagraph 4. Such a plan is required only
334 if the service cost increase results in a net increase to a
335 customer entity for that fiscal year.

336 g.7. Standardizing and consolidating procurement and
337 contracting practices.

338 4.(d) In collaboration with the Department of Law
339 Enforcement, developing and implementing a process for
340 detecting, reporting, and responding to information technology
341 security incidents, breaches, and threats.

342 5.(e) Adopting rules relating to the operation of the state
343 data center, including, but not limited to, budgeting and
344 accounting procedures, cost-recovery methodologies, and
345 operating procedures.

346 (k) Conduct a market analysis not less frequently than
347 every 3 years beginning in 2021 to determine whether the
348 information technology resources within the enterprise are
349 utilized in the most cost-effective and cost-efficient manner,
350 while recognizing that the replacement of certain legacy
351 information technology systems within the enterprise may be cost
352 prohibitive or cost inefficient due to the remaining useful life
353 of those resources; whether the enterprise is complying with the
354 cloud-first policy specified in s. 282.206; and whether the
355 enterprise is utilizing best practices with respect to
356 information technology, information services, and the
357 acquisition of emerging technologies and information services.
358 Each market analysis shall be used to prepare a strategic plan



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359 for continued and future information technology and information
360 services for the enterprise, including, but not limited to,
361 proposed acquisition of new services or technologies and
362 approaches to the implementation of any new services or
363 technologies. Copies of each market analysis and accompanying
364 strategic plan must be submitted to the Executive Office of the
365 Governor, the President of the Senate, and the Speaker of the
366 House of Representatives not later than December 31 of each year
367 that a market analysis is conducted.

368 ~~(f) Conducting an annual market analysis to determine~~
369 ~~whether the state's approach to the provision of data center~~
370 ~~services is the most effective and cost-efficient manner by~~
371 ~~which its customer entities can acquire such services, based on~~
372 ~~federal, state, and local government trends; best practices in~~
373 ~~service provision; and the acquisition of new and emerging~~
374 ~~technologies. The results of the market analysis shall assist~~
375 ~~the state data center in making adjustments to its data center~~
376 ~~service offerings.~~

377 (1) ~~(11)~~ Recommend other information technology services
378 that should be designed, delivered, and managed as enterprise
379 information technology services. Recommendations must include
380 the identification of existing information technology resources
381 associated with the services, if existing services must be
382 transferred as a result of being delivered and managed as
383 enterprise information technology services.

384 (m) ~~(12)~~ In consultation with state agencies, propose a
385 methodology and approach for identifying and collecting both
386 current and planned information technology expenditure data at
387 the state agency level.



388 (n) 1. ~~(13) (a)~~ Notwithstanding any other law, provide project
389 oversight on any information technology project of the
390 Department of Financial Services, the Department of Legal
391 Affairs, and the Department of Agriculture and Consumer Services
392 which has a total project cost of \$25 million or more and which
393 impacts one or more other agencies. Such information technology
394 projects must also comply with the applicable information
395 technology architecture, project management and oversight, and
396 reporting standards established by the department, acting
397 through the Florida Digital Service.

398 2. ~~(b)~~ When performing the project oversight function
399 specified in subparagraph 1. ~~paragraph (a)~~, report at least
400 quarterly to the Executive Office of the Governor, the President
401 of the Senate, and the Speaker of the House of Representatives
402 on any information technology project that the department,
403 acting through the Florida Digital Service, identifies as high-
404 risk due to the project exceeding acceptable variance ranges
405 defined and documented in the project plan. The report shall
406 include a risk assessment, including fiscal risks, associated
407 with proceeding to the next stage of the project and a
408 recommendation for corrective actions required, including
409 suspension or termination of the project.

410 (o) ~~(14)~~ If an information technology project implemented by
411 a state agency must be connected to or otherwise accommodated by
412 an information technology system administered by the Department
413 of Financial Services, the Department of Legal Affairs, or the
414 Department of Agriculture and Consumer Services, consult with
415 these departments regarding the risks and other effects of such
416 projects on their information technology systems and work



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417 cooperatively with these departments regarding the connections,
418 interfaces, timing, or accommodations required to implement such
419 projects.

420 ~~(p)~~ ~~(15)~~ If adherence to standards or policies adopted by or
421 established pursuant to this section causes conflict with
422 federal regulations or requirements imposed on an entity within
423 the enterprise ~~a state agency~~ and results in adverse action
424 against an entity ~~the state agency~~ or federal funding, work with
425 the entity ~~state agency~~ to provide alternative standards,
426 policies, or requirements that do not conflict with the federal
427 regulation or requirement. The department, acting through the
428 Florida Digital Service, shall annually report such alternative
429 standards to the Executive Office of the Governor, the President
430 of the Senate, and the Speaker of the House of Representatives.

431 ~~(q)~~ ~~1.~~ ~~(16)~~ ~~(a)~~ Establish an information technology policy for
432 all information technology-related state contracts, including
433 state term contracts for information technology commodities,
434 consultant services, and staff augmentation services. The
435 information technology policy must include:

436 ~~a.1.~~ Identification of the information technology product
437 and service categories to be included in state term contracts.

438 ~~b.2.~~ Requirements to be included in solicitations for state
439 term contracts.

440 ~~c.3.~~ Evaluation criteria for the award of information
441 technology-related state term contracts.

442 ~~d.4.~~ The term of each information technology-related state
443 term contract.

444 ~~e.5.~~ The maximum number of vendors authorized on each state
445 term contract.



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446 ~~2.(b)~~ Evaluate vendor responses for information technology-
447 related state term contract solicitations and invitations to
448 negotiate.

449 ~~3.(e)~~ Answer vendor questions on information technology-
450 related state term contract solicitations.

451 ~~4.(d)~~ Ensure that the information technology policy
452 established pursuant to subparagraph 1. paragraph (a) is
453 included in all solicitations and contracts that are
454 administratively executed by the department.

455 ~~(r) (17)~~ Recommend potential methods for standardizing data
456 across state agencies which will promote interoperability and
457 reduce the collection of duplicative data.

458 ~~(s) (18)~~ Recommend open data technical standards and
459 terminologies for use by the enterprise state agencies.

460 (t) Ensure that enterprise information technology solutions
461 are capable of utilizing an electronic credential and comply
462 with the enterprise architecture standards.

463 (2) (a) The Secretary of Management Services shall designate
464 a state chief information officer, who shall administer the
465 Florida Digital Service. The state chief information officer,
466 prior to appointment, must have at least 5 years of experience
467 in the development of information system strategic planning and
468 development or information technology policy, and, preferably,
469 have leadership-level experience in the design, development, and
470 deployment of interoperable software and data solutions.

471 (b) The state chief information officer, in consultation
472 with the Secretary of Management Services, shall designate a
473 state chief data officer. The chief data officer must be a
474 proven and effective administrator who must have significant and



475 substantive experience in data management, data governance,
476 interoperability, and security.

477 (3) The department, acting through the Florida Digital
478 Service and from funds appropriated to the Florida Digital
479 Service, shall:

480 (a) Create, not later than October 1, 2021, and maintain a
481 comprehensive indexed data catalog in collaboration with the
482 enterprise that lists the data elements housed within the
483 enterprise and the legacy system or application in which these
484 data elements are located. The data catalog must, at a minimum,
485 specifically identify all data that is restricted from public
486 disclosure based on federal or state laws and regulations and
487 require that all such information be protected in accordance
488 with s. 282.318.

489 (b) Develop and publish, not later than October 1, 2021, in
490 collaboration with the enterprise, a data dictionary for each
491 agency that reflects the nomenclature in the comprehensive
492 indexed data catalog.

493 (c) Adopt, by rule, standards that support the creation and
494 deployment of an application programming interface to facilitate
495 integration throughout the enterprise.

496 (d) Adopt, by rule, standards necessary to facilitate a
497 secure ecosystem of data interoperability that is compliant with
498 the enterprise architecture.

499 (e) Adopt, by rule, standards that facilitate the
500 deployment of applications or solutions to the existing
501 enterprise system in a controlled and phased approach.

502 (f) After submission of documented use cases developed in
503 conjunction with the affected agencies, assist the affected



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504 agencies with the deployment, contingent upon a specific
505 appropriation therefor, of new interoperable applications and
506 solutions:

507 1. For the Department of Health, the Agency for Health Care
508 Administration, the Agency for Persons with Disabilities, the
509 Department of Education, the Department of Elderly Affairs, and
510 the Department of Children and Families.

511 2. To support military members, veterans, and their
512 families.

513 (4) Upon the adoption of the enterprise architecture
514 standards in rule, the department, acting through the Florida
515 Digital Service, may develop a process to:

516 (a) Receive written notice from the entities within the
517 enterprise of any planned procurement of an information
518 technology project that is subject to enterprise architecture
519 standards.

520 (b) Participate in the development of specifications and
521 recommend modifications to any planned procurement by state
522 agencies so that the procurement complies with the enterprise
523 architecture.

524 (5) The department, acting through the Florida Digital
525 Service, may not retrieve or disclose any data without a shared-
526 data agreement in place between the department and the
527 enterprise entity that has primary custodial responsibility of,
528 or data-sharing responsibility for, that data.

529 (6) The department, acting through the Florida Digital
530 Service, shall adopt rules to administer this section.

531 ~~(19) Adopt rules to administer this section.~~

532 Section 5. Section 282.00515, Florida Statutes, is amended



533 to read:

534 282.00515 Duties of Cabinet agencies.—

535 (1) The Department of Legal Affairs, the Department of
536 Financial Services, and the Department of Agriculture and
537 Consumer Services shall adopt the standards established in s.
538 282.0051(1)(b), (c), and (s) and (3)(e) s. 282.0051(2), (3), and
539 (7) or adopt alternative standards based on best practices and
540 industry standards that allow for open data interoperability.

541 (2) If the Department of Legal Affairs, the Department of
542 Financial Services, or the Department of Agriculture and
543 Consumer Services adopts alternative standards in lieu of the
544 enterprise architecture standards adopted pursuant to s.
545 282.0051, such department must notify the Governor, the
546 President of the Senate, and the Speaker of the House of
547 Representatives in writing of the adoption of the alternative
548 standards and provide a justification for adoption of the
549 alternative standards and explain how the agency will achieve
550 open data interoperability.

551 (3) The Department of Legal Affairs, the Department of
552 Financial Services, and the Department of Agriculture and
553 Consumer Services, and may contract with the department to
554 provide or perform any of the services and functions described
555 in s. 282.0051 for the Department of Legal Affairs, the
556 Department of Financial Services, or the Department of
557 Agriculture and Consumer Services.

558 (4) (a) Nothing in this section or in s. 282.0051 requires
559 the Department of Legal Affairs, the Department of Financial
560 Services, or the Department of Agriculture and Consumer Services
561 to integrate with information technology outside its own



562 department or with the Florida Digital Service.

563 (b) The department, acting through the Florida Digital
564 Service, may not retrieve or disclose any data without a shared-
565 data agreement in place between the department and the
566 Department of Legal Affairs, the Department of Financial
567 Services, or the Department of Agriculture and Consumer
568 Services.

569 Section 6. Paragraph (a) of subsection (3), paragraphs (d),
570 (e), (g), and (j) of subsection (4), and subsection (5) of
571 section 282.318, Florida Statutes, are amended to read:

572 282.318 Security of data and information technology.-

573 (3) The department is responsible for establishing
574 standards and processes consistent with generally accepted best
575 practices for information technology security, to include
576 cybersecurity, and adopting rules that safeguard an agency's
577 data, information, and information technology resources to
578 ensure availability, confidentiality, and integrity and to
579 mitigate risks. The department shall also:

580 (a) Designate an employee of the Florida Digital Service as
581 the a state chief information security officer. The state chief
582 information security officer ~~who~~ must have experience and
583 expertise in security and risk management for communications and
584 information technology resources.

585 (4) Each state agency head shall, at a minimum:

586 (d) Conduct, and update every 3 years, a comprehensive risk
587 assessment, which may be completed by a private sector vendor,
588 to determine the security threats to the data, information, and
589 information technology resources, including mobile devices and
590 print environments, of the agency. The risk assessment must



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591 comply with the risk assessment methodology developed by the
592 department and is confidential and exempt from s. 119.07(1),
593 except that such information shall be available to the Auditor
594 General, the Florida Digital Service ~~Division of State~~
595 ~~Technology~~ within the department, the Cybercrime Office of the
596 Department of Law Enforcement, and, for state agencies under the
597 jurisdiction of the Governor, the Chief Inspector General.

598 (e) Develop, and periodically update, written internal
599 policies and procedures, which include procedures for reporting
600 information technology security incidents and breaches to the
601 Cybercrime Office of the Department of Law Enforcement and the
602 Florida Digital Service ~~Division of State Technology~~ within the
603 department. Such policies and procedures must be consistent with
604 the rules, guidelines, and processes established by the
605 department to ensure the security of the data, information, and
606 information technology resources of the agency. The internal
607 policies and procedures that, if disclosed, could facilitate the
608 unauthorized modification, disclosure, or destruction of data or
609 information technology resources are confidential information
610 and exempt from s. 119.07(1), except that such information shall
611 be available to the Auditor General, the Cybercrime Office of
612 the Department of Law Enforcement, the Florida Digital Service
613 ~~Division of State Technology~~ within the department, and, for
614 state agencies under the jurisdiction of the Governor, the Chief
615 Inspector General.

616 (g) Ensure that periodic internal audits and evaluations of
617 the agency's information technology security program for the
618 data, information, and information technology resources of the
619 agency are conducted. The results of such audits and evaluations



620 are confidential information and exempt from s. 119.07(1),
621 except that such information shall be available to the Auditor
622 General, the Cybercrime Office of the Department of Law
623 Enforcement, the Florida Digital Service ~~Division of State~~
624 ~~Technology~~ within the department, and, for agencies under the
625 jurisdiction of the Governor, the Chief Inspector General.

626 (j) Develop a process for detecting, reporting, and
627 responding to threats, breaches, or information technology
628 security incidents which is consistent with the security rules,
629 guidelines, and processes established by the department ~~Agency~~
630 ~~for State Technology~~.

631 1. All information technology security incidents and
632 breaches must be reported to the Florida Digital Service
633 ~~Division of State Technology~~ within the department and the
634 Cybercrime Office of the Department of Law Enforcement and must
635 comply with the notification procedures and reporting timeframes
636 established pursuant to paragraph (3)(c).

637 2. For information technology security breaches, state
638 agencies shall provide notice in accordance with s. 501.171.

639 3. Records held by a state agency which identify detection,
640 investigation, or response practices for suspected or confirmed
641 information technology security incidents, including suspected
642 or confirmed breaches, are confidential and exempt from s.
643 119.07(1) and s. 24(a), Art. I of the State Constitution, if the
644 disclosure of such records would facilitate unauthorized access
645 to or the unauthorized modification, disclosure, or destruction
646 of:

- 647 a. Data or information, whether physical or virtual; or
- 648 b. Information technology resources, which includes:



649 (I) Information relating to the security of the agency's
650 technologies, processes, and practices designed to protect
651 networks, computers, data processing software, and data from
652 attack, damage, or unauthorized access; or

653 (II) Security information, whether physical or virtual,
654 which relates to the agency's existing or proposed information
655 technology systems.

656

657 Such records shall be available to the Auditor General, the
658 Florida Digital Service ~~Division of State Technology~~ within the
659 department, the Cybercrime Office of the Department of Law
660 Enforcement, and, for state agencies under the jurisdiction of
661 the Governor, the Chief Inspector General. Such records may be
662 made available to a local government, another state agency, or a
663 federal agency for information technology security purposes or
664 in furtherance of the state agency's official duties. This
665 exemption applies to such records held by a state agency before,
666 on, or after the effective date of this exemption. This
667 subparagraph is subject to the Open Government Sunset Review Act
668 in accordance with s. 119.15 and shall stand repealed on October
669 2, 2021, unless reviewed and saved from repeal through
670 reenactment by the Legislature.

671 (5) The portions of risk assessments, evaluations, external
672 audits, and other reports of a state agency's information
673 technology security program for the data, information, and
674 information technology resources of the state agency which are
675 held by a state agency are confidential and exempt from s.
676 119.07(1) and s. 24(a), Art. I of the State Constitution if the
677 disclosure of such portions of records would facilitate



678 unauthorized access to or the unauthorized modification,
679 disclosure, or destruction of:

680 (a) Data or information, whether physical or virtual; or
681 (b) Information technology resources, which include:

682 1. Information relating to the security of the agency's
683 technologies, processes, and practices designed to protect
684 networks, computers, data processing software, and data from
685 attack, damage, or unauthorized access; or

686 2. Security information, whether physical or virtual, which
687 relates to the agency's existing or proposed information
688 technology systems.

689

690 Such portions of records shall be available to the Auditor
691 General, the Cybercrime Office of the Department of Law
692 Enforcement, the Florida Digital Service ~~Division of State~~
693 ~~Technology~~ within the department, and, for agencies under the
694 jurisdiction of the Governor, the Chief Inspector General. Such
695 portions of records may be made available to a local government,
696 another state agency, or a federal agency for information
697 technology security purposes or in furtherance of the state
698 agency's official duties. For purposes of this subsection,
699 "external audit" means an audit that is conducted by an entity
700 other than the state agency that is the subject of the audit.
701 This exemption applies to such records held by a state agency
702 before, on, or after the effective date of this exemption. This
703 subsection is subject to the Open Government Sunset Review Act
704 in accordance with s. 119.15 and shall stand repealed on October
705 2, 2021, unless reviewed and saved from repeal through
706 reenactment by the Legislature.



707 Section 7. Subsection (4) of section 287.0591, Florida
708 Statutes, is amended to read:

709 287.0591 Information technology.—

710 (4) If the department issues a competitive solicitation for
711 information technology commodities, consultant services, or
712 staff augmentation contractual services, the Florida Digital
713 Service Division of State Technology within the department shall
714 participate in such solicitations.

715 Section 8. Paragraph (a) of subsection (3) of section
716 365.171, Florida Statutes, is amended to read:

717 365.171 Emergency communications number E911 state plan.—

718 (3) DEFINITIONS.—As used in this section, the term:

719 (a) "Office" means the Division of Telecommunications State
720 Technology within the Department of Management Services, as
721 designated by the secretary of the department.

722 Section 9. Paragraph (s) of subsection (3) of section
723 365.172, Florida Statutes, is amended to read:

724 365.172 Emergency communications number "E911."—

725 (3) DEFINITIONS.—Only as used in this section and ss.

726 365.171, 365.173, 365.174, and 365.177, the term:

727 (s) "Office" means the Division of Telecommunications State
728 Technology within the Department of Management Services, as
729 designated by the secretary of the department.

730 Section 10. Paragraph (a) of subsection (1) of section
731 365.173, Florida Statutes, is amended to read:

732 365.173 Communications Number E911 System Fund.—

733 (1) REVENUES.—

734 (a) Revenues derived from the fee levied on subscribers
735 under s. 365.172(8) must be paid by the board into the State



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736 Treasury on or before the 15th day of each month. Such moneys
737 must be accounted for in a special fund to be designated as the
738 Emergency Communications Number E911 System Fund, a fund created
739 in the Division of Telecommunications ~~State Technology~~, or other
740 office as designated by the Secretary of Management Services.

741 Section 11. Subsection (5) of section 943.0415, Florida
742 Statutes, is amended to read:

743 943.0415 Cybercrime Office.—There is created within the
744 Department of Law Enforcement the Cybercrime Office. The office
745 may:

746 (5) Consult with the Florida Digital Service ~~Division of~~
747 ~~State Technology~~ within the Department of Management Services in
748 the adoption of rules relating to the information technology
749 security provisions in s. 282.318.

750 Section 12. Effective January 1, 2021, section 559.952,
751 Florida Statutes, is created to read:

752 559.952 Financial Technology Sandbox.—

753 (1) SHORT TITLE.—This section may be cited as the
754 “Financial Technology Sandbox.”

755 (2) CREATION OF THE FINANCIAL TECHNOLOGY SANDBOX.—There is
756 created the Financial Technology Sandbox within the Office of
757 Financial Regulation to allow financial technology innovators to
758 test new products and services in a supervised, flexible
759 regulatory sandbox using exceptions to specified general law and
760 waivers of the corresponding rule requirements under defined
761 conditions. The creation of a supervised, flexible regulatory
762 sandbox provides a welcoming business environment for technology
763 innovators and may lead to significant business growth.

764 (3) DEFINITIONS.—As used in this section, the term:



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765 (a) "Business entity" means a domestic corporation or other
766 organized domestic entity with a physical presence, other than
767 that of a registered office or agent or virtual mailbox, in this
768 state.

769 (b) "Commission" means the Financial Services Commission.

770 (c) "Consumer" means a person in this state, whether a
771 natural person or a business organization, who purchases, uses,
772 receives, or enters into an agreement to purchase, use, or
773 receive an innovative financial product or service made
774 available through the Financial Technology Sandbox.

775 (d) "Control person" means an individual, a partnership, a
776 corporation, a trust, or other organization that possesses the
777 power, directly or indirectly, to direct the management or
778 policies of a company, whether through ownership of securities,
779 by contract, or through other means. A person is presumed to
780 control a company if, with respect to a particular company, that
781 person:

782 1. Is a director, a general partner, or an officer
783 exercising executive responsibility or having similar status or
784 functions;

785 2. Directly or indirectly may vote 10 percent or more of a
786 class of a voting security or sell or direct the sale of 10
787 percent or more of a class of voting securities; or

788 3. In the case of a partnership, may receive upon
789 dissolution or has contributed 10 percent or more of the
790 capital.

791 (e) "Corresponding rule requirements" means the commission
792 rules, or portions thereof, which implement the general laws
793 enumerated in paragraph (4) (a).



794 (f) "Financial product or service" means a product or
795 service related to a consumer finance loan, as defined in s.
796 516.01, or a money transmitter or payment instrument seller, as
797 those terms are defined in s. 560.103, including mediums of
798 exchange that are in electronic or digital form, which is
799 subject to the general laws enumerated in paragraph (4) (a) and
800 corresponding rule requirements and which is under the
801 jurisdiction of the office.

802 (g) "Financial Technology Sandbox" means the program
803 created by this section which allows a licensee to make an
804 innovative financial product or service available to consumers
805 during a sandbox period through exceptions to general laws and
806 waivers of corresponding rule requirements.

807 (h) "Innovative" means new or emerging technology, or new
808 uses of existing technology, which provide a product, service,
809 business model, or delivery mechanism to the public and which
810 are not known to have a comparable offering in this state
811 outside the Financial Technology Sandbox.

812 (i) "Licensee" means a business entity that has been
813 approved by the office to participate in the Financial
814 Technology Sandbox.

815 (j) "Office" means, unless the context clearly indicates
816 otherwise, the Office of Financial Regulation.

817 (k) "Sandbox period" means the initial 24-month period in
818 which the office has authorized a licensee to make an innovative
819 financial product or service available to consumers, and any
820 extension granted pursuant to subsection (7).

821 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
822 REQUIREMENTS.—



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823 (a) Notwithstanding any other law, upon approval of a
824 Financial Technology Sandbox application, the following
825 provisions and corresponding rule requirements are not
826 applicable to the licensee during the sandbox period:

827 1. Section 516.03(1), except for the application fee, the
828 investigation fee, the requirement to provide the social
829 security numbers of control persons, evidence of liquid assets
830 of at least \$25,000, and the office's authority to investigate
831 the applicant's background. The office may prorate the license
832 renewal fee for an extension granted under subsection (7).

833 2. Section 516.05(1) and (2), except that the office shall
834 investigate the applicant's background.

835 3. Section 560.109, only to the extent that the section
836 requires the office to examine a licensee at least once every 5
837 years.

838 4. Section 560.118(2).

839 5. Section 560.125(1), only to the extent that subsection
840 would prohibit a licensee from engaging in the business of a
841 money transmitter or payment instrument seller during the
842 sandbox period.

843 6. Section 560.125(2), only to the extent that subsection
844 would prohibit a licensee from appointing an authorized vendor
845 during the sandbox period. Any authorized vendor of such a
846 licensee during the sandbox period remains liable to the holder
847 or remitter.

848 7. Section 560.128.

849 8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-
850 10. and (b), (c), and (d).

851 9. Section 560.142(1) and (2), except that the office may



852 prorate, but may not entirely eliminate, the license renewal
853 fees in s. 560.143 for an extension granted under subsection
854 (7).

855 10. Section 560.143(2), only to the extent necessary for
856 proration of the renewal fee under subparagraph 9.

857 11. Section 560.204(1), only to the extent that subsection
858 would prohibit a licensee from engaging in, or advertising that
859 it engages in, the selling or issuing of payment instruments or
860 in the activity of a money transmitter during the sandbox
861 period.

862 12. Section 560.205(2).

863 13. Section 560.208(2).

864 14. Section 560.209, only to the extent that the office may
865 modify, but may not entirely eliminate, the net worth, corporate
866 surety bond, and collateral deposit amounts required under that
867 section. The modified amounts must be in such lower amounts that
868 the office determines to be commensurate with the factors under
869 paragraph (5)(c) and the maximum number of consumers authorized
870 to receive the financial product or service under this section.

871 (b) The office may approve a Financial Technology Sandbox
872 application if one or more of the general laws enumerated in
873 paragraph (a) currently prevent the innovative financial product
874 or service from being made available to consumers and if all
875 other requirements of this section are met.

876 (c) A licensee may conduct business through electronic
877 means, including through the Internet or a software application.

878 (5) FINANCIAL TECHNOLOGY SANDBOX APPLICATION; STANDARDS FOR
879 APPROVAL.—

880 (a) Before filing an application for licensure under this



881 section, a substantially affected person may seek a declaratory
882 statement pursuant to s. 120.565 regarding the applicability of
883 a statute, a rule, or an agency order to the petitioner's
884 particular set of circumstances or a variance or waiver of a
885 rule pursuant to s. 120.542.

886 (b) Before making an innovative financial product or
887 service available to consumers in the Financial Technology
888 Sandbox, a business entity must file with the office an
889 application for licensure under the Financial Technology
890 Sandbox. The commission shall, by rule, prescribe the form and
891 manner of the application and how the office will evaluate and
892 apply each of the factors specified in paragraph (c).

893 1. The application must specify each general law enumerated
894 in paragraph (4) (a) which currently prevents the innovative
895 financial product or service from being made available to
896 consumers and the reasons why those provisions of general law
897 prevent the innovative financial product or service from being
898 made available to consumers.

899 2. The application must contain sufficient information for
900 the office to evaluate the factors specified in paragraph (c).

901 3. An application submitted on behalf of a business entity
902 must include evidence that the business entity has authorized
903 the person to submit the application on behalf of the business
904 entity intending to make an innovative financial product or
905 service available to consumers.

906 4. The application must specify the maximum number of
907 consumers, which may not exceed the number of consumers
908 specified in paragraph (f), to whom the applicant proposes to
909 provide the innovative financial product or service.



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910 5. The application must include a proposed draft of the
911 statement or statements meeting the requirements of paragraph
912 (6) (b) which the applicant proposes to provide to consumers.
913 (c) The office shall approve or deny in writing a Financial
914 Technology Sandbox application within 60 days after receiving
915 the completed application. The office and the applicant may
916 jointly agree to extend the time beyond 60 days. Consistent with
917 this section, the office may impose conditions on any approval.
918 In deciding whether to approve or deny an application for
919 licensure, the office must consider each of the following:
920 1. The nature of the innovative financial product or
921 service proposed to be made available to consumers in the
922 Financial Technology Sandbox, including all relevant technical
923 details.
924 2. The potential risk to consumers and the methods that
925 will be used to protect consumers and resolve complaints during
926 the sandbox period.
927 3. The business plan proposed by the applicant, including
928 company information, market analysis, and financial projections
929 or pro forma financial statements, and evidence of the financial
930 viability of the applicant.
931 4. Whether the applicant has the necessary personnel,
932 adequate financial and technical expertise, and a sufficient
933 plan to test, monitor, and assess the innovative financial
934 product or service.
935 5. Whether any control person of the applicant, regardless
936 of adjudication, has pled no contest to, has been convicted or
937 found guilty of, or is currently under investigation for fraud,
938 a state or federal securities violation, a property-based



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939 offense, or a crime involving moral turpitude or dishonest
940 dealing, in which case the application to the Financial
941 Technology Sandbox must be denied.

942 6. A copy of the disclosures that will be provided to
943 consumers under paragraph (6) (b).

944 7. The financial responsibility of the applicant and any
945 control person, including whether the applicant or any control
946 person has a history of unpaid liens, unpaid judgments, or other
947 general history of nonpayment of legal debts, including, but not
948 limited to, having been the subject of a petition for bankruptcy
949 under the United States Bankruptcy Code within the past 7
950 calendar years.

951 8. Any other factor that the office determines to be
952 relevant.

953 (d) The office may not approve an application if:

954 1. The applicant had a prior Financial Technology Sandbox
955 application that was approved and that related to a
956 substantially similar financial product or service;

957 2. Any control person of the applicant was substantially
958 involved in the development, operation, or management with
959 another Financial Technology Sandbox applicant whose application
960 was approved and whose application related to a substantially
961 similar financial product or service; or

962 3. The applicant or any control person has failed to
963 affirmatively demonstrate financial responsibility.

964 (e) Upon approval of an application, the office shall
965 notify the licensee that the licensee is exempt from the
966 provisions of general law enumerated in paragraph (4) (a) and the
967 corresponding rule requirements during the sandbox period. The



968 office shall post on its website notice of the approval of the
969 application, a summary of the innovative financial product or
970 service, and the contact information of the licensee.

971 (f) The office, on a case-by-case basis, shall specify the
972 maximum number of consumers authorized to receive an innovative
973 financial product or service, after consultation with the
974 Financial Technology Sandbox applicant. The office may not
975 authorize more than 15,000 consumers to receive the financial
976 product or service until the licensee has filed the first report
977 required under subsection (8). After the filing of that report,
978 if the licensee demonstrates adequate financial capitalization,
979 risk management processes, and management oversight, the office
980 may authorize up to 25,000 consumers to receive the financial
981 product or service.

982 (g) A licensee has a continuing obligation to promptly
983 inform the office of any material change to the information
984 provided under paragraph (b).

985 (6) OPERATION OF THE FINANCIAL TECHNOLOGY SANDBOX.—

986 (a) A licensee may make an innovative financial product or
987 service available to consumers during the sandbox period.

988 (b)1. Before a consumer purchases, uses, receives, or
989 enters into an agreement to purchase, use, or receive an
990 innovative financial product or service through the Financial
991 Technology Sandbox, the licensee must provide a written
992 statement of all of the following to the consumer:

993 a. The name and contact information of the licensee.

994 b. That the financial product or service has been
995 authorized to be made available to consumers for a temporary
996 period by the office, under the laws of this state.



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997 c. That the state does not endorse the financial product or
998 service.

999 d. That the financial product or service is undergoing
1000 testing, may not function as intended, and may entail financial
1001 risk.

1002 e. That the licensee is not immune from civil liability for
1003 any losses or damages caused by the financial product or
1004 service.

1005 f. The expected end date of the sandbox period.

1006 g. The contact information for the office and notification
1007 that suspected legal violations, complaints, or other comments
1008 related to the financial product or service may be submitted to
1009 the office.

1010 h. Any other statements or disclosures required by rule of
1011 the commission which are necessary to further the purposes of
1012 this section.

1013 2. The written statement under subparagraph 1. must contain
1014 an acknowledgment from the consumer, which must be retained for
1015 the duration of the sandbox period by the licensee.

1016 (c) The office may enter into an agreement with a state,
1017 federal, or foreign regulatory agency to allow licensees under
1018 the Financial Technology Sandbox to make their products or
1019 services available in other jurisdictions. The commission shall
1020 adopt rules to implement this paragraph.

1021 (d) The office may examine the records of a licensee at any
1022 time, with or without prior notice.

1023 (7) EXTENSIONS AND CONCLUSION OF SANDBOX PERIOD.—

1024 (a) A licensee may apply for one extension of the initial
1025 24-month sandbox period for 12 additional months for a purpose



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1026 specified in subparagraph (b)1. or subparagraph (b)2. A complete
1027 application for an extension must be filed with the office at
1028 least 90 days before the conclusion of the initial sandbox
1029 period. The office shall approve or deny the application for
1030 extension in writing at least 35 days before the conclusion of
1031 the initial sandbox period. In determining whether to approve or
1032 deny an application for extension of the sandbox period, the
1033 office must, at a minimum, consider the current status of the
1034 factors previously considered under paragraph (5) (c).

1035 (b) An application for an extension under paragraph (a)
1036 must cite one of the following reasons as the basis for the
1037 application and must provide all relevant supporting
1038 information:

1039 1. Amendments to general law or rules are necessary to
1040 offer the innovative financial product or service in this state
1041 permanently.

1042 2. An application for a license that is required in order
1043 to offer the innovative financial product or service in this
1044 state permanently has been filed with the office and approval is
1045 pending.

1046 (c) At least 30 days before the conclusion of the initial
1047 24-month sandbox period or the extension, whichever is later, a
1048 licensee shall provide written notification to consumers
1049 regarding the conclusion of the initial sandbox period or the
1050 extension and may not make the financial product or service
1051 available to any new consumers after the conclusion of the
1052 initial sandbox period or the extension, whichever is later,
1053 until legal authority outside of the Financial Technology
1054 Sandbox exists for the licensee to make the financial product or



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1055 service available to consumers. After the conclusion of the
1056 sandbox period or the extension, whichever is later, the
1057 business entity formerly licensed under the Financial Technology
1058 Sandbox may:

1059 1. Collect and receive money owed to the business entity or
1060 pay money owed by the business entity, based on agreements with
1061 consumers made before the conclusion of the sandbox period or
1062 the extension.

1063 2. Take necessary legal action.

1064 3. Take other actions authorized by commission rule which
1065 are not inconsistent with this section.

1066 (8) REPORT.—A licensee shall submit a report to the office
1067 twice a year as prescribed by commission rule. The report must,
1068 at a minimum, include financial reports and the number of
1069 consumers who have received the financial product or service.

1070 (9) CONSTRUCTION.—A business entity whose Financial
1071 Technology Sandbox application is approved under this section:

1072 (a) Is licensed under chapter 516, chapter 560, or both
1073 chapters 516 and 560, as applicable to the business entity's
1074 activities.

1075 (b) Is subject to any provision of chapter 516 or chapter
1076 560 not specifically excepted under paragraph (4) (a), as
1077 applicable to the business entity's activities, and must comply
1078 with such provisions.

1079 (c) May not engage in activities authorized under part III
1080 of chapter 560, notwithstanding s. 560.204(2).

1081 (10) VIOLATIONS AND PENALTIES.—

1082 (a) A licensee who makes an innovative financial product or
1083 service available to consumers in the Financial Technology



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1084 Sandbox remains subject to:
1085 1. Civil damages for acts and omissions arising from or
1086 related to any innovative financial product or services provided
1087 or made available by the licensee or relating to this section.
1088 2. All criminal and consumer protection laws and any other
1089 statute not specifically excepted under paragraph (4) (a).
1090 (b)1. The office may, by order, revoke or suspend a
1091 licensee's approval to participate in the Financial Technology
1092 Sandbox if:
1093 a. The licensee has violated or refused to comply with this
1094 section, any statute not specifically excepted under paragraph
1095 (4) (a), a rule of the commission that has not been waived, an
1096 order of the office, or a condition placed by the office on the
1097 approval of the licensee's Financial Technology Sandbox
1098 application;
1099 b. A fact or condition exists that, if it had existed or
1100 become known at the time that the Financial Technology Sandbox
1101 application was pending, would have warranted denial of the
1102 application or the imposition of material conditions;
1103 c. A material error, false statement, misrepresentation, or
1104 material omission was made in the Financial Technology Sandbox
1105 application; or
1106 d. After consultation with the licensee, the office
1107 determines that continued testing of the innovative financial
1108 product or service would:
1109 (I) Be likely to harm consumers; or
1110 (II) No longer serve the purposes of this section because
1111 of the financial or operational failure of the financial product
1112 or service.



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1113 2. Written notice of a revocation or suspension order made
1114 under subparagraph 1. must be served using any means authorized
1115 by law. If the notice relates to a suspension, the notice must
1116 include any condition or remedial action that the licensee must
1117 complete before the office lifts the suspension.

1118 (c) The office may refer any suspected violation of law to
1119 an appropriate state or federal agency for investigation,
1120 prosecution, civil penalties, and other appropriate enforcement
1121 action.

1122 (d) If service of process on a licensee is not feasible,
1123 service on the office is deemed service on the licensee.

1124 (11) RULES AND ORDERS.-

1125 (a) The commission shall adopt rules to administer this
1126 section before approving any application under this section.

1127 (b) The office may issue all necessary orders to enforce
1128 this section and may enforce these orders in accordance with
1129 chapter 120 or in any court of competent jurisdiction. These
1130 orders include, but are not limited to, orders for payment of
1131 restitution for harm suffered by consumers as a result of an
1132 innovative financial product or service.

1133 Section 13. For the 2020-2021 fiscal year, the sum of
1134 \$50,000 in nonrecurring funds is appropriated from the
1135 Administrative Trust Fund to the Office of Financial Regulation
1136 to implement s. 559.952, Florida Statutes, as created by this
1137 act.

1138 Section 14. The creation of s. 559.952, Florida Statutes,
1139 and the appropriation to implement s. 559.952, Florida Statutes,
1140 by this act shall take effect only if SB 1872 or similar
1141 legislation takes effect and if such legislation is adopted in



1142 the same legislative session or an extension thereof and becomes
1143 a law.

1144 Section 15. Except as otherwise expressly provided in this
1145 act, this act shall take effect July 1, 2020.

1146

1147 ===== T I T L E A M E N D M E N T =====

1148 And the title is amended as follows:

1149 Delete everything before the enacting clause
1150 and insert:

1151 A bill to be entitled
1152 An act relating to technology innovation; amending s.
1153 20.22, F.S.; establishing the Florida Digital Service
1154 and the Division of Telecommunications within the
1155 Department of Management Services; abolishing the
1156 Division of State Technology within the department;
1157 amending s. 110.205, F.S.; exempting the state chief
1158 data officer and the state chief information security
1159 officer within the Florida Digital Service from the
1160 Career Service System; providing for the salary and
1161 benefits of such positions to be set by the
1162 department; amending s. 282.0041, F.S.; defining
1163 terms; revising the definition of the term "open
1164 data"; amending s. 282.0051, F.S.; revising
1165 information technology-related powers, duties, and
1166 functions of the department acting through the Florida
1167 Digital Service; specifying the designation of the
1168 state chief information officer and the state chief
1169 data officer; specifying qualifications for such
1170 positions; specifying requirements, contingent upon



1171 legislative appropriation, for the department;
1172 authorizing the department to develop a certain
1173 process; prohibiting the department from retrieving or
1174 disclosing any data without a certain shared-data
1175 agreement in place; specifying rulemaking authority
1176 for the department; amending s. 282.00515, F.S.;
1177 requiring the Department of Legal Affairs, the
1178 Department of Financial Services, or the Department of
1179 Agriculture and Consumer Services to notify the
1180 Governor and the Legislature and provide a certain
1181 justification and explanation if such agency adopts
1182 alternative standards to certain enterprise
1183 architecture standards; providing construction;
1184 prohibiting the department from retrieving or
1185 disclosing any data without a certain shared-data
1186 agreement in place; conforming a cross-reference;
1187 amending ss. 282.318, 287.0591, 365.171, 365.172,
1188 365.173, and 943.0415, F.S.; conforming provisions to
1189 changes made by the act; creating s. 559.952, F.S.;
1190 providing a short title; creating the Financial
1191 Technology Sandbox within the Office of Financial
1192 Regulation; defining terms; requiring the office, if
1193 certain conditions are met, to grant a license to a
1194 Financial Technology Sandbox applicant, grant
1195 exceptions to specified provisions of general law
1196 relating to consumer finance loans and money services
1197 businesses, and grant waivers of certain rules;
1198 authorizing a substantially affected person to seek a
1199 declaratory statement before applying to the Financial



1200 Technology Sandbox; specifying application
1201 requirements and procedures; specifying requirements
1202 and procedures for the office in reviewing and
1203 approving or denying applications; providing
1204 requirements for the office in specifying the number
1205 of the consumers authorized to receive an innovative
1206 financial product or service; specifying authorized
1207 actions of, limitations on, and requirements for
1208 licensees operating in the Financial Technology
1209 Sandbox; requiring licensees to make a specified
1210 disclosure to consumers; authorizing the office to
1211 enter into certain agreements with other regulatory
1212 agencies; authorizing the office to examine licensee
1213 records; authorizing a licensee to apply for one
1214 extension of an initial sandbox period for a certain
1215 timeframe; specifying requirements and procedures for
1216 applying for an extension; specifying requirements and
1217 procedures for, and authorized actions of, licensees
1218 when concluding a sandbox period or extension;
1219 requiring licensees to submit certain reports to the
1220 office at specified intervals; providing construction;
1221 specifying the liability of a licensee; authorizing
1222 the office to take certain disciplinary actions
1223 against a licensee under certain circumstances;
1224 providing construction relating to service of process;
1225 specifying the rulemaking authority of the Financial
1226 Services Commission; providing the office authority to
1227 issue orders and enforce the orders; providing an
1228 appropriation; providing that specified provisions of



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the act are contingent upon passage of other
provisions addressing public records; providing
effective dates.

By the Committees on Banking and Insurance; and Innovation,
Industry, and Technology; and Senator Hutson

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1 A bill to be entitled
2 An act relating to technology innovation; amending s.
3 20.22, F.S.; renaming the Division of State Technology
4 within the Department of Management Services as the
5 Division of Telecommunications; deleting provisions
6 relating to the appointment of the Division of State
7 Technology's director and qualifications for the state
8 chief information officer; adding the Florida Digital
9 Service to the department; amending s. 282.0041, F.S.;
10 defining terms; revising the definition of the term
11 "open data"; amending s. 282.0051, F.S.; establishing
12 the Florida Digital Service within the department;
13 transferring specified powers, duties, and functions
14 of the department to the Florida Digital Service and
15 revising such powers, duties, and functions; providing
16 for designations of a state chief information officer
17 and a chief data officer and specifying their duties;
18 specifying duties of, and authorized actions by, the
19 Florida Digital Service pursuant to legislative
20 appropriation; providing duties of, and authorized
21 actions by, the department, subject to legislative
22 authorization and appropriation; authorizing the
23 Florida Digital Service to adopt rules; amending s.
24 282.00515, F.S.; revising standards that the
25 Department of Legal Affairs, the Department of
26 Financial Services, and the Department of Agriculture
27 and Consumer Services must adopt; specifying
28 notification requirements to the Governor and the
29 Legislature if such an agency adopts alternative

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

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30 standards; providing construction; prohibiting the
31 Florida Digital Service from retrieving or publishing
32 data without a data sharing agreement with such an
33 agency; amending ss. 282.318, 287.0591, 365.171,
34 365.172, 365.173, and 943.0415, F.S.; conforming
35 provisions to changes made by the act; creating s.
36 559.952, F.S.; providing a short title; creating the
37 Financial Technology Sandbox within the Office of
38 Financial Regulation; defining terms; requiring the
39 office, if certain conditions are met, to grant a
40 license to a Financial Technology Sandbox applicant,
41 grant exceptions to specified provisions of general
42 law relating to consumer finance loans and money
43 services businesses, and grant waivers of certain
44 rules; authorizing a substantially affected person to
45 seek a declaratory statement before applying to the
46 Financial Technology Sandbox; specifying application
47 requirements and procedures; specifying requirements,
48 restrictions, and procedures for the office in
49 reviewing and approving or denying applications;
50 requiring the office to post on its website certain
51 information relating to approved applications;
52 specifying authorized actions of, limitations on, and
53 requirements for licensees operating in the Financial
54 Technology Sandbox; specifying disclosure requirements
55 for licensees to consumers; authorizing the office to
56 enter into certain agreements with other regulatory
57 agencies; authorizing the office to examine licensee
58 records; authorizing a licensee to apply for an

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59 extension of an initial sandbox period for a certain
60 timeframe; specifying requirements and procedures for
61 applying for an extension; specifying requirements and
62 procedures for, and authorized actions of, licensees
63 when concluding a sandbox period or extension;
64 requiring licensees to submit certain reports to the
65 office at specified intervals; providing construction;
66 specifying the liability of a licensee; authorizing
67 the office to take certain disciplinary actions
68 against a licensee under certain circumstances;
69 providing construction relating to service of process;
70 specifying the rulemaking authority of the Financial
71 Services Commission; providing the office authority to
72 issue orders and enforce the orders; providing an
73 appropriation; providing effective dates.

74
75 Be It Enacted by the Legislature of the State of Florida:

76
77 Section 1. Subsection (2) of section 20.22, Florida
78 Statutes, is amended to read:

79 20.22 Department of Management Services.—There is created a
80 Department of Management Services.

81 (2) ~~The following divisions and programs within the~~
82 Department of Management Services shall consist of the following
83 ~~are established:~~

84 (a) The Facilities Program.

85 (b) The Division of Telecommunications State Technology,
86 ~~the director of which is appointed by the secretary of the~~
87 ~~department and shall serve as the state chief information~~

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88 ~~officer. The state chief information officer must be a proven,~~
89 ~~effective administrator who must have at least 10 years of~~
90 ~~executive level experience in the public or private sector,~~
91 ~~preferably with experience in the development of information~~
92 ~~technology strategic planning and the development and~~
93 ~~implementation of fiscal and substantive information technology~~
94 ~~policy and standards.~~

95 (c) The Workforce Program.

96 (d)1. The Support Program.

97 2. The Federal Property Assistance Program.

98 (e) The Administration Program.

99 (f) The Division of Administrative Hearings.

100 (g) The Division of Retirement.

101 (h) The Division of State Group Insurance.

102 (i) The Florida Digital Service.

103 Section 2. Section 282.0041, Florida Statutes, is amended
104 to read:

105 282.0041 Definitions.—As used in this chapter, the term:

106 (1) "Agency assessment" means the amount each customer
107 entity must pay annually for services from the Department of
108 Management Services and includes administrative and data center
109 services costs.

110 (2) "Agency data center" means agency space containing 10
111 or more physical or logical servers.

112 (3) "Breach" has the same meaning as provided in s.
113 501.171.

114 (4) "Business continuity plan" means a collection of
115 procedures and information designed to keep an agency's critical
116 operations running during a period of displacement or

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117 interruption of normal operations.

118 (5) "Cloud computing" has the same meaning as provided in
119 Special Publication 800-145 issued by the National Institute of
120 Standards and Technology.

121 (6) "Computing facility" or "agency computing facility"
122 means agency space containing fewer than a total of 10 physical
123 or logical servers, but excluding single, logical-server
124 installations that exclusively perform a utility function such
125 as file and print servers.

126 (7) "Credential service provider" means a provider
127 competitively procured by the department to supply secure
128 identity management and verification services based on open
129 standards to qualified entities.

130 (8) "Customer entity" means an entity that obtains services
131 from the Department of Management Services.

132 ~~(9)~~ "Data" means a subset of structured information in a
133 format that allows such information to be electronically
134 retrieved and transmitted.

135 (10) "Data-call" means an electronic transaction with the
136 credential service provider that verifies the authenticity of a
137 digital identity by querying enterprise data.

138 ~~(11)~~ "Department" means the Department of Management
139 Services.

140 ~~(12)~~ "Disaster recovery" means the process, policies,
141 procedures, and infrastructure related to preparing for and
142 implementing recovery or continuation of an agency's vital
143 technology infrastructure after a natural or human-induced
144 disaster.

145 (13) "Electronic" means technology having electrical,

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146 digital, magnetic, wireless, optical, electromagnetic, or
147 similar capabilities.

148 (14) "Electronic credential" means an electronic
149 representation of the identity of a person, an organization, an
150 application, or a device.

151 (15) "Enterprise" means the collection of state agencies as
152 defined in subsection (35). The term includes the Department of
153 Legal Affairs, the Department of Agriculture and Consumer
154 Services, and the Department of Financial Services.

155 (16) "Enterprise architecture" means a comprehensive
156 operational framework that contemplates the needs and assets of
157 the enterprise to support interoperability across state
158 government.

159 ~~(17)~~ "Enterprise information technology service" means
160 an information technology service that is used in all agencies
161 or a subset of agencies and is established in law to be
162 designed, delivered, and managed at the enterprise level.

163 ~~(18)~~ "Event" means an observable occurrence in a system
164 or network.

165 ~~(19)~~ "Incident" means a violation or imminent threat of
166 violation, whether such violation is accidental or deliberate,
167 of information technology resources, security, policies, or
168 practices. An imminent threat of violation refers to a situation
169 in which the state agency has a factual basis for believing that
170 a specific incident is about to occur.

171 ~~(20)~~ "Information technology" means equipment,
172 hardware, software, firmware, programs, systems, networks,
173 infrastructure, media, and related material used to
174 automatically, electronically, and wirelessly collect, receive,

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175 access, transmit, display, store, record, retrieve, analyze,
 176 evaluate, process, classify, manipulate, manage, assimilate,
 177 control, communicate, exchange, convert, converge, interface,
 178 switch, or disseminate information of any kind or form.

179 ~~(21)-(15)~~ "Information technology policy" means a definite
 180 course or method of action selected from among one or more
 181 alternatives that guide and determine present and future
 182 decisions.

183 ~~(22)-(16)~~ "Information technology resources" has the same
 184 meaning as provided in s. 119.011.

185 ~~(23)-(17)~~ "Information technology security" means the
 186 protection afforded to an automated information system in order
 187 to attain the applicable objectives of preserving the integrity,
 188 availability, and confidentiality of data, information, and
 189 information technology resources.

190 ~~(24)~~ "Interoperability" means the technical ability to
 191 share and use data across and throughout the enterprise.

192 ~~(25)-(18)~~ "Open data" means data collected or created by a
 193 state agency, including the Department of Legal Affairs, the
 194 Department of Agriculture and Consumer Services, and the
 195 Department of Financial Services, and structured in a way that
 196 enables the data to be fully discoverable and usable by the
 197 public. The term does not include data that are restricted from
 198 public ~~disclosure distribution~~ based on federal or state
 199 privacy, confidentiality, and security laws and regulations or
 200 data for which a state agency is statutorily authorized to
 201 assess a fee for its distribution.

202 ~~(26)-(19)~~ "Performance metrics" means the measures of an
 203 organization's activities and performance.

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204 ~~(27)-(20)~~ "Project" means an endeavor that has a defined
 205 start and end point; is undertaken to create or modify a unique
 206 product, service, or result; and has specific objectives that,
 207 when attained, signify completion.

208 ~~(28)-(21)~~ "Project oversight" means an independent review
 209 and analysis of an information technology project that provides
 210 information on the project's scope, completion timeframes, and
 211 budget and that identifies and quantifies issues or risks
 212 affecting the successful and timely completion of the project.

213 ~~(29)~~ "Qualified entity" means a public or private entity or
 214 individual that enters into a binding agreement with the
 215 department, meets usage criteria, agrees to terms and
 216 conditions, and is subsequently and prescriptively authorized by
 217 the department to access data under the terms of that agreement
 218 as specified in s. 282.0051.

219 ~~(30)-(22)~~ "Risk assessment" means the process of identifying
 220 security risks, determining their magnitude, and identifying
 221 areas needing safeguards.

222 ~~(31)-(23)~~ "Service level" means the key performance
 223 indicators (KPI) of an organization or service which must be
 224 regularly performed, monitored, and achieved.

225 ~~(32)-(24)~~ "Service-level agreement" means a written contract
 226 between the Department of Management Services and a customer
 227 entity which specifies the scope of services provided, service
 228 level, the duration of the agreement, the responsible parties,
 229 and service costs. A service-level agreement is not a rule
 230 pursuant to chapter 120.

231 ~~(33)-(25)~~ "Stakeholder" means a person, group, organization,
 232 or state agency involved in or affected by a course of action.

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233 ~~(34)(26)~~ "Standards" means required practices, controls,
 234 components, or configurations established by an authority.
 235 ~~(35)(27)~~ "State agency" means any official, officer,
 236 commission, board, authority, council, committee, or department
 237 of the executive branch of state government; the Justice
 238 Administrative Commission; and the Public Service Commission.
 239 The term does not include university boards of trustees or state
 240 universities. As used in part I of this chapter, except as
 241 otherwise specifically provided, the term does not include the
 242 Department of Legal Affairs, the Department of Agriculture and
 243 Consumer Services, or the Department of Financial Services.
 244 ~~(36)(28)~~ "SUNCOM Network" means the state enterprise
 245 telecommunications system that provides all methods of
 246 electronic or optical telecommunications beyond a single
 247 building or contiguous building complex and used by entities
 248 authorized as network users under this part.
 249 ~~(37)(29)~~ "Telecommunications" means the science and
 250 technology of communication at a distance, including electronic
 251 systems used in the transmission or reception of information.
 252 ~~(38)(30)~~ "Threat" means any circumstance or event that has
 253 the potential to adversely impact a state agency's operations or
 254 assets through an information system via unauthorized access,
 255 destruction, disclosure, or modification of information or
 256 denial of service.
 257 ~~(39)(31)~~ "Variance" means a calculated value that
 258 illustrates how far positive or negative a projection has
 259 deviated when measured against documented estimates within a
 260 project plan.
 261 Section 3. Section 282.0051, Florida Statutes, is amended

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262 to read:
 263 282.0051 Florida Digital Service Department of Management
 264 Services; powers, duties, and functions.—There is established
 265 the Florida Digital Service within the department to create
 266 innovative solutions that securely modernize state government,
 267 achieve value through digital transformation and
 268 interoperability, and fully support the cloud-first policy as
 269 specified in s. 282.206.
 270 (1) The Florida Digital Service department shall have the
 271 following powers, duties, and functions:
 272 (a)(1) Develop and publish information technology policy
 273 for the management of the state's information technology
 274 resources.
 275 (b)(2) Develop an enterprise architecture that:
 276 1. Acknowledges the unique needs of those included within
 277 the enterprise, resulting in the publication of standards,
 278 terminologies, and procurement guidelines to facilitate digital
 279 interoperability;
 280 2. Supports the cloud-first policy as specified in s.
 281 282.206; and
 282 3. Addresses how information technology infrastructure may
 283 be modernized to achieve cloud-first objectives ~~Establish and~~
 284 ~~publish information technology architecture standards to provide~~
 285 ~~for the most efficient use of the state's information technology~~
 286 ~~resources and to ensure compatibility and alignment with the~~
 287 ~~needs of state agencies. The department shall assist state~~
 288 ~~agencies in complying with the standards.~~
 289 (c)(3) Establish project management and oversight standards
 290 with which state agencies must comply when implementing projects

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291 ~~that have an~~ information technology component projects. The
 292 Florida Digital Service department shall provide training
 293 opportunities to state agencies to assist in the adoption of the
 294 project management and oversight standards. To support data-
 295 driven decisionmaking, the standards must include, but are not
 296 limited to:

297 ~~1.(a)~~ Performance measurements and metrics that objectively
 298 reflect the status of a project with an information technology
 299 component project based on a defined and documented project
 300 scope, cost, and schedule.

301 ~~2.(b)~~ Methodologies for calculating acceptable variances in
 302 the projected versus actual scope, schedule, or cost of a
 303 project with an information technology component project.

304 ~~3.(c)~~ Reporting requirements, including requirements
 305 designed to alert all defined stakeholders that a project with
 306 an information technology component project has exceeded
 307 acceptable variances defined and documented in a project plan.

308 ~~4.(d)~~ Content, format, and frequency of project updates.

309 ~~(d)(4)~~ Perform project oversight on all state agency
 310 ~~information technology~~ projects that have an information
 311 technology component with a total project cost ~~costs~~ of \$10
 312 million or more and that are funded in the General
 313 Appropriations Act or any other law. The Florida Digital Service
 314 ~~department~~ shall report at least quarterly to the Executive
 315 Office of the Governor, the President of the Senate, and the
 316 Speaker of the House of Representatives on any project with an
 317 information technology component project that the Florida
 318 Digital Service department identifies as high-risk due to the
 319 project exceeding acceptable variance ranges defined and

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320 documented in a project plan. The report must include a risk
 321 assessment, including fiscal risks, associated with proceeding
 322 to the next stage of the project, and a recommendation for
 323 corrective actions required, including suspension or termination
 324 of the project. The Florida Digital Service shall establish a
 325 process for state agencies to apply for an exception to the
 326 requirements of this paragraph for a specific project with an
 327 information technology component.

328 ~~(e)(5)~~ Identify opportunities for standardization and
 329 consolidation of information technology services that support
 330 interoperability and the cloud-first policy as specified in s.
 331 282.206, business functions and operations, including
 332 administrative functions such as purchasing, accounting and
 333 reporting, cash management, and personnel, and that are common
 334 across state agencies. The Florida Digital Service department
 335 shall biennially on April 1 provide recommendations for
 336 standardization and consolidation to the Executive Office of the
 337 Governor, the President of the Senate, and the Speaker of the
 338 House of Representatives.

339 ~~(f)(6)~~ Establish best practices for the procurement of
 340 information technology products and cloud-computing services in
 341 order to reduce costs, increase the quality of data center
 342 services, or improve government services.

343 ~~(g)(7)~~ Develop standards for information technology reports
 344 and updates, including, but not limited to, operational work
 345 plans, project spend plans, and project status reports, for use
 346 by state agencies.

347 ~~(h)(8)~~ Upon request, assist state agencies in the
 348 development of information technology-related legislative budget

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349 requests.

350 ~~(i)(9)~~ Conduct annual assessments of state agencies to
 351 determine compliance with all information technology standards
 352 and guidelines developed and published by the Florida Digital
 353 Service department and provide results of the assessments to the
 354 Executive Office of the Governor, the President of the Senate,
 355 and the Speaker of the House of Representatives.

356 ~~(j)(10)~~ Provide operational management and oversight of the
 357 state data center established pursuant to s. 282.201, which
 358 includes:

359 ~~1.(a)~~ Implementing industry standards and best practices
 360 for the state data center's facilities, operations, maintenance,
 361 planning, and management processes.

362 ~~2.(b)~~ Developing and implementing cost-recovery or other
 363 payment mechanisms that recover the full direct and indirect
 364 cost of services through charges to applicable customer
 365 entities. Such cost-recovery or other payment mechanisms must
 366 comply with applicable state and federal regulations concerning
 367 distribution and use of funds and must ensure that, for any
 368 fiscal year, no service or customer entity subsidizes another
 369 service or customer entity.

370 ~~3.(c)~~ Developing and implementing appropriate operating
 371 guidelines and procedures necessary for the state data center to
 372 perform its duties pursuant to s. 282.201. The guidelines and
 373 procedures must comply with applicable state and federal laws,
 374 regulations, and policies and conform to generally accepted
 375 governmental accounting and auditing standards. The guidelines
 376 and procedures must include, but need not be limited to:

377 ~~a.1-~~ Implementing a consolidated administrative support

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378 structure responsible for providing financial management,
 379 procurement, transactions involving real or personal property,
 380 human resources, and operational support.

381 ~~b.2-~~ Implementing an annual reconciliation process to
 382 ensure that each customer entity is paying for the full direct
 383 and indirect cost of each service as determined by the customer
 384 entity's use of each service.

385 ~~c.3-~~ Providing rebates that may be credited against future
 386 billings to customer entities when revenues exceed costs.

387 ~~d.4-~~ Requiring customer entities to validate that
 388 sufficient funds exist in the appropriate data processing
 389 appropriation category or will be transferred into the
 390 appropriate data processing appropriation category before
 391 implementation of a customer entity's request for a change in
 392 the type or level of service provided, if such change results in
 393 a net increase to the customer entity's cost for that fiscal
 394 year.

395 ~~e.5-~~ By November 15 of each year, providing to the Office
 396 of Policy and Budget in the Executive Office of the Governor and
 397 to the chairs of the legislative appropriations committees the
 398 projected costs of providing data center services for the
 399 following fiscal year.

400 ~~f.6-~~ Providing a plan for consideration by the Legislative
 401 Budget Commission if the cost of a service is increased for a
 402 reason other than a customer entity's request made pursuant to
 403 sub-subparagraph d. subparagraph 4- Such a plan is required only
 404 if the service cost increase results in a net increase to a
 405 customer entity for that fiscal year.

406 ~~g.7-~~ Standardizing and consolidating procurement and

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407 contracting practices.

408 ~~4.(d)~~ In collaboration with the Department of Law
409 Enforcement, developing and implementing a process for
410 detecting, reporting, and responding to information technology
411 security incidents, breaches, and threats.

412 ~~5.(e)~~ Adopting rules relating to the operation of the state
413 data center, including, but not limited to, budgeting and
414 accounting procedures, cost-recovery or other payment
415 methodologies, and operating procedures.

416 ~~(f) Conducting an annual market analysis to determine~~
417 ~~whether the state's approach to the provision of data center~~
418 ~~services is the most effective and cost efficient manner by~~
419 ~~which its customer entities can acquire such services, based on~~
420 ~~federal, state, and local government trends; best practices in~~
421 ~~service provision; and the acquisition of new and emerging~~
422 ~~technologies. The results of the market analysis shall assist~~
423 ~~the state data center in making adjustments to its data center~~
424 ~~service offerings.~~

425 ~~(k)(11)~~ Recommend other information technology services
426 that should be designed, delivered, and managed as enterprise
427 information technology services. Recommendations must include
428 the identification of existing information technology resources
429 associated with the services, if existing services must be
430 transferred as a result of being delivered and managed as
431 enterprise information technology services.

432 ~~(l)(12)~~ In consultation with state agencies, propose a
433 methodology and approach for identifying and collecting both
434 current and planned information technology expenditure data at
435 the state agency level.

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436 ~~(m)1.(13)(a)~~ Notwithstanding any other law, provide project
437 oversight on any project with an information technology
438 ~~component project~~ of the Department of Financial Services, the
439 Department of Legal Affairs, and the Department of Agriculture
440 and Consumer Services which has a total project cost of \$25
441 million or more and which impacts one or more other agencies.
442 Such projects with an information technology ~~component projects~~
443 must also comply with the applicable information technology
444 architecture, project management and oversight, and reporting
445 standards established by the Florida Digital Service department.
446 The Florida Digital Service shall establish a process for the
447 Department of Financial Services, the Department of Legal
448 Affairs, and the Department of Agriculture and Consumer Services
449 to apply for an exception to the requirements of this paragraph
450 for a specific project with an information technology component.

451 ~~2.(b)~~ When performing the project oversight function
452 specified in subparagraph 1. paragraph (a), report at least
453 quarterly to the Executive Office of the Governor, the President
454 of the Senate, and the Speaker of the House of Representatives
455 on any project with an information technology ~~component project~~
456 that the Florida Digital Service department identifies as high-
457 risk due to the project exceeding acceptable variance ranges
458 defined and documented in the project plan. The report shall
459 include a risk assessment, including fiscal risks, associated
460 with proceeding to the next stage of the project and a
461 recommendation for corrective actions required, including
462 suspension or termination of the project.

463 ~~(n)(14)~~ If a project with an information technology
464 ~~component project~~ implemented by a state agency must be

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465 connected to or otherwise accommodated by an information
 466 technology system administered by the Department of Financial
 467 Services, the Department of Legal Affairs, or the Department of
 468 Agriculture and Consumer Services, consult with these
 469 departments regarding the risks and other effects of such
 470 projects on their information technology systems and work
 471 cooperatively with these departments regarding the connections,
 472 interfaces, timing, or accommodations required to implement such
 473 projects.

474 ~~(o)(15)~~ If adherence to standards or policies adopted by or
 475 established pursuant to this section causes conflict with
 476 federal regulations or requirements imposed on a state agency
 477 and results in adverse action against the state agency or
 478 federal funding, work with the state agency to provide
 479 alternative standards, policies, or requirements that do not
 480 conflict with the federal regulation or requirement. The Florida
 481 Digital Service ~~department~~ shall annually report such
 482 alternative standards to the Governor, the President of the
 483 Senate, and the Speaker of the House of Representatives.

484 ~~(p)1.(16)(a)~~ Establish an information technology policy for
 485 all information technology-related state contracts, including
 486 state term contracts for information technology commodities,
 487 consultant services, and staff augmentation services. The
 488 information technology policy must include:

489 a.1- Identification of the information technology product
 490 and service categories to be included in state term contracts.

491 b.2- Requirements to be included in solicitations for state
 492 term contracts.

493 c.3- Evaluation criteria for the award of information

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494 technology-related state term contracts.

495 d.4- The term of each information technology-related state
 496 term contract.

497 ~~e.5-~~ The maximum number of vendors authorized on each state
 498 term contract.

499 2.(b) Evaluate vendor responses for information technology-
 500 related state term contract solicitations and invitations to
 501 negotiate.

502 3.(e) Answer vendor questions on information technology-
 503 related state term contract solicitations.

504 4.(d) Ensure that the information technology policy
 505 established pursuant to subparagraph 1. paragraph (a) is
 506 included in all solicitations and contracts that are
 507 administratively executed by the department.

508 (g)(17) Recommend potential methods for standardizing data
 509 across state agencies which will promote interoperability and
 510 reduce the collection of duplicative data.

511 (r)(18) Recommend open data technical standards and
 512 terminologies for use by the enterprise state agencies.

513 (2) (a) The Secretary of Management Services shall designate
 514 a state chief information officer, who shall administer the
 515 Florida Digital Service and is included in the Senior Management
 516 Service.

517 (b) The state chief information officer shall designate a
 518 chief data officer, who shall report to the state chief
 519 information officer and is included in the Senior Management
 520 Service.

521 (3) The Florida Digital Service shall, pursuant to
 522 legislative appropriation:

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- 523 (a) Create and maintain a comprehensive indexed data
 524 catalog that lists what data elements are housed within the
 525 enterprise and in which legacy system or application these data
 526 elements are located.
- 527 (b) Develop and publish, in collaboration with the
 528 enterprise, a data dictionary for each agency which reflects the
 529 nomenclature in the comprehensive indexed data catalog.
- 530 (c) Review and document use cases across the enterprise
 531 architecture.
- 532 (d) Develop and publish standards that support the creation
 533 and deployment of application programming interfaces to
 534 facilitate integration throughout the enterprise.
- 535 (e) Publish standards necessary to facilitate a secure
 536 ecosystem of data interoperability which is compliant with the
 537 enterprise architecture and allows for a qualified entity to
 538 access the enterprise's data under the terms of the agreements
 539 with the department. However, enterprise data do not include
 540 data that are restricted from public distribution based on
 541 federal or state privacy, confidentiality, or security laws and
 542 regulations.
- 543 (f) Publish standards that facilitate the deployment of
 544 applications or solutions to existing enterprise obligations in
 545 a controlled and phased approach, including, but not limited to:
- 546 1. Electronic credentials, including digital proofs of a
 547 driver license as specified in s. 322.032.
 - 548 2. Interoperability that enables supervisors of elections
 549 to authenticate voter eligibility in real time at the point of
 550 service.
 - 551 3. The criminal justice database.

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- 552 4. Motor vehicle insurance cancellation integration between
 553 insurers and the Department of Highway Safety and Motor
 554 Vehicles.
- 555 5. Interoperability solutions between agencies, including,
 556 but not limited to, the Department of Health, the Agency for
 557 Health Care Administration, the Agency for Persons with
 558 Disabilities, the Department of Education, the Department of
 559 Elderly Affairs, and the Department of Children and Families.
- 560 6. Interoperability solutions to support military members,
 561 veterans, and their families.
- 562 (4) Pursuant to legislative authorization and subject to
 563 appropriation:
- 564 (a) The department may procure a credential service
 565 provider through a competitive process pursuant to s. 287.057.
 566 The terms of the contract developed from such procurement must
 567 pay for the value on a per-data-call or subscription basis, and
 568 there shall be no cost to the enterprise or law enforcement for
 569 using the services provided by the credential service provider.
- 570 (b) The department may enter into agreements with qualified
 571 entities that have the technological capabilities necessary to
 572 integrate with the credential service provider; ensure secure
 573 validation and authentication of data; meet usage criteria; and
 574 agree to terms and conditions, privacy policies, and uniform
 575 remittance terms relating to the consumption of enterprise data.
 576 Enterprise data do not include data that are restricted from
 577 public disclosure based on federal or state privacy,
 578 confidentiality, or security laws and regulations. These
 579 agreements must include clear, enforceable, and significant
 580 penalties for violations of the agreements.

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581 (c) The terms of the agreements between the department and
 582 the credential service provider and between the department and
 583 the qualified entities must be based on the per-data-call or
 584 subscription charges to validate and authenticate an electronic
 585 credential and allow the department to recover any state costs
 586 for implementing and administering an electronic credential
 587 solution. Credential service provider and qualifying entity
 588 revenues may not be derived from any other transactions that
 589 generate revenue for the enterprise outside of the per-data-call
 590 or subscription charges.

591 (d) All revenues generated from the agreements with the
 592 credential service provider and qualified entities shall be
 593 remitted to the department, and the department shall deposit
 594 these revenues into the Department of Management Services
 595 Operating Trust Fund for distribution pursuant to a legislative
 596 appropriation and department agreements with the credential
 597 service provider and qualified entities.

598 (e) Upon the signing of the agreement and the enterprise
 599 architecture terms of service and privacy policies with a
 600 qualified entity, the department shall facilitate authorized
 601 integrations between the qualified entity and the credential
 602 service provider.

603 (5) Upon the adoption of the enterprise architecture, the
 604 Florida Digital Service may develop a process to:

605 (a) Receive written notice from the enterprise of any
 606 procurement of an information technology project that is subject
 607 to enterprise architecture standards.

608 (b) Participate in the development of specifications and
 609 recommend modifications of any procurement by state agencies so

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610 that the procurement complies with the enterprise architecture.

611 ~~(6)(19)~~ The Florida Digital Service may adopt rules to
 612 administer this section.

613 Section 4. Section 282.00515, Florida Statutes, is amended
 614 to read:

615 282.00515 Duties of Cabinet agencies.—

616 (1) The Department of Legal Affairs, the Department of
 617 Financial Services, and the Department of Agriculture and
 618 Consumer Services shall adopt the standards established in s.
 619 282.0051(1)(b), (c), (g), (r), and (3)(e) ~~s. 282.0051(2), (3),~~
 620 ~~and (7)~~ or adopt alternative standards based on best practices
 621 and industry standards that allow for the interoperability of
 622 open data within the enterprise.

623 (2) If the Department of Legal Affairs, the Department of
 624 Financial Services, or the Department of Agriculture and
 625 Consumer Services adopts alternative standards in lieu of the
 626 enterprise architecture standards in s. 282.0051, such agency
 627 shall notify the Governor, the President of the Senate, and
 628 Speaker of the House of Representatives in writing before the
 629 adoption of the alternative standards and annually thereafter,
 630 until such agency adopts the enterprise architecture standards
 631 in s. 282.0051. The notification must include the following:

632 (a) A detailed plan of how such agency will comply with the
 633 interoperability requirements referenced in this chapter.

634 (b) An estimated cost and time difference between adhering
 635 to the enterprise architecture or choosing alternative
 636 standards.

637 (c) A detailed security risk assessment of adopting
 638 alternative standards versus adopting the enterprise

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639 architecture.

640 (d) Certification by the agency head or the agency head's
 641 designated representative that the agency's strategic and
 642 operational information technology security plans as required by
 643 s. 282.318(4) include provisions related to interoperability.

644 (3) The Department of Legal Affairs, the Department of
 645 Financial Services, or the Department of Agriculture and
 646 Consumer Services may contract with the department to provide or
 647 perform any of the services and functions described in s.
 648 282.0051.

649 (4) (a) This section or s. 282.0051 does not require the
 650 Department of Legal Affairs, the Department of Financial
 651 Services, or the Department of Agriculture and Consumer Services
 652 to integrate with any information technology outside its own
 653 department or contract with a credential service provider.

654 (b) The Florida Digital Service may not retrieve or publish
 655 data without a data sharing agreement in place between the
 656 Florida Digital Service and the Department of Legal Affairs, the
 657 Department of Financial Services, or the Department of
 658 Agriculture and Consumer Services, and may contract with the
 659 department to provide or perform any of the services and
 660 functions described in s. 282.0051 for the Department of Legal
 661 Affairs, the Department of Financial Services, or the Department
 662 of Agriculture and Consumer Services.

663 Section 5. Paragraph (a) of subsection (3) of section
 664 282.318, Florida Statutes, is amended to read:

665 282.318 Security of data and information technology.—

666 (3) The department is responsible for establishing
 667 standards and processes consistent with generally accepted best

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668 practices for information technology security, to include
 669 cybersecurity, and adopting rules that safeguard an agency's
 670 data, information, and information technology resources to
 671 ensure availability, confidentiality, and integrity and to
 672 mitigate risks. The department shall also:

673 (a) Designate a state chief information security officer
 674 who shall report to the state chief information officer of the
 675 Florida Digital Service and is in the Senior Management Service.
 676 The state chief information security officer must have
 677 experience and expertise in security and risk management for
 678 communications and information technology resources.

679 Section 6. Subsection (4) of section 287.0591, Florida
 680 Statutes, is amended to read:

681 287.0591 Information technology.—

682 (4) If the department issues a competitive solicitation for
 683 information technology commodities, consultant services, or
 684 staff augmentation contractual services, the Florida Digital
 685 Service ~~Division of State Technology~~ within the department shall
 686 participate in such solicitations.

687 Section 7. Paragraph (a) of subsection (3) of section
 688 365.171, Florida Statutes, is amended to read:

689 365.171 Emergency communications number E911 state plan.—

690 (3) DEFINITIONS.—As used in this section, the term:

691 (a) "Office" means the Division of Telecommunications State
 692 Technology within the Department of Management Services, as
 693 designated by the secretary of the department.

694 Section 8. Paragraph (s) of subsection (3) of section
 695 365.172, Florida Statutes, is amended to read:

696 365.172 Emergency communications number "E911."—

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697 (3) DEFINITIONS.—Only as used in this section and ss.
 698 365.171, 365.173, 365.174, and 365.177, the term:
 699 (s) “Office” means the Division of ~~Telecommunications State~~
 700 ~~Technology~~ within the Department of Management Services, as
 701 designated by the secretary of the department.
 702 Section 9. Paragraph (a) of subsection (1) of section
 703 365.173, Florida Statutes, is amended to read:
 704 365.173 Communications Number E911 System Fund.—
 705 (1) REVENUES.—
 706 (a) Revenues derived from the fee levied on subscribers
 707 under s. 365.172(8) must be paid by the board into the State
 708 Treasury on or before the 15th day of each month. Such moneys
 709 must be accounted for in a special fund to be designated as the
 710 Emergency Communications Number E911 System Fund, a fund created
 711 in the Division of ~~Telecommunications State Technology~~, or other
 712 office as designated by the Secretary of Management Services.
 713 Section 10. Subsection (5) of section 943.0415, Florida
 714 Statutes, is amended to read:
 715 943.0415 Cybercrime Office.—There is created within the
 716 Department of Law Enforcement the Cybercrime Office. The office
 717 may:
 718 (5) Consult with the ~~Florida Digital Service Division of~~
 719 ~~State Technology~~ within the Department of Management Services in
 720 the adoption of rules relating to the information technology
 721 security provisions in s. 282.318.
 722 Section 11. Effective January 1, 2021, section 559.952,
 723 Florida Statutes, is created to read:
 724 559.952 Financial Technology Sandbox.—
 725 (1) SHORT TITLE.—This section may be cited as the

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726 “Financial Technology Sandbox.”
 727 (2) CREATION OF THE FINANCIAL TECHNOLOGY SANDBOX.—There is
 728 created the Financial Technology Sandbox within the Office of
 729 Financial Regulation to allow financial technology innovators to
 730 test new products and services in a supervised, flexible
 731 regulatory sandbox using exceptions to specified general law and
 732 waivers of the corresponding rule requirements under defined
 733 conditions. The creation of a supervised, flexible regulatory
 734 sandbox provides a welcoming business environment for technology
 735 innovators and may lead to significant business growth.
 736 (3) DEFINITIONS.—As used in this section, the term:
 737 (a) “Business entity” means a domestic corporation or other
 738 organized domestic entity with a physical presence, other than
 739 that of a registered office or agent or virtual mailbox, in this
 740 state.
 741 (b) “Commission” means the Financial Services Commission.
 742 (c) “Consumer” means a person in this state, whether a
 743 natural person or a business entity, who purchases, uses,
 744 receives, or enters into an agreement to purchase, use, or
 745 receive an innovative financial product or service made
 746 available through the Financial Technology Sandbox.
 747 (d) “Control person” means an individual, a partnership, a
 748 corporation, a trust, or other organization that possesses the
 749 power, directly or indirectly, to direct the management or
 750 policies of a company, whether through ownership of securities,
 751 by contract, or through other means. A person is presumed to
 752 control a company if, with respect to a particular company, that
 753 person:
 754 1. Is a director, a general partner, or an officer

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755 exercising executive responsibility or having similar status or
 756 functions;

757 2. Directly or indirectly may vote 10 percent or more of a
 758 class of a voting security or sell or direct the sale of 10
 759 percent or more of a class of voting securities; or

760 3. In the case of a partnership, may receive upon
 761 dissolution or has contributed 10 percent or more of the
 762 capital.

763 (e) "Financial product or service" means a product or
 764 service related to a consumer finance loan, as defined in s.
 765 516.01, or a money transmitter and payment instrument seller, as
 766 defined in s. 560.103, including mediums of exchange that are in
 767 electronic or digital form, which is subject to general law or
 768 corresponding rule requirements in the sections enumerated in
 769 paragraph (4) (a) and which is under the jurisdiction of the
 770 office.

771 (f) "Financial Technology Sandbox" means the program
 772 created in this section which allows a licensee to make an
 773 innovative financial product or service available to consumers
 774 as a person who makes and collects consumer finance loans, as
 775 defined in s. 516.01, or as a money transmitter or payment
 776 instrument seller, as defined in s. 560.103, during a sandbox
 777 period through an exception to general laws or a waiver of rule
 778 requirements, or portions thereof, as specified in this section.

779 (g) "Innovative" means new or emerging technology, or new
 780 uses of existing technology, which provides a product, service,
 781 business model, or delivery mechanism to the public and which is
 782 not known to have a comparable offering in this state outside
 783 the Financial Technology Sandbox.

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784 (h) "Licensee" means a person who has been approved by the
 785 office to participate in the Financial Technology Sandbox.

786 (i) "Office" means, unless the context clearly indicates
 787 otherwise, the Office of Financial Regulation.

788 (j) "Sandbox period" means the period, initially not longer
 789 than 24 months, in which the office has:

790 1. Authorized an innovative financial product or service to
 791 be made available to consumers.

792 2. Granted the licensee who makes the innovative financial
 793 product or service available an exception to general law or a
 794 waiver of the corresponding rule requirements, as determined by
 795 the office, so that the authorization under subparagraph 1. is
 796 possible.

797 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
 798 REQUIREMENTS.-

799 (a) Notwithstanding any other law, upon approval of a
 800 Financial Technology Sandbox application, the office shall grant
 801 an applicant a license and a waiver of a requirement, or a
 802 portion thereof, which is imposed by rule as authorized by any
 803 of the following provisions of general law, if all of the
 804 conditions in paragraph (b) are met. If the application is
 805 approved for a person who otherwise would be subject to chapter
 806 516 or chapter 560, the following provisions are not applicable
 807 to the licensee:

808 1. Section 516.03, except for the application fee for a
 809 license, the investigation fee, evidence of liquid assets of at
 810 least \$25,000, and the office's authority to make an
 811 investigation of the facts concerning the applicant's background
 812 as provided in s. 516.03(1). The office may prorate the license

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813 renewal fees for an extension granted under subsection (7).
 814 2. Section 516.05, except for s. 516.05(4), (5), and (7)-
 815 (9).
 816 3. Section 560.109, to the extent that it requires the
 817 office to examine a licensee at least once every 5 years.
 818 4. Section 560.118, except for s. 560.118(1).
 819 5. Section 560.125(1), to the extent that subsection would
 820 prohibit a licensee from engaging in the business of a money
 821 services business during the sandbox period; and s. 560.125(2),
 822 to the extent that subsection would prohibit a licensee from
 823 appointing an authorized vendor during the sandbox period.
 824 6. Section 560.128.
 825 7. Section 560.141, except for s. 560.141(1)(a)3., 8., 9.,
 826 and 10. and (1)(b), (c), and (d).
 827 8. Section 560.142, except that the office may prorate, but
 828 may not entirely waive, the license renewal fees provided in ss.
 829 560.142 and 560.143 for an extension granted under subsection
 830 (7).
 831 9. Section 560.143(2), to the extent necessary for
 832 proration of the renewal fee under subparagraph 8.
 833 10. Section 560.204(1), to the extent that subsection would
 834 prohibit a licensee from engaging in, or advertising it engages
 835 in, the selling or issuing of payment instruments or in the
 836 activity of a money transmitter during the sandbox period.
 837 11. Section 560.205, except for s. 560.205(1), (3), and
 838 (4).
 839 12. Section 560.208, except for s. 560.208(3)-(6).
 840 13. Section 560.209, except that the office may modify, but
 841 may not entirely waive, the net worth, corporate surety bond,

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842 and collateral deposit amounts required under that section. The
 843 modified amounts must be in such lower amounts that the office
 844 determines to be commensurate with the considerations under
 845 paragraph (5)(d) and the maximum number of consumers authorized
 846 to receive the financial product or service under this section.
 847 (b) The office may grant, during a sandbox period, an
 848 exception of a requirement, or a portion thereof, imposed by a
 849 general law or waiver of a corresponding rule in any section
 850 enumerated in paragraph (a) to a licensee, if all of the
 851 following conditions are met:
 852 1. The general law or corresponding rule currently prevents
 853 the innovative financial product or service from being made
 854 available to consumers.
 855 2. The exceptions or rule waivers are not broader than
 856 necessary to accomplish the purposes and standards specified in
 857 this section, as determined by the office.
 858 3. No provision relating to the liability of an
 859 incorporator, a director, or an officer of the applicant is
 860 eligible for a waiver.
 861 4. The other requirements of this section are met.
 862 (5) FINANCIAL TECHNOLOGY SANDBOX APPLICATION; STANDARDS FOR
 863 APPROVAL.—
 864 (a) Before filing an application for licensure under this
 865 section, a substantially affected person may seek a declaratory
 866 statement pursuant to s. 120.565 regarding the applicability of
 867 a statute, a rule, or an agency order to the petitioner's
 868 particular set of circumstances.
 869 (b) Before making an innovative financial product or
 870 service available to consumers in the Financial Technology

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871 Sandbox, a person must file an application for licensure with
 872 the office. The commission shall, by rule, prescribe the form
 873 and manner of the application.

874 1. In the application, the person must specify the general
 875 law or rule requirements for which an exception or waiver is
 876 sought and the reasons why these requirements prevent the
 877 innovative financial product or service from being made
 878 available to consumers.

879 2. The application also must contain the information
 880 specified in paragraph (d).

881 (c)1. A business entity may file an application for
 882 licensure.

883 2. Before a person applies on behalf of a business entity
 884 intending to make an innovative financial product or service
 885 available to consumers, the person must obtain the consent of
 886 the business entity.

887 (d) The office shall approve or deny in writing a Financial
 888 Technology Sandbox application within 60 days after receiving
 889 the completed application. The office and the applicant may
 890 jointly agree to extend the time beyond 60 days. Consistent with
 891 this section, the office may impose conditions on any approval.
 892 In deciding whether to approve or deny an application for
 893 licensure, the office must consider each of the following:

894 1. The nature of the innovative financial product or
 895 service proposed to be made available to consumers in the
 896 Financial Technology Sandbox, including all relevant technical
 897 details.

898 2. The potential risk to consumers and the methods that
 899 will be used to protect consumers and resolve complaints during

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900 the sandbox period.

901 3. The business plan proposed by the applicant, including
 902 company information, market analysis, and financial projections
 903 or pro forma financial statements.

904 4. Whether the applicant has the necessary personnel,
 905 adequate financial and technical expertise, and a sufficient
 906 plan to test, monitor, and assess the innovative financial
 907 product or service.

908 5. If any control person of the applicant's innovative
 909 financial product or service has pled no contest to, has been
 910 convicted or found guilty of, or is currently under
 911 investigation for, fraud, a state or federal securities
 912 violation, a property-based offense, or a crime involving moral
 913 turpitude or dishonest dealing, the application to the Financial
 914 Technology Sandbox must be denied. A plea of no contest, a
 915 conviction, or a finding of guilt must be reported under this
 916 subparagraph regardless of adjudication.

917 6. A copy of the disclosures that will be provided to
 918 consumers under paragraph (6) (c).

919 7. The financial responsibility of any control person.

920 8. Any other factor that the office determines to be
 921 relevant.

922 (e) The office may not approve an application if:

923 1. The applicant had a prior Financial Technology Sandbox
 924 application that was approved and that related to a
 925 substantially similar financial product or service; or

926 2. Any control person substantially involved in the
 927 development, operation, or management of the applicant's
 928 innovative financial product or service was substantially

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929 involved in such with another Financial Technology Sandbox
 930 applicant whose application was approved and whose application
 931 related to a substantially similar financial product or service.

932 (f) Upon approval of an application, the office shall
 933 specify the general law or rule requirements, or portions
 934 thereof, for which an exception or a waiver is granted during
 935 the sandbox period and the length of the initial sandbox period,
 936 not to exceed 24 months. The office shall post on its website
 937 notice of the approval of the application, a summary of the
 938 innovative financial product or service, and the contact
 939 information of the person making the financial product or
 940 service available.

941 (6) OPERATION OF THE FINANCIAL TECHNOLOGY SANDBOX.-

942 (a) A licensee under this section may make an innovative
 943 financial product or service available to consumers during the
 944 sandbox period.

945 (b) The office, on a case-by-case basis, may specify the
 946 maximum number of consumers authorized to receive an innovative
 947 financial product or service, after consultation with the person
 948 who makes the financial product or service available to
 949 consumers. The office may not authorize more than 15,000
 950 consumers to receive the financial product or service until the
 951 licensee who makes the financial product or service available to
 952 consumers has filed the first report required under subsection

953 (8). After the filing of that report, if the licensee
 954 demonstrates adequate financial capitalization, risk management
 955 processes, and management oversight, the office may authorize up
 956 to 25,000 consumers to receive the financial product or service.

957 (c)1. Before a consumer purchases, uses, receives, or

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958 enters into an agreement to purchase, use, or receive an
 959 innovative financial product or service through the Financial
 960 Technology Sandbox, the licensee making the financial product or
 961 service available must provide a written statement of all of the
 962 following to the consumer:

963 a. The name and contact information of the person making
 964 the financial product or service available to consumers.

965 b. That the financial product or service has been
 966 authorized to be made available to consumers for a temporary
 967 period by the office, under the laws of this state.

968 c. That the state does not endorse the financial product or
 969 service.

970 d. That the financial product or service is undergoing
 971 testing, may not function as intended, and may entail financial
 972 risk.

973 e. That the licensee making the financial product or
 974 service available to consumers is not immune from civil
 975 liability for any losses or damages caused by the financial
 976 product or service.

977 f. The expected end date of the sandbox period.

978 g. The contact information for the office and notification
 979 that suspected legal violations, complaints, or other comments
 980 related to the financial product or service may be submitted to
 981 the office.

982 h. Any other statements or disclosures required by rule of
 983 the commission which are necessary to further the purposes of
 984 this section.

985 2. The written statement must contain an acknowledgement
 986 from the consumer, which must be retained for the duration of

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987 the sandbox period by the licensee making the financial product
 988 or service available.
 989 (d) The office may enter into an agreement with a state,
 990 federal, or foreign regulatory agency to allow persons who make
 991 an innovative financial product or service available in this
 992 state through the Financial Technology Sandbox to make their
 993 products or services available in other jurisdictions. The
 994 commission shall adopt rules to implement this paragraph.
 995 (e) The office may examine the records of a licensee at any
 996 time, with or without prior notice.
 997 (7) EXTENSIONS AND CONCLUSION OF SANDBOX PERIOD.—
 998 (a) A licensee may apply for an extension of the initial
 999 sandbox period for up to 12 additional months for a purpose
 1000 specified in subparagraph (b)1. or subparagraph (b)2. A complete
 1001 application for an extension must be filed with the office at
 1002 least 90 days before the conclusion of the initial sandbox
 1003 period. The office shall approve or deny the application for
 1004 extension in writing at least 35 days before the conclusion of
 1005 the initial sandbox period. In deciding to approve or deny an
 1006 application for extension of the sandbox period, the office
 1007 must, at a minimum, consider the current status of the factors
 1008 previously considered under paragraph (5) (d).
 1009 (b) An application for an extension under paragraph (a)
 1010 must cite one of the following reasons as the basis for the
 1011 application and must provide all relevant supporting information
 1012 that:
 1013 1. Amendments to general law or rules are necessary to
 1014 offer the innovative financial product or service in this state
 1015 permanently.

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1016 2. An application for a license that is required in order
 1017 to offer the innovative financial product or service in this
 1018 state permanently has been filed with the office, and approval
 1019 is pending.
 1020 (c) At least 30 days before the conclusion of the initial
 1021 sandbox period or the extension, whichever is later, a licensee
 1022 shall provide written notification to consumers regarding the
 1023 conclusion of the initial sandbox period or the extension and
 1024 may not make the financial product or service available to any
 1025 new consumers after the conclusion of the initial sandbox period
 1026 or the extension, whichever is later, until legal authority
 1027 outside of the Financial Technology Sandbox exists for the
 1028 licensee to make the financial product or service available to
 1029 consumers. After the conclusion of the sandbox period or the
 1030 extension, whichever is later, the licensee may:
 1031 1. Collect and receive money owed to the person or pay
 1032 money owed by the person, based on agreements with consumers
 1033 made before the conclusion of the sandbox period or the
 1034 extension.
 1035 2. Take necessary legal action.
 1036 3. Take other actions authorized by commission rule which
 1037 are not inconsistent with this subsection.
 1038 (8) REPORT.—A licensee shall submit a report to the office
 1039 twice a year as prescribed by commission rule. The report must,
 1040 at a minimum, include financial reports and the number of
 1041 consumers who have received the financial product or service.
 1042 (9) CONSTRUCTION.—A person whose Financial Technology
 1043 Sandbox application is approved is deemed licensed under this
 1044 section and is subject to chapter 516 or chapter 560 with the

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1045 applicable exceptions to general law or waiver of the rule
 1046 requirements of chapter 516 or chapter 560 specified under
 1047 paragraph (4) (a), unless the person's license has been revoked
 1048 or suspended. Notwithstanding s. 560.204(2), a licensee may not
 1049 engage in activities authorized under part III of chapter 560.
 1050 (10) VIOLATIONS AND PENALTIES.—
 1051 (a) A licensee who makes an innovative financial product or
 1052 service available to consumers in the Financial Technology
 1053 Sandbox is:
 1054 1. Not immune from civil damages for acts and omissions
 1055 relating to this section.
 1056 2. Subject to all criminal and any other statute not
 1057 specifically excepted under paragraph (4) (a).
 1058 (b)1. The office may, by order, revoke or suspend a license
 1059 of a person to make an innovative financial product or service
 1060 available to consumers if:
 1061 a. The person has violated or refused to comply with this
 1062 section, a rule of the commission, an order of the office, or a
 1063 condition placed by the office on the approval of the person's
 1064 Financial Technology Sandbox application;
 1065 b. A fact or condition exists that, if it had existed or
 1066 become known at the time that the Financial Technology Sandbox
 1067 application was pending, would have warranted denial of the
 1068 application or the imposition of material conditions;
 1069 c. A material error, false statement, misrepresentation, or
 1070 material omission was made in the Financial Technology Sandbox
 1071 application; or
 1072 d. After consultation with the licensee, the office
 1073 determines that continued testing of the innovative financial

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1074 product or service would:
 1075 (I) Be likely to harm consumers; or
 1076 (II) No longer serve the purposes of this section because
 1077 of the financial or operational failure of the financial product
 1078 or service.
 1079 2. Written notice of a revocation or suspension order made
 1080 under subparagraph 1. must be served using any means authorized
 1081 by law. If the notice relates to a suspension, the notice must
 1082 include any condition or remedial action that the person must
 1083 complete before the office lifts the suspension.
 1084 (c) The office may refer any suspected violation of law to
 1085 an appropriate state or federal agency for investigation,
 1086 prosecution, civil penalties, and other appropriate enforcement
 1087 action.
 1088 (d) If service of process on a person making an innovative
 1089 financial product or service available to consumers in the
 1090 Financial Technology Sandbox is not feasible, service on the
 1091 office is deemed service on such person.
 1092 (11) RULES AND ORDERS.—
 1093 (a) The commission shall adopt rules to administer this
 1094 section.
 1095 (b) The office may issue all necessary orders to enforce
 1096 this section and may enforce these orders in accordance with
 1097 chapter 120 or in any court of competent jurisdiction. These
 1098 orders include, but are not limited to, orders for payment of
 1099 restitution for harm suffered by consumers as a result of an
 1100 innovative financial product or service.
 1101 Section 12. For the 2020-2021 fiscal year, the sum of
 1102 \$50,000 in nonrecurring funds is appropriated from the

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1103 Administrative Trust Fund to the Office of Financial Regulation
1104 to implement s. 559.952, Florida Statutes, as created by this
1105 act.

1106 Section 13. Except as otherwise expressly provided in this
1107 act, this act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 20, 2020

I respectfully request that **Senate Bill #1870**, relating to Technology Innovation, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3

1870

Meeting Date

Bill Number (if applicable)

Topic Technology Development

Amendment Barcode (if applicable)

Name Alex Anderson

Job Title Director of Legislative Affairs

Address 101 E Gandy St Ste 118

Phone

Street

RH

FL

32301

Email

City

State

Zip

Speaking: For Against Information

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

Representing Office of Financial Regulation

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)

3/13/20

Meeting Date

SB1870

Bill Number (if applicable)

Topic Florida Digital Service/Fintech

Amendment Barcode (if applicable)

Name Cody Farrill

Job Title Deputy Chief of Staff

Address 4050 Esplanade Way

Phone 850 487 7001

Tallahassee FL 32399

City

State

Zip

Email cody.farrill@dms.myflorida.com

Speaking: For Against Information

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

Representing Department of Management Services

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)

3/3/20

Meeting Date

1870

Bill Number (if applicable)

Topic Technology Innovation

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 12, The Capitol

Phone (850) 413-2890

Street

Tallahassee

FL

32399

City

State

Zip

Email meredith.stanfield@myFloridaCFO.com

Speaking: For Against Information

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

Representing Department of Financial Services

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)

3/3/20
Meeting Date

1870
Bill Number (if applicable)

Topic INTEROPERABILITY

Amendment Barcode (if applicable)

Name DAVID BROWN

Job Title ADVOCACY CHAIR

Address 110 LOW PK AVE
Street

Phone 954.952.7189

FORT LAUDERDALE, FL 33301
City State Zip

Email dbrown@wv.com

Speaking: For Against Information

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

Representing SOUTH FLORIDA HILLS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1874

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hutson

SUBJECT: Fees/Office of Financial Regulation/Financial Technology Sandbox Applications

DATE: March 2, 2020 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|--------------------|
| 1. | <u>McVaney</u> | <u>McVaney</u> | <u>GO</u> | <u>Fav/CS</u> |
| 2. | <u>Arnold</u> | <u>Knudson</u> | <u>BI</u> | <u>Favorable</u> |
| 3. | <u>Smith</u> | <u>Kynoch</u> | <u>AP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1874 prohibits the Office of Financial Regulation from waiving or modifying a fee provided in chapter 559, Florida Statutes, except as otherwise authorized for the Financial Technology Sandbox.

This bill is linked with CS/SB 1870. CS/SB 1870 creates the Financial Technology Sandbox within the Office of Financial Regulation. The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised flexible regulatory sandbox using waivers of specified general law and corresponding rule requirements under defined conditions.

This bill has no fiscal impact on state government or local governments.

This bill takes effect on the same date that CS/SB 1870 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

At this point, CS/SB 1870 takes effect July 1, 2020.

II. Present Situation:

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each

house of the Legislature.¹ For purposes of this requirement, a “fee” is any charge or payment required by law. This includes any fee or charge for services and fees or costs for licenses. To “raise” a fee or tax means to:²

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.³

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.⁴

CS/SB 1870, which is linked to this bill, creates the Financial Technology Sandbox within the Office of Financial Regulation. The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised flexible regulatory sandbox using waivers of specified general law and corresponding rule requirements under defined conditions.

III. Effect of Proposed Changes:

The bill prohibits the Office of Financial Regulation from waiving or modifying a fee provided in ch. 559, F.S., except as otherwise authorized for the Financial Technology Sandbox.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

² Fla. Const. art. VII, s. 19(d).

³ Fla. Const. art. VII, s. 19(e).

⁴ Fla. Const. art. VII s. 19(c).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill is not expected to impact state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 559.952 of the Florida Statutes, created in CS/SB 1870, 2020 Regular Session.

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 Governmental Oversight and Accountability on February 10, 2020:

The CS removes the application fee for the Financial Technology Sandbox and the fees associated with fingerprint processing and retention. While the companion bill, SB 1870, allows certain statutory fees to be waived, the CS prohibits the waiver or modification of any fees provided in ch. 559, F.S., except as otherwise provided in SB 1870.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability;
and Senator Hutson

585-03385-20

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1 A bill to be entitled
2 An act relating to fees; amending s. 559.952, F.S.;
3 prohibiting the Office of Financial Regulation from
4 waiving or modifying fees for the Financial Technology
5 Sandbox except as specified; providing a contingent
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Subsection (12) is added to section 559.952,
11 Florida Statutes, as created by SB 1870, 2020 Regular Session,
12 to read:

13 559.952 Financial Technology Sandbox.—

14 (12) FEES.—The office may not waive or modify any fee
15 provided under this chapter except as authorized under this
16 section.

17 Section 2. This act shall take effect on the same date that
18 SB 1870 or similar legislation takes effect, if such legislation
19 is adopted in the same legislative session or an extension
20 thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 20, 2020

I respectfully request that **Senate Bill #1874**, relating to Fees/Office of Financial Regulation/Financial Technology Sandbox Applications, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

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 Appropriations

BILL: SB 7060
 INTRODUCER: Finance and Tax Committee
 SUBJECT: Tax Administration
 DATE: March 2, 2020 REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----------|----------------|-----------|---------------------------------------|
| Babin | Diez-Arguelles | | FT Submitted as Committee Bill |
| 1. Babin | Kynoch | AP | Favorable |

I. Summary:

SB 7060 makes changes to tax-related statutes, as recommended by the Department of Revenue. Specifically, the bill:

- Extends from 3 to 5 years the time for commencement of repairs to property damaged by Hurricane Michael without the property owner losing the prior assessment limitation.
- Updates real property classification language to classify apartments with more than nine units as commercial property.
- Updates the Department of Revenue’s tax roll review requirements to delete the requirement that the department do in-depth reviews of tangible personal property and to delete the requirement that the department calculate a confidence interval for an entire property roll.
- Tolls the statute of limitations for refund claims to allow taxpayers to apply for refunds during the audit process.
- Increases the timeframes during which non-residents and dealers must provide documentation demonstrating that boats and aircraft purchased in Florida were removed from the State.
- Changes the penalty for not properly labeling dyed diesel fuel from \$10 per gallon to \$2,500 for every month that dyed diesel fuel is improperly labeled.

The Revenue Estimating Conference estimates that the provisions of the bill that toll the statute of limitations for refunds will reduce General Revenue Fund receipts by an indeterminate amount beginning in Fiscal Year 2020-2021. The remaining provisions of the bill do not have a fiscal impact.

The bill takes effect July 1, 2020.

II. Present Situation:

The present situation for each issue is explained below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1 –Repairs to Property Damaged by Hurricane Michael

Present Situation

Under current law, changes, additions, or improvements to property are assessed at fair market value on the January 1 after the changes, additions, or improvements are substantially completed; however, Florida allows an owner of property that was damaged or destroyed by misfortune or calamity to make changes, additions, or improvements that repair or replace portions of the property without increasing the assessed value of the property above the value of the property before it was damaged or destroyed.¹ In order to receive this lower assessed value, the square footage of the property, as changed or improved, may not exceed 110 percent of the square footage of the property before it was damaged or destroyed, or 1500 square feet. And, the qualifying changes, additions, or improvements must commence within three years after the January 1 following the damage or destruction of the property.

Proposed change

The bill creates s. 193.1557, F.S., to extend from three years to five years the timeframe for commencing qualifying changes, additions or improvements that replace all or a portion of property damaged or destroyed by Hurricane Michael. This extension of time applies for tax years 2019-2023 and is repealed on December 31, 2023.

Section 2 – Property Classification of Apartments with more than Nine Units

Present Situation

Under current law all items that are required by law to be on the assessment rolls must receive a classification based upon the use of the property.² Real property must be classified according to the assessment basis of the land.³

Apartment property is generally assessed in a manner similar to other commercial property but must be classified as multifamily, regardless of the number of units.

Proposed change

The bill amends s. 195.073, F.S., to specify that apartment property with more than nine units should be classified as commercial property.

Section 3 – In-Depth Study Requirements and Confidence Interval Calculations

Present Situation

The DOR must conduct an in-depth review of the real property and tangible personal property assessment rolls of each county at least once every two years and report the results of its review

¹ See ss. 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

² Section 195.073, F.S.

³ *Id.*

to specified legislative committees and county officials.⁴ As part of the in-depth review, the DOR conducts assessment ratio studies, which assist in determining whether property is being assessed fairly and equitably.⁵ In conducting the assessment ratio studies, the DOR must adhere to the standards to which the property appraisers are required to adhere to and use all practicable steps to maximize the representativeness or statistical reliability of the samples of properties reviewed.

The DOR must complete the review of the county assessment roll and publish the findings within 120 days after receiving the roll or within 10 days after the approval of the roll, whichever is later.⁶ During the review process, the DOR must compute a confidence interval for the overall property tax roll and include in its findings a statement of the confidence interval for the median and any other measures that may be appropriate for each classification or subclassification studied. The results should also include all related statistical and analytical details and measures for the real property assessment roll as a whole and the personal property assessment roll as a whole.⁷

A recently completed Auditor General's report contained findings noting that the DOR has not conducted in-depth reviews of tangible personal property and that the DOR has not met the requirement to compute a confidence interval for the overall property tax roll.

The DOR has not conducted in-depth reviews of the tangible personal property rolls in over a decade because, during the recession, the Legislature cut the staff positions that conducted these studies.

The DOR has not computed a confidence interval for the property tax roll as a whole because there is not a generally accepted statistical procedure for the calculation.

Proposed change

The bill amends s. 195.096, F.S., to specify that in-depth reviews are only required for real property rolls and to remove the requirement that the DOR compute a confidence interval for the overall property tax roll.

Section 4 – Reduce Penalties for Diesel Fuel Noticing Violations

Present Situation

Florida law allows consumers to purchase dyed diesel fuel free from state and local taxes under the following circumstances:

- When used on a farm for farming purposes;
- When used exclusively by a local government;
- When used in a vehicle owned by an aircraft museum;
- When used exclusively by the American Red Cross;

⁴ Section 195.096(2), and (3)(c), F.S.

⁵ International Association of Assessing Officers, *Standard on Ratio Studies*, p. 8, available at https://www.iaao.org/media/standards/Standard_on_Ratio_Studies.pdf (last visited Feb. 12, 2020).

⁶ Section 195.096(2)(f), F.S.

⁷ Section 195.096(3)(a), F.S.

- When used in a vessel employed in the business of commercial transportation or in commercial fishing;
- When used in a bus engaged in the transportation of students and employees of schools;
- When used in a local bus service open to the public and travels regular routes;
- When used exclusively by a nonprofit educational facility;
- When used in a motor vehicle owned by the US Government which is used off-highway;
- When used in a vessel of war;
- When used for home heating;
- When used in certain self-propelled off-road or stationary equipment; and
- When used by a non-commercial vessel.⁸

Each local government or mass transit system provider that intends to purchase dyed diesel must register with the DOR before making exempt purchases.⁹

Tax free dyed diesel fuel is marked with a red dye¹⁰ and invoices, shipping papers, bills of lading, pumps, and other related items associated with the sale are required to be marked with the statement: “DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE.”¹¹

Failure to include the required statement requires a mandatory penalty of \$10 for every gallon or \$1,000, whichever is greater.¹² The mandatory \$10 per gallon penalty requirement has resulted in very large penalty assessments, even when the dealer had paid all taxes due.

Proposed Change

The bill amends s. 206.8741, F.S., to revise the penalty to \$2,500 for each month that there is a failure to include the required notice.

Section 5 – Timeframe for Non-Residents to Remove Boats and Aircraft from the State

Present Situation

Non-residents¹³ who purchase a boat or aircraft in Florida for use outside Florida are not required to pay Florida sales tax on their purchase if the item is removed from the state within a statutory timeframe and documentation is provided to the DOR to show that the boat or aircraft was removed and titled or registered in another jurisdiction. Currently, the following time limits are in statute:

⁸ Section 206.874(3), F.S.

⁹ Section 206.874(4) and (5), F.S.

¹⁰ See Rule 12B-5.140(1), F.A.C., and 48.4082-1(b), Treasury Regulations (February 26, 2002), which specifies the dye “Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of diesel fuel.”

¹¹ Section 206.8741, F.S.

¹² Sections 206.8741(6) and 206.872(11), F.S.

¹³ Section 212.05(1)(a)2., F.S., provides that Florida sales tax does not apply to the purchase of a boat or aircraft if the purchaser is, at the time of delivery, (1) a non-resident of the state, (2) not engaged in carrying on a trade or business which would use the boat or aircraft in the state, and (3) not a corporation which has any Florida resident officers or directors.

- The purchaser has **10 days** from the date the boat or aircraft left Florida to provide the DOR with proof of the removal.
- The purchaser has **30 days** from the date of departure to provide the DOR with documentation that the boat or aircraft has been titled or registered in another jurisdiction. If proof of registration is not available within **30 days**, the purchaser must provide evidence that the registration was applied for in another jurisdiction within the timeframe and must send the registration to the DOR once it has been received.
- The selling dealer has **5 days** from the date of the sale to provide to the DOR a copy of the invoice (or other proof of sale) and a copy of the original affidavit from the purchaser attesting that he or she has read the statute on non-resident purchases.

Proposed Change

The bill amends s. 212.05, F.S., to extend each of the current statutory timeframes to allow additional time for the purchaser and dealer to provide information to the DOR, as follows:

- Proof of removal - **30 days**.
- Proof of titling or registration - **90 days**.
- Dealer provision of invoice - **30 days**.

Section 6 – Toll Statute of Limitations for Refund Claims during an audit

Present Situation

Under Florida law, taxpayers have the ability to file an application for a refund when they have paid tax in error, have made an overpayment of tax, or have paid tax when no tax was due.¹⁴ Generally, a taxpayer has three years from the time the tax was paid to apply for the refund.¹⁵

When a taxpayer has been audited and would like to dispute the outcome of the audit; or when the taxpayer has applied for a refund, been denied, and would like to dispute the refund denial; the taxpayer has the option to protest the case through the informal protest process.¹⁶ The informal protest process provides taxpayers a separate and independent forum to challenge audit assessments and refund denials.

The time for the DOR to make a tax assessment is tolled during an audit protest, thus protecting the state's interest;¹⁷ however, the time for a taxpayer to file a refund claim for overpayment of taxes is not tolled during these same protests.

Proposed Change

The bill amends s. 213.21, F.S., to toll the time for a taxpayer to file a refund claim during an audit protest.

¹⁴ Section 215.26(1), F.S.

¹⁵ Section 215.26(2), F.S.

¹⁶ Section 213.21(1)(a), F.S.

¹⁷ Section 213.21(1)(b), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not require counties or municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the Florida Constitution do not apply.

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:**

The Revenue Estimating Conference estimates that the provisions of the bill that toll the time for a taxpayer to apply for refunds during an audit protest will reduce General Revenue Fund receipts by an indeterminate amount beginning in Fiscal Year 2020-2021. The remaining provisions of the bill do not have a fiscal impact.

B. Private Sector Impact:

Property owners affected by Hurricane Michael may have more time to commence repairs to their property without losing their assessment limitation.

Taxpayers with refund claims found during an informal protest may be able to receive refunds that are currently time barred.

Non-residents who purchase boats and aircraft for use in another state will have more time to provide required documentation.

Sellers of dyed diesel fuel may pay less penalties.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 195.073; 195.096; 206.8741; 212.05; and 213.21.

The bill creates section 193.1557 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Finance and Tax

593-03922-20

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1 A bill to be entitled
 2 An act relating to tax administration; creating s.
 3 193.1557, F.S.; providing applicability of certain
 4 property assessment limitations to changes, additions,
 5 or improvements to property damaged or destroyed by
 6 Hurricane Michael which are commenced within a certain
 7 timeframe; specifying the applicable tax years;
 8 providing for future repeal; amending s. 195.073,
 9 F.S.; revising the classification of certain
 10 residential property for assessment purposes; amending
 11 s. 195.096, F.S.; revising requirements for the
 12 Department of Revenue's review and published findings
 13 of county assessment rolls; amending s. 206.8741,
 14 F.S.; revising a penalty for failure to provide or
 15 post a notice relating to dyed diesel fuel; amending
 16 s. 212.05, F.S.; revising timeframes for certain
 17 documentation to be provided to the department for the
 18 purposes of a sales tax exemption for the sale of
 19 certain boats and aircraft; amending s. 213.21, F.S.;
 20 providing that the period for filing a claim for
 21 certain refunds is tolled during a period in which a
 22 taxpayer is engaged in certain informal conference
 23 procedures; providing an effective date.

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

26
 27 Section 1. Section 193.1557, Florida Statutes, is created
 28 to read:
 29 193.1557 Assessment of certain property damaged by

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30 Hurricane Michael.--For property damaged or destroyed by
 31 Hurricane Michael in 2018, s. 193.155(4)(b), s. 193.1554(6)(b),
 32 or s. 193.1555(6) shall apply to changes, additions, or
 33 improvements commenced within 5 years after January 1 following
 34 the damage or destruction of the property. This section applies
 35 to tax years 2019-2023 and shall stand repealed December 31,
 36 2023.

37 Section 2. Paragraphs (a) and (b) of subsection (1) of
 38 section 195.073, Florida Statutes, are amended to read:

39 195.073 Classification of property.--All items required by
 40 law to be on the assessment rolls must receive a classification
 41 based upon the use of the property. The department shall
 42 promulgate uniform definitions for all classifications. The
 43 department may designate other subclassifications of property.
 44 No assessment roll may be approved by the department which does
 45 not show proper classifications.

46 (1) Real property must be classified according to the
 47 assessment basis of the land into the following classes:

48 (a) Residential, subclassified into categories, one
 49 category for homestead property and one for nonhomestead
 50 property:

- 51 1. Single family.
- 52 2. Mobile homes.
- 53 3. Multifamily, up to nine units.
- 54 4. Condominiums.
- 55 5. Cooperatives.
- 56 6. Retirement homes.

57 (b) Commercial and industrial, including apartments with
 58 more than nine units.

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59 Section 3. Subsection (2) and paragraph (a) of subsection
60 (3) of section 195.096, Florida Statutes, are amended to read:
61 195.096 Review of assessment rolls.-

62 (2) The department shall conduct, no less frequently than
63 once every 2 years, an in-depth review of the real property
64 assessment ~~roll rolls~~ of each county. The department need not
65 individually study every use-class of property set forth in s.
66 195.073, but shall at a minimum study the level of assessment in
67 relation to just value of each classification specified in
68 subsection (3). Such in-depth review may include proceedings of
69 the value adjustment board and the audit or review of procedures
70 used by the counties to appraise property.

71 (a) The department shall, at least 30 days prior to the
72 beginning of an in-depth review in any county, notify the
73 property appraiser in the county of the pending review. At the
74 request of the property appraiser, the department shall consult
75 with the property appraiser regarding the classifications and
76 strata to be studied, in order that the review will be useful to
77 the property appraiser in evaluating his or her procedures.

78 (b) Every property appraiser whose upcoming roll is subject
79 to an in-depth review shall, if requested by the department on
80 or before January 1, deliver upon completion of the assessment
81 roll a list of the parcel numbers of all parcels that did not
82 appear on the assessment roll of the previous year, indicating
83 the parcel number of the parent parcel from which each new
84 parcel was created or "cut out."

85 (c) In conducting assessment ratio studies, the department
86 must use all practicable steps, including stratified statistical
87 and analytical reviews and sale-qualification studies, to

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88 maximize the representativeness or statistical reliability of
89 samples of properties in tests of each classification, stratum,
90 or roll made the subject of a ratio study published by it. The
91 department shall document and retain records of the measures of
92 representativeness of the properties studied in compliance with
93 this section. Such documentation must include a record of
94 findings used as the basis for the approval or disapproval of
95 the tax roll in each county pursuant to s. 193.1142. In
96 addition, to the greatest extent practicable, the department
97 shall study assessment roll strata by subclassifications such as
98 value groups and market areas for each classification or stratum
99 to be studied, to maximize the representativeness of ratio study
100 samples. For purposes of this section, the department shall rely
101 primarily on an assessment-to-sales-ratio study in conducting
102 assessment ratio studies in those classifications of property
103 specified in subsection (3) for which there are adequate market
104 sales. The department shall compute the median and the value-
105 weighted mean for each classification or subclassification
106 studied and for the roll as a whole.

107 (d) In the conduct of these reviews, the department shall
108 adhere to all standards to which the property appraisers are
109 required to adhere.

110 (e) The department and each property appraiser shall
111 cooperate in the conduct of these reviews, and each shall make
112 available to the other all matters and records bearing on the
113 preparation and computation of the reviews. The property
114 appraisers shall provide any and all data requested by the
115 department in the conduct of the studies, including electronic
116 data processing tapes. Any and all data and samples developed or

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117 obtained by the department in the conduct of the studies shall
 118 be confidential and exempt from the provisions of s. 119.07(1)
 119 until a presentation of the findings of the study is made to the
 120 property appraiser. After the presentation of the findings, the
 121 department shall provide any and all data requested by a
 122 property appraiser developed or obtained in the conduct of the
 123 studies, including tapes. Direct reimbursable costs of providing
 124 the data shall be borne by the party who requested it. Copies of
 125 existing data or records, whether maintained or required
 126 pursuant to law or rule, or data or records otherwise
 127 maintained, shall be submitted within 30 days from the date
 128 requested, in the case of written or printed information, and
 129 within 14 days from the date requested, in the case of
 130 computerized information.

131 (f) Within 120 days after receipt of a county assessment
 132 roll by the executive director of the department pursuant to s.
 133 193.1142(1), or within 10 days after approval of the assessment
 134 roll, whichever is later, the department shall complete the
 135 review for that county and publish the department's findings.
 136 The findings must include ~~a statement of the confidence interval~~
 137 ~~for the median and such other~~ measures as may be appropriate for
 138 each classification or subclassification studied ~~and for the~~
 139 ~~roll as a whole~~, and related statistical and analytical details.
 140 The measures in the findings must be based on:

- 141 1. A 95-percent level of confidence; or
- 142 2. Ratio study standards that are generally accepted by
- 143 professional appraisal organizations in developing a
- 144 statistically valid sampling plan if a 95-percent level of
- 145 confidence is not attainable.

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146 (g) Notwithstanding any other provision of this chapter, in
 147 one or more assessment years following a natural disaster in
 148 counties for which a state of emergency was declared by
 149 executive order or proclamation of the Governor pursuant to
 150 chapter 252, if the department determines that the natural
 151 disaster creates difficulties in its statistical and analytical
 152 reviews of the assessment rolls in affected counties, the
 153 department shall take all practicable steps to maximize the
 154 representativeness and reliability of its statistical and
 155 analytical reviews and may use the best information available to
 156 estimate the levels of assessment. This paragraph first applies
 157 to the 2019 assessment roll and operates retroactively to
 158 January 1, 2019.

159 (3) (a) Upon completion of review pursuant to paragraph
 160 (2) (f), the department shall publish the results of reviews
 161 conducted under this section. The results must include all
 162 statistical and analytical measures computed under this section
 163 for the real property assessment roll ~~as a whole, the personal~~
 164 ~~property assessment roll as a whole~~, and independently for the
 165 following real property classes if the classes constituted 5
 166 percent or more of the total assessed value of real property in
 167 a county on the previous tax roll:

- 168 1. Residential property that consists of one primary living
 169 unit, including, but not limited to, single-family residences,
 170 condominiums, cooperatives, and mobile homes.
- 171 2. Residential property that consists of two to nine ~~or~~
 172 ~~more~~ primary living units.
- 173 3. Agricultural, high-water recharge, historic property
 174 used for commercial or certain nonprofit purposes, and other

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175 use-valued property.

176 4. Vacant lots.

177 5. Nonagricultural acreage and other undeveloped parcels.

178 6. Improved commercial and industrial property, including
179 apartments with more than nine units.

180 7. Taxable institutional or governmental, utility, locally
181 assessed railroad, oil, gas and mineral land, subsurface rights,
182 and other real property.

183

184 If one of the above classes constituted less than 5 percent of
185 the total assessed value of all real property in a county on the
186 previous assessment roll, the department may combine it with one
187 or more other classes of real property for purposes of
188 assessment ratio studies or use the weighted average of the
189 other classes for purposes of calculating the level of
190 assessment for all real property in a county. The department
191 shall also publish such results for any subclassifications of
192 the classes or the assessment roll ~~rolls~~ it may have chosen to
193 study.

194 Section 4. Subsection (6) of section 206.8741, Florida
195 Statutes, is amended to read:

196 206.8741 Dyeing and marking; notice requirements.—

197 (6) Any person who fails to provide or post the required
198 notice with respect to any dyed diesel fuel is subject to a
199 penalty of \$2,500 for each month such failure occurs ~~the penalty~~
200 ~~imposed by s. 206.872(11).~~

201 Section 5. Paragraph (a) of subsection (1) of section
202 212.05, Florida Statutes, is amended to read:

203 212.05 Sales, storage, use tax.—It is hereby declared to be

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204 the legislative intent that every person is exercising a taxable
205 privilege who engages in the business of selling tangible
206 personal property at retail in this state, including the
207 business of making mail order sales, or who rents or furnishes
208 any of the things or services taxable under this chapter, or who
209 stores for use or consumption in this state any item or article
210 of tangible personal property as defined herein and who leases
211 or rents such property within the state.

212 (1) For the exercise of such privilege, a tax is levied on
213 each taxable transaction or incident, which tax is due and
214 payable as follows:

215 (a)1.a. At the rate of 6 percent of the sales price of each
216 item or article of tangible personal property when sold at
217 retail in this state, computed on each taxable sale for the
218 purpose of remitting the amount of tax due the state, and
219 including each and every retail sale.

220 b. Each occasional or isolated sale of an aircraft, boat,
221 mobile home, or motor vehicle of a class or type which is
222 required to be registered, licensed, titled, or documented in
223 this state or by the United States Government shall be subject
224 to tax at the rate provided in this paragraph. The department
225 shall by rule adopt any nationally recognized publication for
226 valuation of used motor vehicles as the reference price list for
227 any used motor vehicle which is required to be licensed pursuant
228 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
229 party to an occasional or isolated sale of such a vehicle
230 reports to the tax collector a sales price which is less than 80
231 percent of the average loan price for the specified model and
232 year of such vehicle as listed in the most recent reference

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233 price list, the tax levied under this paragraph shall be
 234 computed by the department on such average loan price unless the
 235 parties to the sale have provided to the tax collector an
 236 affidavit signed by each party, or other substantial proof,
 237 stating the actual sales price. Any party to such sale who
 238 reports a sales price less than the actual sales price is guilty
 239 of a misdemeanor of the first degree, punishable as provided in
 240 s. 775.082 or s. 775.083. The department shall collect or
 241 attempt to collect from such party any delinquent sales taxes.
 242 In addition, such party shall pay any tax due and any penalty
 243 and interest assessed plus a penalty equal to twice the amount
 244 of the additional tax owed. Notwithstanding any other provision
 245 of law, the Department of Revenue may waive or compromise any
 246 penalty imposed pursuant to this subparagraph.

247 2. This paragraph does not apply to the sale of a boat or
 248 aircraft by or through a registered dealer under this chapter to
 249 a purchaser who, at the time of taking delivery, is a
 250 nonresident of this state, does not make his or her permanent
 251 place of abode in this state, and is not engaged in carrying on
 252 in this state any employment, trade, business, or profession in
 253 which the boat or aircraft will be used in this state, or is a
 254 corporation none of the officers or directors of which is a
 255 resident of, or makes his or her permanent place of abode in,
 256 this state, or is a noncorporate entity that has no individual
 257 vested with authority to participate in the management,
 258 direction, or control of the entity's affairs who is a resident
 259 of, or makes his or her permanent abode in, this state. For
 260 purposes of this exemption, either a registered dealer acting on
 261 his or her own behalf as seller, a registered dealer acting as

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262 broker on behalf of a seller, or a registered dealer acting as
 263 broker on behalf of the purchaser may be deemed to be the
 264 selling dealer. This exemption shall not be allowed unless:

265 a. The purchaser removes a qualifying boat, as described in
 266 sub-subparagraph f., from the state within 90 days after the
 267 date of purchase or extension, or the purchaser removes a
 268 nonqualifying boat or an aircraft from this state within 10 days
 269 after the date of purchase or, when the boat or aircraft is
 270 repaired or altered, within 20 days after completion of the
 271 repairs or alterations; or if the aircraft will be registered in
 272 a foreign jurisdiction and:

273 (I) Application for the aircraft's registration is properly
 274 filed with a civil airworthiness authority of a foreign
 275 jurisdiction within 10 days after the date of purchase;

276 (II) The purchaser removes the aircraft from the state to a
 277 foreign jurisdiction within 10 days after the date the aircraft
 278 is registered by the applicable foreign airworthiness authority;
 279 and

280 (III) The aircraft is operated in the state solely to
 281 remove it from the state to a foreign jurisdiction.

282
 283 For purposes of this sub-subparagraph, the term "foreign
 284 jurisdiction" means any jurisdiction outside of the United
 285 States or any of its territories;

286 b. The purchaser, within 90 ~~30~~ days from the date of
 287 departure, provides the department with written proof that the
 288 purchaser licensed, registered, titled, or documented the boat
 289 or aircraft outside the state. If such written proof is
 290 unavailable, within 90 ~~30~~ days the purchaser shall provide proof

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291 that the purchaser applied for such license, title,
292 registration, or documentation. The purchaser shall forward to
293 the department proof of title, license, registration, or
294 documentation upon receipt;

295 c. The purchaser, within 30 ~~40~~ days of removing the boat or
296 aircraft from Florida, furnishes the department with proof of
297 removal in the form of receipts for fuel, dockage, slippage,
298 tie-down, or hangaring from outside of Florida. The information
299 so provided must clearly and specifically identify the boat or
300 aircraft;

301 d. The selling dealer, within 30 ~~5~~ days of the date of
302 sale, provides to the department a copy of the sales invoice,
303 closing statement, bills of sale, and the original affidavit
304 signed by the purchaser attesting that he or she has read the
305 provisions of this section;

306 e. The seller makes a copy of the affidavit a part of his
307 or her record for as long as required by s. 213.35; and

308 f. Unless the nonresident purchaser of a boat of 5 net tons
309 of admeasurement or larger intends to remove the boat from this
310 state within 10 days after the date of purchase or when the boat
311 is repaired or altered, within 20 days after completion of the
312 repairs or alterations, the nonresident purchaser applies to the
313 selling dealer for a decal which authorizes 90 days after the
314 date of purchase for removal of the boat. The nonresident
315 purchaser of a qualifying boat may apply to the selling dealer
316 within 60 days after the date of purchase for an extension decal
317 that authorizes the boat to remain in this state for an
318 additional 90 days, but not more than a total of 180 days,
319 before the nonresident purchaser is required to pay the tax

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

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320 imposed by this chapter. The department is authorized to issue
321 decals in advance to dealers. The number of decals issued in
322 advance to a dealer shall be consistent with the volume of the
323 dealer's past sales of boats which qualify under this sub-
324 subparagraph. The selling dealer or his or her agent shall mark
325 and affix the decals to qualifying boats in the manner
326 prescribed by the department, before delivery of the boat.

327 (I) The department is hereby authorized to charge dealers a
328 fee sufficient to recover the costs of decals issued, except the
329 extension decal shall cost \$425.

330 (II) The proceeds from the sale of decals will be deposited
331 into the administrative trust fund.

332 (III) Decals shall display information to identify the boat
333 as a qualifying boat under this sub-subparagraph, including, but
334 not limited to, the decal's date of expiration.

335 (IV) The department is authorized to require dealers who
336 purchase decals to file reports with the department and may
337 prescribe all necessary records by rule. All such records are
338 subject to inspection by the department.

339 (V) Any dealer or his or her agent who issues a decal
340 falsely, fails to affix a decal, mismarks the expiration date of
341 a decal, or fails to properly account for decals will be
342 considered prima facie to have committed a fraudulent act to
343 evade the tax and will be liable for payment of the tax plus a
344 mandatory penalty of 200 percent of the tax, and shall be liable
345 for fine and punishment as provided by law for a conviction of a
346 misdemeanor of the first degree, as provided in s. 775.082 or s.
347 775.083.

348 (VI) Any nonresident purchaser of a boat who removes a

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

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 349 decal before permanently removing the boat from the state, or
 350 defaces, changes, modifies, or alters a decal in a manner
 351 affecting its expiration date before its expiration, or who
 352 causes or allows the same to be done by another, will be
 353 considered prima facie to have committed a fraudulent act to
 354 evade the tax and will be liable for payment of the tax plus a
 355 mandatory penalty of 200 percent of the tax, and shall be liable
 356 for fine and punishment as provided by law for a conviction of a
 357 misdemeanor of the first degree, as provided in s. 775.082 or s.
 358 775.083.

359 (VII) The department is authorized to adopt rules necessary
 360 to administer and enforce this subparagraph and to publish the
 361 necessary forms and instructions.

362 (VIII) The department is hereby authorized to adopt
 363 emergency rules pursuant to s. 120.54(4) to administer and
 364 enforce the provisions of this subparagraph.

365
 366 If the purchaser fails to remove the qualifying boat from this
 367 state within the maximum 180 days after purchase or a
 368 nonqualifying boat or an aircraft from this state within 10 days
 369 after purchase or, when the boat or aircraft is repaired or
 370 altered, within 20 days after completion of such repairs or
 371 alterations, or permits the boat or aircraft to return to this
 372 state within 6 months from the date of departure, except as
 373 provided in s. 212.08(7)(fff), or if the purchaser fails to
 374 furnish the department with any of the documentation required by
 375 this subparagraph within the prescribed time period, the
 376 purchaser shall be liable for use tax on the cost price of the
 377 boat or aircraft and, in addition thereto, payment of a penalty

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 378 to the Department of Revenue equal to the tax payable. This
 379 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
 380 The maximum 180-day period following the sale of a qualifying
 381 boat tax-exempt to a nonresident may not be tolled for any
 382 reason.

383 Section 6. Paragraph (b) of subsection (1) of section
 384 213.21, Florida Statutes, is amended to read:

385 213.21 Informal conferences; compromises.—

386 (1)

387 (b) The statute of limitations upon the issuance of final
 388 assessments and the period for filing a claim for refund as
 389 required by s. 215.26(2) for any transactions occurring during
 390 the audit period shall be tolled during the period in which the
 391 taxpayer is engaged in a procedure under this section.

392 Section 7. This act shall take effect July 1, 2020.

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 3/3/2020 1:02:44 PM

Ends: 3/3/2020 5:59:48 PM Length: 04:57:05

1:02:46 PM Sen. Bradley (Chair)
1:05:31 PM S 1296
1:05:46 PM Sen. Berman
1:06:25 PM Joe Anne Hart, Chief Legislative Officer, Florida Dental Association (waives in support)
1:07:34 PM S 1066
1:07:55 PM Sen. Gruters
1:08:01 PM Am. 891604
1:08:07 PM Sen. Gruters
1:08:53 PM Sen. Bradley
1:09:09 PM Kari Hebrank, National Utility Contractors Association of Florida (waives in support)
1:09:17 PM Dane Bennett, Director of Government Affairs, Florida Home Builders Association (waives in support)
1:09:20 PM Mark Jeffries, Orange County Government (waives in support)
1:09:22 PM David Cruz, Legislative Counsel, Florida League of Cities (waives in support)
1:09:27 PM Trish Neely, Consultant, League of Women Voters (waives in opposition)
1:09:43 PM Am. 277762
1:09:52 PM S 1066 (cont.)
1:10:06 PM Sen. Brandes
1:10:19 PM Sen. Gruters
1:10:40 PM Sen. Thurston
1:10:59 PM Sen. Gruters
1:12:17 PM S 1070
1:12:33 PM Am. 803742
1:12:42 PM Sen. Wright
1:13:14 PM Keevin Williams, Vice President of Special Projects and Strategic Initiatives, Space Florida (waives in support)
1:14:12 PM S 1544
1:14:33 PM Sen. Albritton
1:15:08 PM Robert Beck, Partner, Florida's Aging and Disability Resource Centers (waives in support)
1:15:11 PM Tanya Jackson, United Healthcare Workers (waives in support)
1:15:17 PM Dorene Barker, Associate State Director, AARP Florida (waives in support)
1:15:21 PM Melody Arnold, Director of Government Affairs, Florida Health Care Association (waives in support)
1:16:35 PM S 1676
1:16:48 PM Am. 281464
1:16:54 PM Sen. Albritton
1:17:56 PM Sen. Simpson (Chair)
1:18:01 PM Am. 679738
1:18:15 PM Sen. Bradley
1:19:53 PM Corine Mixon, Lobbyist, Florida Academy of Physician Assistants
1:21:56 PM Sen. Thurston
1:22:14 PM C. Mixon
1:23:59 PM Sen. Bradley (Chair)
1:24:07 PM Sen. Gibson
1:24:34 PM Sen. Albritton
1:24:50 PM Sen. Gibson
1:25:00 PM Sen. Albritton
1:25:30 PM Sen. Gibson
1:25:54 PM Sen. Albritton
1:26:04 PM Sen. Gibson
1:26:09 PM Sen. Albritton
1:27:14 PM Sen. Gibson
1:27:23 PM Sen. Albritton
1:28:12 PM Sen. Gibson

1:28:23 PM Sen. Albritton
1:28:50 PM Sen. Gibson
1:29:16 PM Sen. Albritton
1:30:04 PM Sen. Gibson
1:30:18 PM Sen. Bradley
1:30:30 PM Sen. Gibson
1:30:31 PM Sen. Albritton
1:30:40 PM Sen. Gibson
1:30:45 PM Sen. Albritton
1:30:50 PM Sen. Stewart
1:31:05 PM Sen. Albritton
1:31:31 PM Sen. Stewart
1:32:01 PM Sen. Albritton
1:32:47 PM Sen. Thurston
1:33:15 PM Sen. Albritton
1:34:26 PM Sen. Bradley
1:34:34 PM Sen. Albritton
1:34:58 PM Sen. Montford
1:35:47 PM Sen. Albritton
1:36:43 PM Sen. Lee
1:37:02 PM Sen. Albritton
1:37:25 PM Sen. Lee
1:37:46 PM Sen. Albritton
1:38:20 PM Sen. Lee
1:38:43 PM Sen. Albritton
1:39:08 PM Sen. Lee
1:40:22 PM Sen. Albritton
1:41:30 PM Sen. Gainer
1:41:41 PM Sen. Albritton
1:42:35 PM Sen. Gainer
1:42:49 PM Sen. Albritton
1:43:44 PM Starla Brown, Deputy State Director, Americans for Prosperity (waives in support)
1:43:56 PM Aron Schlau, Physician, Pinellas County Medical Association
1:47:36 PM Sen. Bradley
1:47:39 PM A. Schlau
1:48:57 PM Sen. Lee
1:49:48 PM A. Schlau
1:50:54 PM Sen. Thurston
1:51:33 PM A. Schlau
1:52:19 PM Sen. Thurston
1:52:46 PM A. Schlau
1:53:41 PM Sen. Gibson
1:54:09 PM A. Schlau
1:54:53 PM Sen. Gibson
1:55:19 PM A. Schlau
1:56:09 PM Sen. Montford
1:56:34 PM A. Schlau
1:56:47 PM Sen. Brandes
1:57:00 PM A. Schlau
1:57:36 PM Sen. Brandes
1:58:24 PM A. Schlau
1:58:51 PM Sen. Brandes
1:59:10 PM A. Schlau
1:59:36 PM Chris Nuland, Lobbyist, American College of Physicians, Florida Chapter
2:00:33 PM Elizabeth Saunders, Medical Student
2:03:30 PM Kirk Naugher, Medical Student
2:07:20 PM Tanya Jackson, United Healthcare Workers (waives in support)
2:07:28 PM Dr. Douglas Murphy, Physician, FMA/FOMA check time
2:12:49 PM Sen. Flores
2:13:09 PM D. Murphy
2:13:43 PM Sen. Hutson
2:14:28 PM D. Murphy

2:15:32 PM Terry Gruchers, Physician Assistant, Florida Academy of Physician Assistants (waives in support)
2:15:45 PM Dr. Cody VanLandingham, Physician, Capital Medical Society
2:17:28 PM Paul Robinson, Physician, Florida Chapter of the American Academy of Pediatrics (waives in opposition)
2:17:34 PM Chris Lyon, Lobbyist, Florida Association of Nurse Anesthetists
2:20:22 PM Dorene Barker, Associate State Director, AARP Florida (waives in support)
2:20:29 PM Dr. Seymour R. Rosen, M.D.
2:23:35 PM Sen. Thurston
2:23:51 PM S. Rosen
2:24:15 PM Sen. Thurston
2:24:28 PM S. Rosen
2:24:39 PM Sen. Book
2:25:14 PM S. Rosen
2:26:06 PM Sen. Book
2:26:33 PM S. Rosen
2:26:58 PM Sen. Book
2:27:19 PM S. Rosen
2:28:03 PM Sen. Book
2:28:39 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
2:29:03 PM Julia Weeks, Physician, Florida Academy of Family Physicians
2:33:33 PM Sen. Rouson
2:33:47 PM J. Weeks
2:34:16 PM Sen. Montford
2:34:40 PM Sen. Bradley
2:34:43 PM Sen. Montford
2:35:01 PM J. Weeks
2:36:04 PM Martha DeCastro, Vice President for Nursing and Clinical Care Practice, Florida Hospital Association (waives in support)
2:36:10 PM Chris Floyd, Consultant, Florida Association of Nurse Practitioners (waives in support)
2:36:16 PM Melody Arnold, Director of Government Affairs, Florida Health Care Association (waives in support)
2:36:21 PM Stan Whittaker, Nurse Practitioner, Florida Association of Nurse Practitioners (waives in support)
2:36:31 PM Nick Meyer, Registered Nurse Anesthetist Student (waives in support)
2:36:41 PM John Ly, Registered Nurse Anesthetist Student (waives in support)
2:36:50 PM Marcus Dixon, Executive Director, Service Employees International Union Florida (waives in support)
2:37:25 PM Helen Paulson, Physician, Self
2:39:11 PM Sen. Stewart
2:39:37 PM H. Paulson
2:39:53 PM Pam Irwin, Executive Director, Capital Medical Society
2:45:01 PM Sen. Simmons
2:45:21 PM P. Irwin
2:45:27 PM Sen. Simmons
2:47:10 PM P. Irwin
2:48:34 PM Sen. Simmons
2:49:29 PM P. Irwin
2:50:01 PM Sen. Simmons
2:50:13 PM P. Irwin
2:50:46 PM Sen. Benacquisto
2:51:25 PM P. Irwin
2:51:53 PM Sen. Benacquisto
2:52:07 PM P. Irwin
2:52:14 PM Sen. Lee
2:53:17 PM P. Irwin
2:53:32 PM Sen. Lee
2:54:13 PM P. Irwin
2:54:52 PM Sen. Gibson
3:02:27 PM Sen. Albritton
3:06:01 PM Sen. Bradley
3:07:13 PM S 1276
3:07:17 PM Sen. Albritton
3:07:31 PM Am. 560238
3:07:36 PM Sen. Albritton
3:07:42 PM S 1276 (cont.)
3:08:41 PM S 1662

3:08:45 PM Sen. Albritton
3:09:00 PM John Haynes, Chairman Emeritus, Florida Veterans Foundation (waives in support)
3:09:04 PM Dan Hendrickson, Volunteer, Tallahassee Veterans Legal Collaborative (waives in support)
3:09:56 PM S 1220
3:10:01 PM Am. 888996
3:10:15 PM Sen. Diaz
3:11:33 PM Am. 462882
3:11:51 PM Sen. Lee
3:12:10 PM Sen. Diaz
3:12:26 PM Sen. Lee
3:12:27 PM Sen. Diaz
3:12:29 PM Sen. Lee
3:12:33 PM Sen. Diaz
3:12:56 PM Sen. Lee
3:13:44 PM Sen. Diaz
3:14:11 PM Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in support)
3:14:26 PM S 1220 (cont.)
3:14:31 PM Sen. Thurston
3:14:57 PM Sen. Diaz
3:15:17 PM Sen. Thurston
3:15:34 PM Sen. Diaz
3:16:06 PM Sen. Thurston
3:16:25 PM Sen. Diaz
3:16:57 PM Sen. Thurston
3:17:20 PM Sen. Diaz
3:17:41 PM Trish Neely, Consultant, League of Women Voters
3:19:11 PM Natalie Guillespie, Parent, Self
3:21:22 PM Ashley Pentalon, Parent, Self
3:23:36 PM Trisha Buhler, Parent, Self
3:26:09 PM Jared Ochs, Director of Legislative Affairs, Florida Department of Education (waives in support)
3:26:11 PM Starla Brown, Deputy State Director, Americans for Prosperity (waives in support)
3:26:13 PM James Herzog, Associate Director for Education, Florida Conference of Catholic Bishops (waives in support)
3:26:18 PM Tara McFarlan, Parent (waives in support)
3:26:25 PM Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in opposition)
3:26:30 PM Matthew Choy, Policy Director, Florida Chamber of Commerce (waives in support)
3:26:39 PM Sen. Lee
3:26:49 PM Sen. Montford
3:27:53 PM Sen. Thurston
3:28:49 PM Sen. Stewart
3:29:35 PM Sen. Diaz
3:31:18 PM S 1500
3:31:21 PM Sen. Broxson
3:32:46 PM S 1392
3:33:04 PM Sen. Simpson (Chair)
3:33:11 PM Am. 552754
3:33:25 PM Sen. Simmons
3:34:06 PM Am. 158828
3:34:12 PM Sen. Brandes
3:34:41 PM Lisa Kiel, State Courts Administrator, State Courts System (waives in support)
3:34:57 PM S 1392 (cont.)
3:35:01 PM Sen. Lee
3:35:30 PM Sen. Simmons
3:36:02 PM Sen. Lee
3:36:35 PM Sen. Simmons
3:37:01 PM L. Kiel (waives in support)
3:37:10 PM Clay Roberts, Judge, District Court of Appeal Budget Commission (waives in support)
3:38:10 PM S 220
3:38:26 PM Am. 118046
3:38:35 PM Sen. Cruz
3:40:33 PM S 728
3:40:40 PM Sen. Stargel

3:41:04 PM Matt Dunagan, Deputy Director, Florida Sheriffs Association (waives in support)
3:41:13 PM Gary Hester, Government Affairs, Florida Police Chiefs Association (waives in support)
3:41:20 PM David Shepp, Lobbyist, Polk County Sheriffs (waives in support)
3:42:17 PM Sen. Bradley (Chair)
3:42:28 PM S 1726
3:42:32 PM Am. 233364
3:42:34 PM Sen. Bean
3:43:08 PM Steve Coleman, Public Policy Director, Florida Association for Behavior Analysis (waives in support)
3:44:09 PM S 1344
3:44:35 PM Am. 891388
3:44:47 PM Sen. Harrell
3:45:34 PM Am. 460516
3:45:41 PM Sen. Harrell
3:46:03 PM Sen. Rouson
3:46:19 PM Sen. Bradley
3:46:32 PM S 1344 (cont.)
3:46:39 PM Sen. Rouson
3:46:47 PM Sen. Harrell
3:47:30 PM Olivia Babis, Public Policy Analyst, Disability Rights Florida
3:53:47 PM Sen. Rouson
3:54:04 PM O. Babis
3:54:45 PM Suzanne Sewel, President, Florida Association of Rehabilitation Facilities (waives in support)
3:54:51 PM Violet Amyaly, Director of Community Relations, Mactown (waives in support)
3:55:00 PM Clint Bower, President, Mactown (waives in support)
3:55:11 PM Sen. Harrell
3:57:34 PM S 402
3:57:37 PM Am. 831164
3:57:44 PM Sen. Harrell
3:59:13 PM Jason Hand, Vice President of Public Policy and Legal Affairs, Florida Senior Living Association (waives in support)
3:59:19 PM Tim Parson, Florida Assisted Living Association (waives in support)
4:00:11 PM S 190
4:00:29 PM Sen. Montford
4:01:06 PM Am. 903224
4:01:11 PM Sen. Montford
4:01:43 PM Am. 728726
4:01:55 PM Sen. Book
4:02:33 PM S 190 (cont.)
4:02:42 PM Rick Owen, President, United Way of Florida (waives in support)
4:02:45 PM Beth Labasky, Consultant, Florida Impact (waives in support)
4:02:49 PM Matt Guse, CEO, Florida Children's Council (waives in support)
4:02:51 PM Karen Woodall, Executive Director, Florida Center for Fiscal and Economic Policy (waives in support)
4:02:56 PM Jordan Reed, Legislative Intern, National Association of Social Workers Florida (waives in support)
4:02:59 PM Robert Gibbs, Reverend, United Methodist Church (waives in support)
4:03:03 PM Amanda Fraser, Broward County (waives in support)
4:03:05 PM Heather Davidson, Director of Public Policy, United Way of Broward County (waives in support)
4:03:08 PM Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in support)
4:04:02 PM S 1094
4:04:10 PM Sen. Diaz
4:04:47 PM Am. 268640
4:04:51 PM Sen. Diaz
4:05:27 PM Joe Mazziotta, Florida Academy of Family Physicians
4:09:17 PM Michael Jackson, Executive Vice President and CEO, Florida Pharmacy Association (waives in support)
4:09:22 PM Matt Jordan, Lobbyist, Florida Society of Rheumatology (waives in opposition)
4:09:31 PM Paul Robinson, Physician, Florida Medical Association
4:12:30 PM S 1094 (cont.)
4:12:40 PM Chris Nuland, Florida Chapter of American College of Physicians (waives in opposition)
4:12:42 PM M. Jackson (waives in support)
4:12:48 PM Joseph Salzverg, Lobbyist, Florida Society of Health-System Pharmacists (waives in support)
4:13:03 PM Sen. Stewart
4:13:39 PM Sen. Diaz
4:14:52 PM S 912

4:15:07 PM Sen. Diaz
4:15:56 PM Am. 916094
4:16:07 PM Sen. Book
4:16:49 PM S 912 (cont.)
4:17:13 PM Sen. Flores
4:17:40 PM Sen. Diaz
4:18:07 PM Colton Madill, Deputy Legislative Affairs Director, Department of Business and Professional Regulation
4:18:54 PM Sen. Bradley
4:19:04 PM C. Madill
4:19:11 PM Sen Bradley
4:19:21 PM S 852
4:19:27 PM Am. 703954
4:19:42 PM Sen. Pizzo
4:20:04 PM Stacy Scott, Public Defender, Florida Public Defender Association (waives in support)
4:20:11 PM Karen Woodall, Executive Director, Florida Center for Fiscal and Economic Policy (waives in support)
4:20:16 PM Kara Gross, Legislative Director, American Civil Liberties Union of Florida (waives in support)
4:20:19 PM Ingrid Delgado, Associate Director for Special Concerns, Florida Conference of Catholic Bishops (waives in support)
4:20:25 PM Charo Valero, Florida Policy Director, Latina Institute for Reproductive Health Florida (waives in support)
4:20:31 PM Ida Eskamani, Organize Florida and New Florida Majority (waives in support)
4:20:41 PM Sen. Pizzo
4:21:59 PM S 506
4:22:07 PM Sen. Perry
4:22:30 PM Am. 174496
4:22:36 PM Sen. Perry
4:22:51 PM Carol Bowen, Chief Lobbyist, Associated Builders and Contractors (waives in support)
4:23:01 PM S 506 (cont.)
4:23:07 PM C. Bowen (waives in support)
4:23:11 PM Allen Douglas, Executive Director, American Council of Engineering Companies (waives in support)
4:24:19 PM S 1404
4:24:27 PM Am. 863198
4:25:31 PM Sen. Perry
4:25:40 PM Am. 489504
4:25:48 PM Am. 810530
4:26:13 PM Sen. Bradley
4:27:09 PM Sen. Perry
4:27:43 PM Sen. Rouson
4:28:00 PM Sen. Perry
4:28:20 PM Sen. Thurston
4:28:38 PM Sen. Perry
4:28:56 PM Sen. Thurston
4:29:12 PM Sen. Flores
4:29:31 PM Sen. Perry
4:29:33 PM Sen. Flores
4:29:35 PM Sen. Perry
4:30:07 PM Sen. Flores
4:30:10 PM Sen. Perry
4:30:23 PM Sen. Flores
4:30:50 PM Sen. Perry
4:30:59 PM Sen. Montford
4:31:24 PM Sen. Perry
4:31:50 PM Sen. Lee
4:32:37 PM Sen. Perry
4:33:11 PM Amy Boggs, Florida Justice Association
4:36:57 PM Emily Buckley, Legislative Affairs Director, Florida Department of Agriculture and Consumer Services (waives in support)
4:37:00 PM Ray Colburn, Executive Director, Florida Firechief's Association (waives in support)
4:37:04 PM Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services (waives in support)
4:37:07 PM Wayne Bernoska, President, Florida Professional Firefighters (waives in support)
4:37:13 PM Am. 863800
4:37:20 PM Sen. Book

4:38:01 PM Kelly Mallette, Florida Apartment Association (waives in support)
4:38:04 PM R. Colburn (waives in support)
4:38:30 PM Am. 964622
4:38:36 PM Sen. Flores
4:41:14 PM Sen. Lee
4:41:44 PM Sen. Bradley
4:42:04 PM Steve Geller, Attorney, Merlin Law Group
4:44:07 PM Hillary Cassel, Attorney, Florida Policyholders Cooperative
4:45:44 PM Amy Boggs, Florida Justice Association
4:48:05 PM Sen. Brandes
4:48:51 PM Sen. Braynon
4:51:02 PM Sen. Flores
4:51:11 PM Sen. Perry
4:52:17 PM Sen. Flores
4:54:01 PM Sen. Lee
4:55:30 PM Sen. Braynon
4:57:13 PM Sen. Stewart
4:58:16 PM S 1404 (cont.)
4:58:26 PM R. Colburn (waives in support)
4:58:31 PM Laura Pearce, General Counsel, Florida Association of Insurance Agents (waives in support)
4:58:35 PM Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services (waives in support)
4:58:42 PM Sen. Lee
4:59:21 PM Sen. Perry
4:59:55 PM Sen. Bradley
5:00:53 PM Sen. Braynon
5:01:12 PM S 1870
5:01:21 PM Sen. Hutson
5:01:28 PM Am. 228190
5:01:33 PM Sen. Hutson
5:03:35 PM Sen. Lee
5:03:56 PM Sen. Hutson
5:04:35 PM Sen. Lee
5:04:45 PM Sen. Hutson
5:05:00 PM Sen. Lee
5:05:08 PM Sen. Hutson
5:05:15 PM Sen. Lee
5:05:27 PM Sen. Hutson
5:05:35 PM Sen. Lee
5:06:02 PM Sen. Hutson
5:06:28 PM Sen. Lee
5:06:45 PM Sen. Hutson
5:07:16 PM Sen. Gibson
5:07:46 PM Sen. Hutson
5:08:26 PM Sen. Gibson
5:08:39 PM Sen. Hutson
5:08:49 PM Sen. Gibson
5:09:12 PM Sen. Hutson
5:10:07 PM S 1870 (cont.)
5:10:16 PM David Brown, Advocacy Chair, South Florida HIMSS (waives in support)
5:10:26 PM Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services (waives in support)
5:10:32 PM Cody Farrill, Deputy Chief of Staff, Department of Management Services (waives in support)
5:10:36 PM Alex Anderson, Director of Legislative Affairs, Office of Financial Regulation (waives in support)
5:10:45 PM Sen. Rouson
5:12:01 PM S 1606
5:12:22 PM Sen. Perry
5:13:28 PM S 7060
5:13:39 PM Sen. Gainer
5:15:09 PM Sen. Flores
5:16:11 PM S 912
5:16:43 PM Sen. Bradley

5:17:26 PM S 1440
5:17:37 PM Sen. Powell
5:18:11 PM Am. 628406
5:18:25 PM Sen. Powell
5:18:35 PM Am. 661698
5:18:42 PM Sen. Powell
5:18:57 PM S 1440 (cont.)
5:19:04 PM Natalie Kelly, CEO, Florida Association of Managing Entities (waives in support)
5:19:05 PM Beth Labasky, Consultant, Informed Foundation of Florida (waives in support)
5:19:11 PM Heather Davidson, Director of Public Policy, United Way of Broward County (waives in support)
5:19:13 PM Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in support)
5:20:00 PM S 1542
5:20:03 PM Sen. Stargel
5:20:25 PM Jon Conley, Director of State Affairs, Alzheimer's Association (waives in support)
5:20:30 PM Dorene Barker, Associate State Director, AARP Florida (waives in support)
5:21:16 PM S 998
5:21:29 PM Sen. Hutson
5:22:41 PM Am. 385228
5:22:45 PM Am. 781596
5:22:53 PM Sen. Hutson
5:23:46 PM Sen. Powell
5:24:22 PM Sen. Hutson
5:24:58 PM S 998 (cont.)
5:25:02 PM Jeff Branch, Legislative Advocate, Florida League of Cities (waives in support)
5:25:07 PM Trey Price, Executive Director, Florida Housing Finance Corporation (waives in support)
5:25:08 PM Nancy Stewart, Federation of Manufactured Home Owners of Florida (waives in support)
5:25:10 PM Dane Bennett, Director of Government Affairs, Florida Home Builders Association (waives in support)
5:25:11 PM Andy Gonzalez, Public Policy Representative, Florida Realtors (waives in support)
5:25:14 PM Karen Koch, Executive Director, Florida Supportive Housing Coalition (waives in support)
5:25:17 PM Tonnette Graham, Associate Director of Public Policy, Florida Association of Counties (waives in support)
5:25:19 PM Lori Killinger, Legislative Counsel, Florida Manufactured Housing Association (waives in support)
5:25:21 PM Heather Davidson, Director of Public Policy, United Way of Broward County (waives in support)
5:26:11 PM S 146
5:26:14 PM Sen. Brandes
5:26:29 PM Loren Levy, General Counsel, Property Appraisers' Association of Florida (waives in support)
5:27:14 PM S 148
5:27:15 PM Sen. Brandes
5:28:06 PM S 412
5:28:11 PM Sen. Bean
5:28:49 PM Am. 839910
5:29:01 PM Am. 916530
5:29:08 PM Sen. Thurston
5:30:09 PM S 412 (cont.)
5:30:13 PM Public Testimony
5:31:07 PM S 414
5:31:13 PM Am. 627258
5:31:19 PM Sen. Bean
5:32:08 PM S 1692
5:32:16 PM Am. 532034
5:32:19 PM Sen. Flores
5:32:42 PM Am. 393744
5:32:49 PM Sen. Flores
5:32:57 PM S 1692 (cont.)
5:33:41 PM S 1694
5:33:51 PM Am. 909602
5:33:53 PM Sen. Flores
5:34:03 PM Am. 131602
5:34:05 PM Sen. Flores
5:34:06 PM S 1694 (cont.)
5:34:54 PM S 68
5:34:58 PM Am. 415562
5:35:04 PM Sen. Book

5:36:08 PM Sen. Simpson (Chair)
5:36:19 PM S 72
5:36:25 PM Am. 847972
5:36:34 PM Sen. Stargel
5:37:13 PM Am. 860750
5:37:17 PM Sen. Stargel
5:37:39 PM Am. 844132
5:37:43 PM Sen. Stargel
5:38:01 PM Am. 696862
5:38:08 PM Sen. Stargel
5:38:23 PM Am. 818894
5:38:28 PM Sen. Stargel
5:38:45 PM Sen. Powell
5:38:54 PM Sen. Stargel
5:39:13 PM Sen. Powell
5:39:31 PM Am. 957022
5:39:36 PM Sen. Stargel
5:40:00 PM S 72 (cont.)
5:40:05 PM Sen. Powell
5:40:19 PM Sen. Stargel
5:40:34 PM Sen. Powell
5:40:43 PM Sen. Stargel
5:40:52 PM Sen. Braynon
5:41:12 PM Sen. Stargel
5:41:35 PM Sen. Flores
5:42:02 PM Sen. Stargel
5:42:09 PM Sen. Flores
5:42:33 PM Sen. Stargel
5:42:35 PM Sen. Gibson
5:43:23 PM Sen. Stargel
5:44:10 PM Sen. Gibson
5:44:35 PM Sen. Stargel
5:44:55 PM Sen. Gibson
5:45:09 PM Sen. Stargel
5:45:29 PM Sen. Gibson
5:45:53 PM Sen. Stargel
5:46:08 PM Sen. Thurston
5:46:36 PM Sen. Stargel
5:46:56 PM Sen. Thurston
5:47:46 PM S 156
5:47:52 PM Am. 432396
5:48:04 PM Sen. Perry
5:48:11 PM Am. 747166
5:48:15 PM Sen. Perry
5:48:36 PM S 156 (cont.)
5:48:41 PM Khanh-Lien Banko, Resolutions Chair, Florida PTA (waives in support)
5:49:55 PM S 62
5:49:59 PM Am. 545546
5:50:11 PM Sen. Stargel
5:52:30 PM Am. 450044
5:52:39 PM Am. 350858
5:52:43 PM Sen. Gibson
5:55:44 PM Sen. Stargel
5:55:53 PM S 1624
5:56:15 PM Sen. Perry
5:56:27 PM Am. 593926
5:56:31 PM Sen. Perry
5:56:44 PM S 1624 (cont.)
5:57:11 PM Public Testimony
5:57:37 PM S 1570
5:57:40 PM Sen. Perry
5:57:42 PM Am. 463870

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| 5:57:50 PM | Sen. Thurston |
| 5:57:55 PM | Sen. Bradley |
| 5:57:58 PM | Sen. Thurston |
| 5:59:03 PM | Sen. Bradley |
| 5:59:16 PM | Sen. Bean |
| 5:59:17 PM | Sen. Braynon |
| 5:59:23 PM | Sen. Flores |
| 5:59:27 PM | Sen. Stargel |
| 5:59:41 PM | Sen. Stewart |