

Tab 1	SB 682 by Baxley; (Similar to H 00319) Florida Guide to a Healthy Marriage						
676570	D	S	RCS	CF, Baxley	Delete everything after	01/28 06:37 PM	
Tab 2	SB 870 by Book; (Similar to H 01229) Mental Health						
745770	A	S	RCS	CF, Book	Delete L.214 - 1783:	01/29 03:32 PM	
Tab 3	SB 1120 by Harrell; (Compare to CS/H 00649) Substance Abuse Services						
360180	A	S	RCS	CF, Harrell	btw L.113 - 114:	01/29 03:32 PM	
Tab 4	SB 1218 by Diaz; Anti-bullying and Anti-harassment in Schools						
Tab 5	SB 1482 by Bean; (Similar to CS/H 01087) Domestic Violence Services						
202566	A	S	RCS	CF, Bean	Delete L.427 - 444.	01/29 03:22 PM	
Tab 6	SB 1548 by Perry (CO-INTRODUCERS) Hutson; (Compare to H 00043) Child Welfare						
229818	D	S		CF, Perry	Delete everything after	01/27 04:38 PM	
Tab 7	SB 1586 by Hooper (CO-INTRODUCERS) Perry; First Responders Suicide Deterrence Task Force						
526956	A	S	RCS	CF, Hooper	btw L.35 - 36:	01/29 08:56 AM	
424344	A	S	L RCS	CF, Hooper	Delete L.30 - 33:	01/29 08:56 AM	
Tab 8	SB 1748 by Hutson (CO-INTRODUCERS) Perry; Child Welfare						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Book, Chair
Senator Mayfield, Vice Chair

MEETING DATE: Tuesday, January 28, 2020

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Book, Chair; Senator Mayfield, Vice Chair; Senators Bean, Harrell, Rader, Torres, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 682 Baxley (Similar H 319)	Florida Guide to a Healthy Marriage; Creating the Marriage Education Committee within the Department of Children and Families for the purpose of creating the Florida Guide to a Healthy Marriage; authorizing the committee to obtain private funds for the costs of printing and distributing copies of the guide; requiring clerks of court to post an electronic copy of the guide on the court's website and provide printed copies to applicants for marriage licenses under certain circumstances; prohibiting the issuance of a marriage license until petitioners verify that both parties have obtained and read the Florida Guide to a Healthy Marriage or some other presentation of similar information, etc. CF 01/28/2020 Fav/CS JU RC	Fav/CS Yeas 4 Nays 2
2	SB 870 Book (Similar H 1229, Compare H 1071, H 1081, S 1554, S 1678)	Mental Health; Requiring that respondents with a serious mental illness be afforded essential elements of recovery and be placed in a continuum of care regimen; requiring a receiving facility to refer certain cases involving a minor to the clerk of the court within a certain timeframe for the appointment of a public defender; revising the requirements for when a person may be ordered for involuntary inpatient placement; authorizing the court or clerk of the court to waive or prohibit any service of process fees for an indigent petitioner; expanding the exemption from the requirement that a respondent be present at a hearing on a petition for involuntary treatment, etc. CF 01/28/2020 Fav/CS JU AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, January 28, 2020, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1120 Harrell (Compare CS/H 649, S 704)	Substance Abuse Services; Specifying that certified recovery residence administrators and certain persons associated with certified recovery residences are subject to certain background screenings; requiring, rather than authorizing, the exemption from disqualification from employment for certain substance abuse service provider personnel; deleting a provision relating to background screenings for certain persons associated with applicant recovery residences; revising provisions relating to payment practices exempt from prohibitions on patient brokering, etc. CF 01/28/2020 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 0
4	SB 1218 Diaz	Anti-bullying and Anti-harassment in Schools; Expanding the information that private schools participating in an educational scholarship program are required to publish and provide to parents; requiring such private schools to adopt bullying and harassment policies; requiring such schools to report bullying and harassment incidents to the Department of Education, etc. ED 01/13/2020 Favorable CF 01/28/2020 Favorable RC	Favorable Yeas 6 Nays 0
5	SB 1482 Bean (Similar CS/H 1087)	Domestic Violence Services; Revising the duties of the Department of Children and Families in relation to the domestic violence program; repealing a provision relating to the duties and functions of the Florida Coalition Against Domestic Violence with respect to domestic violence; revising the requirements of domestic violence centers; removing the coalition from the capital improvement grant program process, etc. CF 01/28/2020 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, January 28, 2020, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 1548 Perry (Compare H 43, H 111, H 679, CS/H 1105, S 88, CS/S 1324)	Child Welfare; Requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing court procedures and requirements relating to deceased parents of a dependent child; authorizing the department to take certain actions without a court order; providing requirements and procedures for the determination of paternity when a child is dependent, etc. CF 01/28/2020 Temporarily Postponed AHS AP	Temporarily Postponed
7	SB 1586 Hooper	First Responders Suicide Deterrence Task Force; Establishing the task force adjunct to the Statewide Office for Suicide Prevention of the Department of Children and Families; requiring the task force to submit reports to the Governor and the Legislature on an annual basis; providing for future repeal, etc. CF 01/28/2020 Fav/CS MS RC	Fav/CS Yeas 6 Nays 0
8	SB 1748 Hutson	Child Welfare; Requiring that child support payments be deposited into specified trust funds; authorizing the Department of Children and Families to place children in a specified program without court approval; requiring certain documentation in the case plan when a child is placed in a qualified residential treatment program; revising the conditions under which a court determines permanent guardian placement for a child; providing requirements for qualified residential treatment programs; revising a requirement and an authorization for safe houses, etc. CF 01/28/2020 Temporarily Postponed AHS AP	Temporarily Postponed
9	Presentation on Child Welfare Research by Robert Latham, Children and Youth Law Clinic, University of Miami		Presented
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 682

INTRODUCER: Senator Baxley

SUBJECT: Florida Guide to a Healthy Marriage

DATE: January 21, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 682 provides for the creation of a Marriage Education Committee (committee) to develop a Florida Guide to a Healthy Marriage (guide) and be housed within the Department of Children and Families (DCF or department) for administrative purposes. The committee will consist of 6 members to be appointed by the Governor, the President of the Senate and the Speaker of the House of Representatives. The committee terminates upon completion of the guide and must be reconstituted every 10 years to update the guide. The guide must include:

- Resources regarding conflict management, communication skills, family expectations, financial responsibilities and management, domestic violence resources, and parenting responsibilities.
- Current information from marriage education and family advocates to assist in forming and maintaining a long-term marital relationship.
- Information regarding premarital education, marriage enrichment education, and resources that are available to help restore a marriage that is potentially moving toward dissolution.
- Contact information and website links to additional resources and local professional and community services to further assist a marital relationship.

The committee is required to raise funds from private sources to cover costs of design and layout and may raise fund to cover costs of printing and distribution. The clerks of the circuit courts are required to post the guide on its website and distribute printed copies if available.

A county court judge or clerk of the circuit court may not issue a marriage license until the parties to the marriage provide a statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the newly created guide, or some other presentation of information regarding conflict management, communication skills, family expectations, financial responsibilities and management, domestic violence resources, and parenting responsibilities.

The bill may have an insignificant fiscal impact on the state and has an effective date of July 1, 2020.

II. Present Situation:

Current law required the creation of a family law handbook by the Family Law Section of the Florida Bar that contains information related to the rights and responsibilities under Florida law of marital partners to each other and to their children, both during a marriage and upon dissolution.¹ The material contained in the handbook is to be made available by the clerk of the circuit court upon application for a marriage license. The information may also be provided through videotape or other suitable electronic media.

A county court judge or clerk of the circuit court may not issue a license for the marriage of any person unless the county court judge or clerk of the circuit court is first presented with both of the following:

- A written statement, signed by both parties, which specifies whether the parties, individually or together, have completed a premarital preparation course.
- A written statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in s. 741.0306, F.S.

III. Effect of Proposed Changes:

Section 1 creates s. 741.0307, F.S., relating to the Marriage Education Committee, to develop a Florida Guide to a Healthy Marriage and be housed within the department for administrative purposes.

- The committee shall consist of six marriage education and family advocates, two of whom shall be appointed by the Governor, two of whom shall be appointed by the President of the Senate, and two of whom shall be appointed by the Speaker of the House of Representatives.
- The committee shall be appointed by September 1, 2020, and the appointees shall each serve a 1-year term or until such time as the Florida Guide to a Healthy Marriage has been created, whichever is earlier. The committee shall submit the completed guide to the Governor, the President of the Senate, and the Speaker of the House of Representatives and terminates with the submission of the guide.
- The committee shall subsequently be reconstituted once every 10 years after July 1, 2020, to review and update the contents of the guide. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members to the reconstituted committee.

The Florida Guide to a Healthy Marriage shall include, but is not limited to:

¹ Section 741.0306, F.S. The requirement was enacted by the Legislature in 1998. See ch. 98-403, L.O.F.

- Resources regarding conflict management, communication skills, family expectations, financial responsibilities and management, domestic violence resources, and parenting responsibilities.
- Current information from marriage education and family advocates to assist in forming and maintaining a long-term marital relationship.
- Information regarding premarital education, marriage enrichment education, and resources that are available to help restore a marriage that is potentially moving toward dissolution.
- Contact information and website links to additional resources and local professional and community services to further assist a marital relationship.

The committee is required to raise funds from private sources to cover the costs of the design and layout. The committee may raise funds from private sources to cover the costs of printing and distributing copies of the guide. The committee will not be required to print or distribute copies of the guide if adequate funds are not raised to cover the costs of printing and distribution.

The clerk of the circuit court in each judicial circuit is required to post an electronic copy of the guide on its website. In addition, if the Marriage Education Committee provides printed copies of the guide to the office of the clerk of the circuit court, the clerk shall make the guide available to marriage license applicants.

The clerk of the circuit court is encouraged to provide a list of course providers and sites where marriage and relationship skill-building classes are available.

The Marriage Education Committee shall review the guide and provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives every 10 years, or as soon thereafter as practicable, detailing changes made to the guide and recommending further updates.

Section 2 amends s. 741.04, F.S., relating to the issuance of a marriage license, to add to the information that must be provided in a written, signed and notarized affidavit to a county court judge or clerk of the circuit court before a license to marry may be issued. The parties also must provide a statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the newly created Florida Guide to a Healthy Marriage, or some other presentation of information regarding conflict management, communication skills, family expectations, financial responsibilities and management, domestic violence resources, and parenting responsibilities.

Section 3 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 Children and Families and the Florida Association of Court Clerks have not provided a bill analysis for the bill so any potential fiscal impact is unknown but should be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

- The bill does not repeal the Family Law Handbook created pursuant to s. 741.036, F.S., which could result in parties applying for a marriage license being required to read both the handbook and the guide.
- It appears the committee would be required to both develop the guide and fundraise at the same time.
- Requiring the committee to fundraise may lead to some reluctance to serve on the committee.
- The bill does not provide any information as to the duties of the department related to the committee.
- The bill is unclear on a number of issues related to the raising of private funds.

VIII. Statutes Affected:

This bill amends s. 741.04, of the Florida Statutes.
This bill creates s. 741.0307, of the Florida Statutes.

IX. Additional Information:

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

None.

B. **Amendments:**

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/28/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 741.0307, Florida Statutes, is created
to read:

741.0307 Marriage Education Committee; Florida Guide to a
Healthy Marriage.-

(1) There is created within the Department of Children and
Families, for administrative purposes only, the Marriage



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11 Education Committee for the sole purpose of creating the Florida
12 Guide to a Healthy Marriage. Except as otherwise provided in
13 this section, the committee shall operate in a manner consistent
14 with s. 20.052. The committee shall consist of six marriage
15 education and family advocates, one of whom shall be appointed
16 by the Florida Chapter of the National Association of Social
17 Workers, one of whom shall be appointed by the Florida Family
18 Therapy Association, and one of whom shall be appointed by the
19 Florida Mental Health Counseling Association, one of whom shall
20 be appointed by the Governor, one of whom shall be appointed by
21 the President of the Senate, and one of whom shall be appointed
22 by the Speaker of the House of Representatives. Members of the
23 committee shall reflect the ethnic and gender diversity of the
24 state. The committee shall be appointed by September 1, 2020,
25 and the appointees shall each serve a 1-year term or until such
26 time as the Florida Guide to a Healthy Marriage has been
27 created, whichever is earlier. The committee shall submit the
28 completed guide to the Governor, the President of the Senate,
29 and the Speaker of the House of Representatives and terminates
30 with the submission of the guide. The committee shall
31 subsequently be reconstituted once every 10 years after July 1,
32 2020, to review and update the contents of the guide. The
33 reconstituted committee shall consist of six marriage education
34 and family advocates, one of whom shall be appointed by the
35 Florida Chapter of the National Association of Social Workers,
36 one of whom shall be appointed by the Florida Family Therapy
37 Association, and one of whom shall be appointed by the Florida
38 Mental Health Counseling Association, one of whom shall be
39 appointed by the Governor, one of whom shall be appointed by the



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40 President of the Senate, and one of whom shall be appointed by
41 the Speaker of the House of Representatives. A vacancy on the
42 committee shall be filled for the unexpired portion of the term
43 in the same manner as the original appointment.

44 (2) The Florida Guide to a Healthy Marriage shall include,
45 but is not limited to:

46 (a) Resources regarding conflict management, communication
47 skills, family expectations, financial responsibilities and
48 management, domestic violence resources, and parenting
49 responsibilities.

50 (b) Current information from marriage education and family
51 advocates to assist in forming and maintaining a long-term
52 marital relationship.

53 (c) Information regarding premarital education, marriage
54 enrichment education, and resources that are available to help
55 restore a marriage that is potentially moving toward
56 dissolution.

57 (d) Contact information and website links to additional
58 resources and local professional and community services to
59 further assist a marital relationship.

60 (3) The Marriage Education Committee shall oversee the
61 design and layout of the guide. The committee shall raise funds
62 from private sources to cover the costs of the design and
63 layout. The committee may raise funds from private sources to
64 cover the costs of printing and distributing copies of the
65 guide. If adequate funds are not raised to cover the costs of
66 printing and distribution, the committee will not be required to
67 print or distribute copies of the guide.

68 (4) The clerk of the circuit court in each judicial circuit



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69 shall post an electronic copy of the guide on its website.
70 Additionally, if the Marriage Education Committee provides
71 printed copies of the guide to the office of the clerk of the
72 circuit court, the clerk shall make the guide available to
73 marriage license applicants. The clerk of the circuit court is
74 encouraged to provide a list of course providers and sites where
75 marriage and relationship skill-building classes are available.

76 (5) The Marriage Education Committee shall review the guide
77 and provide a report to the Governor, the President of the
78 Senate, and the Speaker of the House of Representatives every 10
79 years, or as soon thereafter as practicable, detailing changes
80 made to the guide and recommending further updates.

81 Section 2. Subsection (4) of section 741.04, Florida
82 Statutes, is amended to read

83 741.04 Issuance of marriage license.—

84 (4) A county court judge or clerk of the circuit court may
85 not issue a license for the marriage of any person unless the
86 county court judge or clerk of the circuit court is first
87 presented with both of the following:

88 (a) A written statement, signed by both parties, which
89 specifies whether the parties, individually or together, have
90 completed a premarital preparation course.

91 ~~(b) A written statement that verifies that both parties~~
92 ~~have obtained and read or otherwise accessed the information~~
93 ~~contained in the handbook or other electronic media presentation~~
94 ~~of the rights and responsibilities of parties to a marriage~~
95 ~~specified in s. 741.0306.~~

96 (b) A statement that verifies that both parties have
97 obtained and read or otherwise accessed the information



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98 contained in the Florida Guide to a Healthy Marriage, as created
99 under s. 741.0307, or some other presentation of information
100 regarding conflict management, communication skills, family
101 expectations, financial responsibilities and management,
102 domestic violence resources, and parenting responsibilities.

103 Section 3. Section 741.0306, F.S., is repealed.

104 Section 4. This act shall take effect July 1, 2020.

105

106

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

108 And the title is amended as follows:

109 Delete everything before the enacting clause

110 and insert:

111 A bill to be entitled

112 An act relating to the Florida Guide to a Healthy
113 Marriage; creating s. 741.0307, F.S.; creating the
114 Marriage Education Committee within the Department of
115 Children and Families for the purpose of creating the
116 Florida Guide to a Healthy Marriage; providing for
117 committee operation; providing for appointment of
118 committee members and terms of office; requiring the
119 committee to submit the completed guide to the
120 Governor and the Legislature; providing for committee
121 termination; providing for periodic reconstitution of
122 the committee to review and update the guide;
123 providing requirements for filling vacancies;
124 providing requirements for the guide's content;
125 requiring the committee to oversee the design and
126 layout of the guide and obtain private funds to cover



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127 associated costs; authorizing the committee to obtain
128 private funds for the costs of printing and
129 distributing copies of the guide; authorizing the
130 committee to distribute printed copies of the guide
131 under certain circumstances; requiring clerks of court
132 to post an electronic copy of the guide on the court's
133 website and provide printed copies to applicants for
134 marriage licenses under certain circumstances;
135 encouraging clerks of court to provide a list of
136 certain course providers and websites where certain
137 classes are available; providing for periodic review
138 and revision of the guide; requiring the committee to
139 periodically submit a report to the Governor and the
140 Legislature detailing its revisions to the guide and
141 recommendations for further updates; amending s.
142 741.04, F.S.; prohibiting the issuance of a marriage
143 license until petitioners verify that both parties
144 have obtained and read the Florida Guide to a Healthy
145 Marriage or some other presentation of similar
146 information; removing the requirement related to the
147 family law handbook; repealing s. 741.0306, F.S.;

148 providing an effective date.

By Senator Baxley

12-00646A-20

2020682__

1 A bill to be entitled
2 An act relating to the Florida Guide to a Healthy
3 Marriage; creating s. 741.0307, F.S.; creating the
4 Marriage Education Committee within the Department of
5 Children and Families for the purpose of creating the
6 Florida Guide to a Healthy Marriage; providing for
7 committee operation; providing for appointment of
8 committee members and terms of office; requiring the
9 committee to submit the completed guide to the
10 Governor and the Legislature; providing for committee
11 termination; providing for periodic reconstitution of
12 the committee to review and update the guide;
13 providing requirements for filling vacancies;
14 providing requirements for the guide's content;
15 requiring the committee to oversee the design and
16 layout of the guide and obtain private funds to cover
17 associated costs; authorizing the committee to obtain
18 private funds for the costs of printing and
19 distributing copies of the guide; authorizing the
20 committee to distribute printed copies of the guide
21 under certain circumstances; requiring clerks of court
22 to post an electronic copy of the guide on the court's
23 website and provide printed copies to applicants for
24 marriage licenses under certain circumstances;
25 encouraging clerks of court to provide a list of
26 certain course providers and websites where certain
27 classes are available; providing for periodic review
28 and revision of the guide; requiring the committee to
29 periodically submit a report to the Governor and the

12-00646A-20

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30 Legislature detailing its revisions to the guide and
31 recommendations for further updates; amending s.
32 741.04, F.S.; prohibiting the issuance of a marriage
33 license until petitioners verify that both parties
34 have obtained and read the Florida Guide to a Healthy
35 Marriage or some other presentation of similar
36 information; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Section 741.0307, Florida Statutes, is created
41 to read:

42 741.0307 Marriage Education Committee; Florida Guide to a
43 Healthy Marriage.-

44 (1) There is created within the Department of Children and
45 Families, for administrative purposes only, the Marriage
46 Education Committee for the sole purpose of creating the Florida
47 Guide to a Healthy Marriage. Except as otherwise provided in
48 this section, the committee shall operate in a manner consistent
49 with s. 20.052. The committee shall consist of six marriage
50 education and family advocates, two of whom shall be appointed
51 by the Governor, two of whom shall be appointed by the President
52 of the Senate, and two of whom shall be appointed by the Speaker
53 of the House of Representatives. The committee shall be
54 appointed by September 1, 2020, and the appointees shall each
55 serve a 1-year term or until such time as the Florida Guide to a
56 Healthy Marriage has been created, whichever is earlier. The
57 committee shall submit the completed guide to the Governor, the
58 President of the Senate, and the Speaker of the House of

12-00646A-20

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59 Representatives and terminates with the submission of the guide.
60 The committee shall subsequently be reconstituted once every 10
61 years after July 1, 2020, to review and update the contents of
62 the guide. The Governor, the President of the Senate, and the
63 Speaker of the House of Representatives shall each appoint two
64 members to the reconstituted committee. A vacancy on the
65 committee shall be filled for the unexpired portion of the term
66 in the same manner as the original appointment.

67 (2) The Florida Guide to a Healthy Marriage shall include,
68 but is not limited to:

69 (a) Resources regarding conflict management, communication
70 skills, family expectations, financial responsibilities and
71 management, domestic violence resources, and parenting
72 responsibilities.

73 (b) Current information from marriage education and family
74 advocates to assist in forming and maintaining a long-term
75 marital relationship.

76 (c) Information regarding premarital education, marriage
77 enrichment education, and resources that are available to help
78 restore a marriage that is potentially moving toward
79 dissolution.

80 (d) Contact information and website links to additional
81 resources and local professional and community services to
82 further assist a marital relationship.

83 (3) The Marriage Education Committee shall oversee the
84 design and layout of the guide. The committee shall raise funds
85 from private sources to cover the costs of the design and
86 layout. The committee may raise funds from private sources to
87 cover the costs of printing and distributing copies of the

12-00646A-20

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88 guide. If adequate funds are not raised to cover the costs of
89 printing and distribution, the committee will not be required to
90 print or distribute copies of the guide.

91 (4) The clerk of the circuit court in each judicial circuit
92 shall post an electronic copy of the guide on its website.
93 Additionally, if the Marriage Education Committee provides
94 printed copies of the guide to the office of the clerk of the
95 circuit court, the clerk shall make the guide available to
96 marriage license applicants. The clerk of the circuit court is
97 encouraged to provide a list of course providers and sites where
98 marriage and relationship skill-building classes are available.

99 (5) The Marriage Education Committee shall review the guide
100 and provide a report to the Governor, the President of the
101 Senate, and the Speaker of the House of Representatives every 10
102 years, or as soon thereafter as practicable, detailing changes
103 made to the guide and recommending further updates.

104 Section 2. Paragraph (c) is added to subsection (2) of
105 section 741.04, Florida Statutes, to read:

106 741.04 Issuance of marriage license.—

107 (2) A county court judge or clerk of the circuit court may
108 not issue a license to marry until the parties to the marriage
109 file with the county court judge or clerk of the court a written
110 and signed affidavit, made and subscribed before a person
111 authorized by law to administer an oath, which provides:

112 (c) A statement that verifies that both parties have
113 obtained and read or otherwise accessed the information
114 contained in the Florida Guide to a Healthy Marriage, as created
115 under s. 741.0307, or some other presentation of information
116 regarding conflict management, communication skills, family

12-00646A-20

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117 expectations, financial responsibilities and management,
118 domestic violence resources, and parenting responsibilities.

119 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)

1-28-201
Meeting Date

682
Bill Number (if applicable)

Topic Healthy Marriage Handbook

Name Pam Olsen

Job Title Legislative Lead

Address PO Box 14017
Street

Tallahassee FL 32317
City State Zip

Phone _____

Email _____

Speaking: For Against Information

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

Representing Florida Faith Based Community-based Advisory 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.

THE FLORIDA SENATE

APPEARANCE RECORD

28 Jan 2020

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

SB682

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic FL Guide to a Healthy Marriage

Name Melina Rayna Svanhild Farley Barratt

Job Title Legislative Director

Address 86 89 SE 69 Ter

Phone 352-226-7477

Street

Trenton

FL

State

32693

Zip

Email

Speaking: For [] Against [X] Information []

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

Representing FL NOW

Appearing at request of Chair: Yes [] No [X]

Lobbyist registered with Legislature: Yes [] No [X]

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-28-20

Meeting Date

682

Bill Number (if applicable)

Topic Brideto Healthy Marriage

Amendment Barcode (if applicable)

Name Barbara DeLand

Job Title Ms

Address 625 E. Breward St

Phone 251-4280

Tallahassee FL 32308
City State Zip

Email barbarad@now.com

Speaking: For Against Information

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

Representing FL NOW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 870

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

SUBJECT: Mental Health

DATE: January 29, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Fav/CS
2.			JU	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 870 makes several changes to both the Baker Act and the Marchman Act. The bill broadens the criteria to serve additional individuals under both the Baker Act and Marchman Act.

The bill allows both Baker Act and Marchman Act respondents to be held for up to 10 days (increased from 5) before a hearing on an involuntary assessment petition, and allows individuals treated on an involuntary basis under the Marchman Act to be held in a treatment facility for a longer period of time following a hearing on an involuntary assessment petition.

The bill makes significant changes to court procedures, filing deadlines, and responsibilities for Marchman Act petitioners.

The bill will have a significant state and local fiscal impact, particularly on the Department of Children and Families (DCF), courts, state attorneys, and public defenders, and has an effective date of July 1, 2020.

II. Present Situation:

Baker Act

In 1971, the Legislature adopted the Florida Mental Health Act, known as the Baker Act.¹ The Act authorized treatment programs for mental, emotional, and behavioral disorders. The Baker Act required programs to include comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment to facilitate recovery. Additionally, the Baker Act provides protections and rights to individuals examined or treated for mental illness. Legal procedures are addressed for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Mental illness creates enormous social and economic costs.² Unemployment rates for persons having mental disorders are high relative to the overall population.³ Rates of unemployment for people having a severe mental illness range between 60 percent and 100 percent.⁴ Mental illness increases a person's risk of homelessness in America threefold.⁵ Approximately 33 percent of the nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are untreated.⁶ Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future recidivism.⁷

Marchman Act

In 1993, the Legislature adopted the Hal S. Marchman Alcohol and Other Drug Services Act. The Marchman Act provides a comprehensive continuum of accessible and quality substance abuse prevention, intervention, clinical treatment, and recovery support services. Services must be available and provided in the least restrictive environment to promote long-term recovery. The Marchman Act includes various protections and rights of patients served.

Individual Bill of Rights

Both the Marchman Act and the Baker Act provide an individual bill of rights.⁸ Rights in common include the right to dignity, right to quality of treatment, right to not be refused treatment at a state-funded facility due to an inability to pay, right to communicate with others, right to care and custody of personal effects, and the right to petition the court on a writ of habeus corpus. The individual bill of rights also imposes liability for damages on persons who

¹ Chapter 71-131, Laws of Fla.; The Baker Act is contained in ch. 394, F.S.

² MentalMenace.com, *Mental Illness: The Invisible Menace; Economic Impact*, <http://www.mentalmenace.com/economicimpact.php> (last visited January 24, 2020).

³ MentalMenace.com, *Mental Illness: The Invisible Menace: More impacts and facts*, <http://www.mentalmenace.com/impactsfacts.php> (last visited January 24, 2020).

⁴ *Id.*

⁵ Family Guidance Center for Behavioral Health Care, *How does Mental Illness Impact Rates of Homelessness*, <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>. (last visited January 24, 2020).

⁶ *Id.*

⁷ *Id.*

⁸ Section 397.501, F.S., provides "Rights of Individuals" for individuals served through the Marchman Act; s. 394.459, F.S., provides "Rights of Individuals" for individuals served through the Baker Act.

violate individual rights.⁹ The Marchman Act bill of rights includes the right to confidentiality of clinical records. The individual is the only person who may consent to disclosure.¹⁰ The Baker Act addresses confidentiality in a separate section of law and permits limited disclosure by the individual, a guardian, or a guardian advocate.¹¹ The Marchman Act ensures the right to habeus corpus, which means that a petition for release may be filed with the court by an individual involuntarily retained or his or her parent or representative.¹² In addition to the petitioners authorized in the Marchman Act, the Baker Act permits the DCF to file a writ for habeus corpus on behalf of the individual.¹³

Transportation to a Facility

The Marchman Act authorizes an applicant seeking to have a person admitted to a facility, the person's spouse or guardian, a law enforcement officer, or a health officer to transport the individual for an emergency assessment and stabilization.¹⁴

The Baker Act requires each county to designate a single law enforcement agency to transfer the person in need of services. If the person is in custody based on noncriminal or minor criminal behavior, the law enforcement officer will transport the person to the nearest receiving facility. If, however, the person is arrested for a felony the person must first be processed in the same manner as any other criminal suspect. The law enforcement officer must then transport the person to the nearest facility, unless the facility is unable to provide adequate security.¹⁵

The Marchman Act allows law enforcement officers, however, to temporarily detain substance-impaired persons in a jail setting. An adult not charged with a crime may be detained for his or her own protection in a municipal or county jail or other appropriate detention facility. Detention in jail is not considered to be an arrest, is temporary, and requires the detention facility to provide if necessary the transfer of the detainee to an appropriate licensed service provider with an available bed.¹⁶ However, the Baker Act prohibits the detention in jail of a mentally ill person if he or she has not been charged with a crime.¹⁷

Voluntary Admission to a Facility

The Marchman Act authorizes persons who wish to enter treatment for substance abuse to apply to a service provider for voluntary admission. A minor is authorized to consent to treatment for substance abuse.¹⁸ Under the Baker Act, a guardian of a minor must give consent for mental health treatment under a voluntary admission.¹⁹

⁹ Sections 397.501(10)(a) and 394.459(10), F.S.

¹⁰ Section 397.501(7), F.S.

¹¹ Section 394.4615(1) and (2), F.S.

¹² Section 397.501(9), F.S.

¹³ Section 394.459(8)(a), F.S.

¹⁴ Section 397.6795, F.S.

¹⁵ Section 394.462(1)(f) and (g), F.S.

¹⁶ Section 397.6772(1), F.S.

¹⁷ Section 394.459(1), F.S.

¹⁸ Section 397.601(1) and (4)(a), F.S.

¹⁹ Section 394.4625(1)(a), F.S.

When a person is voluntarily admitted to a facility, the emergency contact for the person must be recorded in the individual record.²⁰ When a person is involuntarily admitted, contact information for the individual's guardian, guardian advocate, or representative, and the individual's attorney must be entered into the individual record.²¹ The Marchman Act does not address emergency contacts.

The Baker Act requires an individualized treatment plan to be provided to the individual within five days after admission to a facility.²² The Marchman Act does not address individualized treatment plans.

Involuntary Admission to a Facility

Criteria for Involuntary Admission

The Marchman Act provides that a person meets the criteria for involuntary admission if a good faith reason exists to believe that the person is substance abuse impaired and because of the impairment:

- Has lost the power of self-control with respect to substance abuse; and either
- Has inflicted, threatened to or attempted to inflict self-harm; or
- Is in need of services and due to the impairment, judgment is so impaired that the person is incapable of appreciating the need for services.²³

Protective Custody

A person who meets the criteria for involuntary admission under the Marchman Act may be taken into protective custody by a law enforcement officer.²⁴ The person may consent to have the law enforcement officer transport the person to his or her home, a hospital, or a licensed detoxification or addictions receiving facility.²⁵ If the person does not consent, the law enforcement officer may transport the person without using unreasonable force.²⁶

Time Limits

A critical 72-hour period applies under both the Marchman and the Baker Act. Under the Marchman Act, a person may only be held in protective custody for a 72-hour period, unless a petition for involuntary assessment or treatment has been timely filed with the court within that timeframe to extend protective custody.²⁷ The Baker Act provides that a person cannot be held in a receiving facility for involuntary examination for more than 72 hours.²⁸ Within that 72-hour examination period, or, if the 72 hours ends on a weekend or holiday, no later than the next working day, one of the following must happen:

²⁰ Section 394.4597(1), F.S.

²¹ Section 394.4597(2), F.S.

²² Section 394.459(2)(e), F.S.

²³ Section 397.675, F.S.

²⁴ Section 397.677, F.S.

²⁵ Section 397.6771, F.S.

²⁶ Section 397.6772(1), F.S.

²⁷ Section 397.6773(1) and (2), F.S.

²⁸ Section 394.463(2)(f), F.S.

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will resume custody;
- The patient must be released into voluntary outpatient treatment;
- The patient must be asked to give consent to be placed as a voluntary patient if placement is recommended; or
- A petition for involuntary placement must be filed in circuit court for outpatient or inpatient treatment.²⁹

Under the Marchman Act, if the court grants the petition for involuntary admission, the person may be admitted for a period of five days to a facility for involuntary assessment and stabilization.³⁰ If the facility needs more time, the facility may request a seven-day extension from the court.³¹ Based on the involuntary assessment, the facility may retain the person pending a court decision on a petition for involuntary treatment.³²

Under the Baker Act, the court must hold a hearing on involuntary inpatient or outpatient placement within five working days after a petition for involuntary placement is filed.³³ The petitioner must show, by clear and convincing evidence all available less restrictive treatment alternatives are inappropriate and that the individual:

- Is mentally ill and because of the illness has refused voluntary placement for treatment or is unable to determine the need for placement; and
- Is manifestly incapable of surviving alone or with the help of willing and responsible family and friends, and without treatment is likely suffer neglect to such an extent that it poses a real and present threat of substantial harm to his or her well-being, or substantial likelihood exists that in the near future he or she will inflict serious bodily harm on himself or herself or another person.³⁴

Notice Requirements

The Marchman Act requires the nearest relative of a minor to be notified if the minor is taken into protective custody.³⁵ No time requirement is provided in law. Under the Baker Act, receiving facilities are required to promptly notify a patient's guardian, guardian advocate, attorney, and representative within 24 hours after the patient arrives at the facility on an involuntary basis, unless the patient requests otherwise.³⁶ In requiring notice on behalf of a patient, current law does not distinguish between adult and minor patients. The facility must provide notice to the Florida local advocacy council no later than the next working day after the patient is admitted.

²⁹ Section 394.463(2)(i)4., F.S.

³⁰ Section 397.6811, F.S.

³¹ Section 397.6821, F.S.

³² Section 397.6822, F.S.

³³ Sections 394.4655(6) and 394.467(6), F.S.

³⁴ Section 394.467(1), F.S.

³⁵ Section 397.6772(2), F.S.

³⁶ Section 394.4599(2)(a) and (b), F.S.

Mental Illness and Substance Abuse

According to the National Alliance on Mental Illness (NAMI), about 50 percent of persons with severe mental health disorders are affected by substance abuse.³⁷ NAMI also estimates that 29 percent of people diagnosed as mentally ill abuse alcohol or other drugs.³⁸ When mental health disorders are left untreated, substance abuse likely increases. When substance abuse increases, mental health symptoms often escalate as well or new symptoms are triggered. This could also be due to discontinuation of taking prescribed medications or the contraindications for substance abuse and mental health medications. When taken with other medications, mental health medications can become less effective.³⁹

Advance Directive for Mental Health or Substance Abuse Treatment

Florida law currently allows an individual to create an advance directive which designates a surrogate to make health care decisions for the individual and provides a process for the execution of the directive.⁴⁰ Current law also allows an individual to designate a separate surrogate to consent to mental health treatment for the individual if the individual is determined by a court to be incompetent to consent to treatment.⁴¹ A mental health or substance abuse treatment advance directive is much like a living will for health care; acute episodes of mental illness temporarily destroy the capacity required to give informed consent and often prevent people from realizing they are sick, causing them to refuse intervention.⁴² Even in the midst of acute episodes, many people do not meet commitment criteria because they are not likely to injure themselves or others and are still able to care for their basic needs.⁴³ If left untreated, acute episodes may spiral out of control before the person meets commitment criteria.⁴⁴

Mental Health Courts

Mental health courts are a type of problem-solving court that combines judicial supervision with community mental health treatment and other support services in order to reduce criminal activity and improve the quality of life of participants. Mental health court programs are not established or defined in Florida Statutes. A key objective of mental health courts is to prevent the jailing of offenders with mental illness by diverting them to appropriate community services or to significantly reduce time spent incarcerated.

Crisis Stabilization Units

Individuals experiencing severe emotional or behavioral problems often require emergency treatment to stabilize their situations before referral for outpatient services or inpatient services

³⁷ Donna M. White, OPCI, CACP, *Living with Co-Occurring Mental & Substance Abuse Disorders*, available at <http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance> (last visited on January 24, 2020).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Section 765.202, F.S.

⁴¹ Section 765.202(5), F.S.

⁴² Judy A. Clausen, *Making the Case for a Model Mental Health Advance Directive Statute*, 14 YALE J. HEALTH POL'Y, L. & ETHICS 1, (Winter 2014).

⁴³ *Id.* at 17.

⁴⁴ *Id.*

can occur. Emergency mental health stabilization services may be provided to individuals on a voluntary or involuntary basis. Individuals receiving services on an involuntary basis must be taken to a facility that has been designated by DCF as a “receiving facility” as defined in Part I of ch. 394, F.S.⁴⁵

Receiving facilities, often referred to as Baker Act Receiving Facilities, are public or private facilities designated by DCF for the purposes of receiving and examining individuals on an involuntary basis under emergency conditions and to provide short-term treatment. Receiving facilities that receive public funds from one of the managing entities to provide mental health services to all persons regardless of their ability to pay are considered public receiving facilities.⁴⁶

Crisis Stabilization Units (CSUs) are public receiving facilities that receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalization for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit individuals brought to the unit under the Baker Act, as well as those individuals who voluntarily present themselves, for short-term services.⁴⁷ CSUs provide services 24 hours a day, seven days a week, through a team of mental health professionals. The purpose of the CSU is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings, consistent with their mental health needs. Individuals often enter the public mental health system through CSUs. Managing entities must follow current statutes and rules that require CSUs to be paid for bed availability rather than utilization.

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., defining “neglect or refuse to care for himself or herself” to include evidence that a person is unable to provide adequate food or shelter for themselves, is substantially unable to make an informed treatment choice, or needs care or treatment to prevent deterioration. The bill also adds criteria for a “real and present threat of substantial harm” to include evidence that an untreated person will lack, refuse, or not receive health services or will suffer severe harm leading to an inability to function cognitively or in their community generally.

Section 2 amends s. 394.459, F.S., relating to rights of patients, to require that a patient with a serious mental illness who has been released after being Baker Acted must be provided with information regarding the essential elements of recovery and provided with accessing a continuum of care regimen. DCF is provided with rulemaking authority to determine what services may-be available in such regimens and which serious mental illnesses will entitle an individual to services. Current law only requires the state to provide involuntary treatment at a state hospital.

Section 3 amends s. 394.4598, F.S., relating to guardian advocates to correct a cross reference.

⁴⁵ Section 394.455(26), F.S.

⁴⁶ Section 394.455(25), F.S.

⁴⁷ Section 394.875, F.S.

Section 4 amends s. 394.4599, F.S., relating to involuntary admission, to correct a cross-reference.

Section 5 amends s. 394.461, F.S., to allow civil patients to be admitted to designated receiving facilities under the Baker Act without undergoing a transfer evaluation. The bill also provides that before the close of the State's case in a Baker Act hearing for involuntary placement, the state may establish that a transfer evaluation was performed and the document properly executed by providing the court with a copy of the transfer evaluation. The bill also prohibits the court from considering the substantive information in the transfer evaluation unless the evaluator (typically a health care practitioner) testifies at the hearing.

Section 6 amends s. 394.4615, F.S., to eliminate provisions referring to s. 394.4655, F.S., relating to involuntary outpatient services, rendered inapplicable by the bill.

Section 7 amends s. 394.462, F.S., relating to transportation, to eliminate cross references to ss. 397.6811 and 397.6822, F.S.

Section 8 amends s. 394.4625, F.S., relating to voluntary admissions, requiring a person to show evidence of mental illness in order to be admitted to a facility on a voluntary basis. Adults must consent in writing, and minors may only be admitted on a voluntary basis if both the minor and their parent or guardian give express and informed consent. The minor's assent is considered an affirmative agreement to remain at the facility for examination. A minor's assent must be verified through a clinical assessment performed within 12 hours of arrival at the facility. The examining professional must provide the minor with an explanation as to why they are at the facility, what to expect, and when they can expect to be released, using language that is appropriate to the minor's age, experience, maturity, and condition. The professional must document that the minor can understand this information. The facility administrator must file notice with the court of the minor's voluntary placement within 1 day of admission. A public defender shall be appointed by the court to review the voluntariness of the minor's admission and verify assent. The public defender can interview and represent the minor and shall have access to all relevant witnesses and records. If the public defender does not review their assent, the clinical record shall serve as verification of assent. If assent is not verified, a petition for involuntary placement must be filed or the minor must be released to their parent or guardian within 24 hours of arrival at the facility.

Section 9 amends s. 394.463, F.S., relating to involuntary examinations, providing that a person is subject to an involuntary examination if there is a substantial likelihood that without care or treatment the person will cause serious harm to themselves or others in the near future, as evidenced by his or her recent behavior, actions, or omissions, to include property damage.

The bill also adds criminal penalties for unlawful activities relating to examination and treatment. The unlawful activities detailed in the bill are: (a) knowingly furnishing false information for the purpose of obtaining emergency or other involuntary admission for any person; (b) causing or conspiring with another to cause, any involuntary mental health procedure for the person without a reason for believing a person is impaired; or, (c) causing, or conspiring to cause, any person to be denied their rights under the mental health statutes unlawful acts would be a misdemeanor of the first degree, punishable as provided by a fine up to \$5,000. The

bill provides law enforcement with discretion in transporting those who appear to meet Baker Act criteria to receiving facilities. It also requires receiving facilities to inform DCF of any person who has been Baker Acted 3 or more times within a 12 month period.

Section 10 amends s. 394.4655, F.S., relating to involuntary outpatient services, to provide that in lieu of inpatient treatment, a court may order a respondent in a Baker Act case into outpatient treatment for up to six months if it is established that the respondent meets involuntary placement criteria and has been involuntarily ordered into inpatient treatment at least twice during the past 36 months, the outpatient provider is in the same county as the respondent, and the respondent's treating physician certifies that the respondent can be more appropriately treated on an outpatient basis, and can follow a treatment plan. Without private insurance or Medicaid, DCF would presumably be required to pay for such treatment.

The bill also requires that for the duration of their treatment, the respondent must have a willing, able, and responsible supervisor who will inform the court of any failure to comply with the treatment plan. The bill requires the court to retain jurisdiction over the parties for entry of further orders after a hearing, and the court may order inpatient treatment to stabilize a respondent who decompensates during their period of court-ordered treatment if they continue to meet the other statutorily required criteria for commitment. The bill eliminates all other existing procedures in this section pertaining to criteria and procedures for involuntary examination.

Section 11 amends s. 394.467, F.S., relating to involuntary inpatient placement, to add a likelihood of committing property damage to the criteria for involuntary inpatient placement. The bill provides that with respect to a hearing on involuntary inpatient placement, both the patient and the state are independently entitled to at least one continuance of the hearing. The patient's continuance may be for a period of up to 4 weeks and requires concurrence of the patient's counsel. The state's continuance may be for a period of up to 7 court working days and requires a showing of good cause and due diligence by the state before it can be requested. The state's failure to timely review and readily available document or failure to attempt to contact a known witness does not merit a continuance. The bill requires the court to increase the number of court working days in which the hearing may be held from 5 to 7. The bill allows for all witnesses to a hearing to appear telephonically or by other remote means. The bill also allows the state attorney to access the patient, any witnesses, and any records needed to prepare its case. The bill prohibits the court from ordering an individual with a developmental disability as defined under s. 393.063, TBI or dementia who lacks a co-occurring mental illness into a state treatment facility. Such individuals must be referred to the Agency for Persons with Disabilities or the Department of Elder Affairs for further evaluation and the provision of appropriate services for their individual needs. In addition, if it reasonably appears that the individual would be found incapacitated under chapter 744 and the individual does not already have a legal guardian, the receiving facility must inform any known next of kin and initiate guardianship proceedings. The receiving facility may hold the individual until the petition to appoint a guardian is heard by the court and placement is secured.

Section 12 amends s. 394.495, F.S., relating to programs and services for child and adolescent mental health systems of care, explicitly requiring that for assessments of children and adolescents under the Baker Act, a clinical psychologist, clinical social worker, physician, psychiatric nurse, psychiatrist, or a person working under the direct supervision of one of these

professionals may perform an assessment. This is current law, however currently this statute refers to these professionals in a cross-reference rather than listing them in this section of statute.

Section 13 amends s. 394.496, F.S., relating to service planning, requiring that for assessments of children and adolescents under the Baker Act, a clinical psychologist, clinical social worker, physician, psychiatric nurse, or psychiatrist must be among the persons included in developing a services plan for the child or adolescent. This is current law, however currently this statute refers to these professionals in a cross-reference rather than listing them in this section of statute.

Section 14 amends s. 394.499, F.S., relating to integrated children's CSU/juvenile addiction receiving facility services, adding the terms "parent or legal" in front of guardian to state: a person under 18 years of age for whom voluntary application is made by his or her parent or legal guardian. Also, the bill adds a statutory reference to the voluntary admissions section in statute (s. 394.4625, F.S.).

Section 15 amends s. 394.9085, F.S., relating to behavioral provider liability, adding a cross reference to s. 394.455(41), F.S.

Section 16 amends s. 397.305, F.S., revising legislative intent related to the Marchman Act to include that patients be placed in the most appropriate and least restrictive environment conducive to long-term recovery while protecting individual rights.

Section 17 amends s. 397.311, F.S., relating to definition under the Marchman Act, to make the same changes to definitions in statute to the Marchman Act as the bill makes to the Baker Act.

Section 18 amends s. 397.416, F.S., to change a cross reference.

Section 19 amends s. 397.501, F.S., relating to rights of individuals, requiring that a patient with a serious substance abuse addiction who has been released after being Marchman Acted must be provided with information on the elements of a coordinated system of care. DCF is provided with rulemaking authority to determine what services may be provided to patients.

Section 20 amends s. 397.675, F.S., relating to criteria for involuntary admissions, to make the same changes to involuntary treatment criteria to the Marchman Act as the bill makes to the Baker Act, and to add history of noncompliance with substance abuse treatment and continued substance use as additional criterion.

Section 21 amends s. 397.6751, F.S., relating to service provider responsibilities regarding involuntary admissions, requiring that all patients admitted under the Marchman Act be placed in the most appropriate and least restrictive environment conducive to the patient's treatment needs.

Section 22 amends s. 397.681, F.S., relating to involuntary petitions, making the state attorney the real party of interest in all Marchman Act proceedings.

Section 23 repeals s. 397.6811, F.S., relating to involuntary assessment and stabilization.

Section 24 repeals s. 397. 6814, F.S., relating to contents of a petition in an involuntary assessment and stabilization matter.

Section 25 repeals s. 397. 6815, F.S., relating to procedure in an involuntary assessment and stabilization matter.

Section 26 repeals s. 397. 6818, F.S., relating to court determination.

Section 27 repeals s. 397. 6819, F.S., relating to responsibility of a licensed service in an involuntary assessment and stabilization matter.

Section 28 repeals s. 397. 6821, F.S., relating to an extension of time for completion of an involuntary assessment and stabilization.

Section 29 repeals s. 397. 6822, F.S., relating to disposition of an individual after an involuntary assessment.

Section 30 amends s. 397.693, F.S., relating to involuntary treatment, providing that a person may be involuntary admitted under the Marchman Act if they reasonably appear to meet the relevant statutory criteria.

Section 31 amends s. 397.695, F.S., relating to involuntary treatment, changing instances of 'treatment' to 'treatment services' throughout the section and allowing the court to waive or prohibit service of process fees for indigent respondents.

Section 32 amends 397.6951, F.S., relating to contents for a petition for involuntary treatment, changing instances of 'treatment' to 'treatment services' throughout the section and removing the requirement that a petition for involuntary treatment contain findings and recommendations of an assessment by a qualified professional.

The bill requires a petition for involuntary treatment to demonstrate that the petitioner believes that without treatment the respondent is likely to either:

- suffer from neglect or refuse to care for themselves which poses a real and substantial threat of harm and is unavoidable without the help of others or provisions of services; or
- inflict serious harm to themselves or others, including property damage.

The bill provides that a petition may be accompanied by a certificate or report of a qualified professional or licensed physician who has examined the respondent within the past 30 days. The certificate must contain the professional's findings and if the respondent refuses to submit to an examination must document the refusal.

The bill provides that in the event of an emergency requiring an expedited hearing, the petition must contain documented reasons for expediting the hearing.

Section 33 amends s. 397.6955, F.S., relating to the duties of the court upon the filing of a petition for involuntary treatment revising the duties of the court upon the filing of a Marchman Act petition for involuntary treatment. The bill requires the clerk of court to notify the state

attorney upon the filing of such a petition if the petition does not indicate that the petitioner has retained private counsel, notify the respondent's counsel if any has been retained, and schedule a hearing on the petition within 10 court working days unless a continuance is granted.

In the case of an emergency, the bill allows the court to rely solely on the contents of a petition to enter an ex parte order authorizing the involuntary assessment and stabilization of the respondent. The bill allows the court to order a law enforcement officer to take the respondent into custody and deliver them to the nearest service provider while the full hearing is conducted.

Section 34 amends s. 397.6957, F.S., requires a respondent to be present during a hearing on an involuntary treatment petition unless the respondent has knowingly and willingly waived their right to appear. Testimony from family members familiar with the respondent's history and how it relates to their current condition is permissible. The bill allows witnesses to testify remotely via the most appropriate and convenient technological method of communication available to the court, including but not limited to teleconference, and allows any witnesses intending to remotely attend and testify at the hearing as long as they provide the parties with all relevant documents in advance of the hearing.

The bill provides that if the respondent has not previously been assessed by a qualified professional, the court must allow 10 days for the respondent to undergo such evaluation, unless the court suspects that the respondent will not appear at a rescheduled hearing or refuses to submit to an evaluation, the court may enter a preliminary order committing the respondent to an appropriate treatment facility until the rescheduled hearing date. The court may also order the respondent to undergo drug screenings as part of the evaluation. The respondent's evaluation must occur within 72 hours of arrival at the treatment facility. If the facility cannot have the evaluation completed in this time period, they must petition the court for an extension of time not to extend beyond a period of 3 days before the reschedule hearing. If the period of time is extended and ends on a weekend or holiday, the court may only hold the respondent until the next court working day. Copies of the evaluation report must be provided to all parties and their counsel, and the respondent may be held and treatment initiated until the rescheduled hearing. The court may order law enforcement to transport the respondent as needed to and from a treatment facility to the court for the rescheduled hearing.

If the respondent is a minor, assessment must occur within 12 hours of admission. The service provider may petition the court for a 72-hour extension of time if the provider furnishes copies of the motion for extension of time to all parties. The court may expedite or grant additional time for the involuntary treatment hearing, but only if there is agreement among the parties on the hearing date or if there is statutorily appropriate notice and proof of service. If the period is extended and ends on a weekend or holiday, the court can only hold the respondent until the next court working day.

The bill requires the petitioner to prove, through clear and convincing evidence that the respondent is substance abuse impaired, has lost the power of self-control with respect to substance abuse, has a history of lack of compliance with treatment, and has demonstrated continued substance use. The bill requires the petitioner to also prove that it is likely that the respondent poses a threat of substantial harm to their own well-being and it is apparent that such

harm may not be avoided through the help of willing, able, and responsible family member or friends or the provision of services, or that there is a substantial likelihood that, unless admitted, the respondent will cause harm to themselves or others, which may include property damage.

The bill allows the court to initiate involuntary proceedings at any point during the hearing if it reasonably believes that the respondent is likely to injure themselves if allowed to remain free. Any treatment order entered by the court at the conclusion of the hearing must contain findings regarding the respondent's need for treatment and the appropriateness of other less restrictive alternatives.

Section 35 amends s. 397.697, F.S., relating to court determinations and the effect of a court order for involuntary services, providing that in order to qualify for involuntary outpatient treatment an individual must be accompanied by a willing, able, and responsible advocate, or a social worker or case manager of a licensed service provider, who will inform the court if the individual fails to comply with their outpatient program. The bill also requires that if outpatient treatment is offered in lieu of inpatient treatment, it must be available in the county where the respondent resides and it may be offered for up to six months if it is established that the respondent meets involuntary placement criteria and has been involuntarily ordered into inpatient treatment at least twice during the past 36 months, the outpatient provider is in the same county as the respondent, and the respondent's treating physician certifies that the respondent can be more appropriately treated on an outpatient basis and can follow a treatment plan.

The bill requires the court to retain jurisdiction in all cases resulting in involuntary inpatient treatment so that it may monitor compliance with treatment, change treatment modalities, or initiate contempt of court proceedings as needed.

The bill also provides that in cases involving minors who violate an involuntary treatment order, the court may hold the minor in contempt for the same amount of time as their court-ordered treatment, so long as the court informs the minor that the contempt can be immediately ended by compliance with the treatment plan. If a contempt order results in incarceration, status conference hearings must be held every 2 to 4 weeks to assess the minor's well-being and inquire whether the minor will enter treatment. If the minor agrees to enter treatment, service providers are required to prioritize their entry into treatment.

Finally the bill clarifies that while subject to the court's oversight, a service provider's authority is separate and distinct from the court's continuing jurisdiction.

Section 36 amends s. 397.6971, related to early release from involuntary services, to change all instances of the word 'services' to the word 'treatment.'

Section 37 amends s. 397.6975, F.S., related to extension of involuntary services periods, allowing a service provider to petition the court for an extension of an involuntary treatment period if an individual in treatment is nearing the end of their court-ordered time period in treatment and it appears that they will require additional care. The bill provides that such a petition will preferably be filed at least 10 days before the expiration of the current scheduled treatment period. The bill requires the court to immediately schedule a hearing to be held not more than 10 court working days after the filing of the petition. The bill allows the court to order

additional treatment if the original time period will expire before the hearing is concluded and it appears likely to the court that additional treatment will be required.

Section 38 amends s. 397.6977, F.S., relating to disposition of individual completion of involuntary treatment services, to change all instances of the word ‘services’ to the word ‘treatment.’

Section 39 repeals s. 397.6978, F.S., relating to guardian advocates; patients incompetent consent; and substance abuse disorder.

Section 40 amends s. 409.972, F.S., relating to mandatory and voluntary enrollment in Medicaid programs, to change a cross reference.

Section 41 amends s. 464.012, F.S., relating to the scope of practice for advanced registered nurse practitioners to correct a cross reference.

Section 42 amends s. 744.2007, F.S., relating to powers and duties of guardians, to correct a cross-reference.

Section 43 amends s. 790.065, relating to the sale and delivery of firearms, to eliminate cross references.

Section 44 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:

The bill may impact private service providers who will be required to update forms to accommodate new requirements and to train service provider staff and administrators on the new requirements.⁴⁸

C. Government Sector Impact:

Section 394.674, F.S. currently defines DCF's priority populations, stating that individuals with serious mental illness are eligible to receive substance abuse and mental health services funded by DCF when the individual does not have some type of insurance or other way to pay for services. DCF estimates that it is likely that some individuals impacted by this provision will not be eligible for Department funded services. DCF is unable to estimate the increase in the number of individuals who would be receiving services through a community mental health center under the bill. Managing Entities negotiate rates with community mental health providers for various behavioral health services. For the increase in the number of individuals eligible for these services through DCF, the funding available to pay for those services will need to be increased.⁴⁹

There will be a fiscal impact on public defenders throughout the state and on the state courts system by virtue of additional clients and hearings entering the system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.455, 394.459, 394.4598, 394.4599, 394.461, 394.4615, 394.462, 394.4625, 394.463, 394.4655, 394.467, 394.495, 394.496, 394.499, 394.9085, 397.305, 397.311, 397.416, 397.501, 397.675, 397.6751, 397.681, 397.693, 397.695, 397.6951, 397.6955, 397.6957, 397.697, 397.6971, 397.6975, 397.6977, 409.972, 464.012, 744.2007, and 790.065 of the Florida Statutes.

⁴⁸ Department of Children and Families Agency Analysis of SB 870, November 18, 2019. On file with the Senate Committee on Children, Families, and Elder Affairs.

⁴⁹ *Id.*

This bill repeals sections 397.6811, 397.6814, 397.6815, 397.6818, 397.6819, 397.6821 and 397.6822, and 397.6978-of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Children, Families, and Elder Affairs on January 28, 2020:

- Requires that a patient be informed of services available rather than requiring the provision of services under the Baker Act.
- Eliminates the requirement that a public defender be appointed to represent a minor in Baker Act proceedings.
- Requires a person to show evidence of mental illness in order to be admitted to a receiving facility for a Baker Act on a voluntary basis. Adults must consent in writing, minors may only be admitted on a voluntary basis if both the minor and their parent or guardian give express and informed consent. The minor's assent is considered an affirmative agreement to remain at the facility for examination. A minor's assent must be verified through a clinical assessment performed within 12 hours of arrival at the facility. The examining professional must provide the minor with an explanation as to why they are at the facility, what to expect, and when they can expect to be released, using language that is appropriate to the minor's age, experience, maturity, and condition. The professional must document that the minor can understand this information. The facility administrator must file notice with the court of the minor's voluntary placement within 1 day of admission.
- A public defender shall be appointed by the court to review the voluntariness of the minor's admission and verify assent. The public defender can interview and represent the minor and shall have access to all relevant witnesses and records. If the public defender does not review their assent, the clinical record shall serve as verification of assent. If assent is not verified, a petition for involuntary placement must be filed or the minor must be released to their parent or guardian within 24 hours of arrival at the facility.
- Provides law enforcement with discretion in transporting those who appear to meet Baker Act criteria to receiving facilities. Requires receiving facilities to inform DCF of any person who has been Baker Acted more than 3 times within a 12 month period. Removes the requirement that a receiving facility must inform DCF of a Baker Acted minor's admission and their outcome.
- Removes the requirement that a person is not likely to become dangerous, suffer more serious harm or illness, or further deteriorate if a treatment plan is followed from the three criteria for a court ordering 6-month outpatient treatment following a Baker Act admission. Adds the ability of the court, in retaining jurisdiction over the case, to order inpatient treatment to stabilize a respondent who decompensates during their 6-month period of court-ordered treatment if they also meet the commitment criteria of s. 394.467.
- Removes the ability of the court to refer cases to DCF to initiate adult protective services or child protective services under chapter 39 or 415. Prohibits the court from ordering an individual with a developmental disability as defined under s. 393.063,

TBI or dementia who lacks a co-occurring mental illness into a state treatment facility.

- Requires any witnesses intending to remotely attend and testify at a Baker Act hearing to provide all parties with all relevant documents in advance of the hearing.
- Requires that a patient be informed of services available rather than requiring the provision of services under the Marchman Act.
- Adds the requirement that the clerk must only notify the state attorney of a petition for involuntary treatment services for substance abuse if the petition does not indicate that the petitioner has retained private counsel.
- Adds that a service provider must promptly inform the court and parties of the respondent's arrival under the Marchman Act and cannot hold the respondent for longer than the 72 hour observation period unless the original or extended observation period ends on a weekend or holiday, in which case the provider may hold the respondent until the next working day.
- Adds that the court may order drug tests and consider specific symptoms of a respondent's condition as an example of a showing of good cause for holding a respondent for an extended period of time under the Marchman Act.
- Allows witnesses in Marchman Act hearings to testify remotely via the most appropriate and convenient technological method of communication available to the court, including but not limited to teleconference.
- Adds that any witnesses intending to remotely attend and testify at a Marchman Act hearing must provide the parties with all relevant documents in advance of the hearing.
- Adds that if the respondent in a Marchman Act proceeding is a minor, an assessment must occur within 12 hours of admission. The bill allows the service provider to petition the court for a 72-hour extension of time if the provider furnishes copies of the motion for extension of time to all parties. It allows the court to expedite or grant additional time for the involuntary treatment hearing, but only if there is agreement among the parties on the hearing date or if there is statutorily appropriate notice and proof of service. If the period is extended and ends on a weekend or holiday, the court can only hold the respondent until the next court working day.
- Removes the ability to refer the respondent to a specific treatment provider in a treatment order following a hearing.
- Adds that to qualify for an outpatient treatment plan under the Marchman Act, the individual must be supported by a social worker or case manager of a licensed service provider or willing able and responsible individual.
- Adds that services must be available in the county in which the respondent is located and removes the requirement that it must appear unlikely that the respondent will become dangerous, suffer more harm or illness, or deteriorate.

B. Amendments:

None.



745770

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 214 - 1783

and insert:

of this part, the term does not include a developmental disability as defined in chapter 393, dementia, traumatic brain injury, intoxication, or conditions manifested only by antisocial behavior or substance abuse.

(31) "Neglect or refuse to care for himself or herself" includes, but is not limited to, evidence that a person:



745770

11 (a) Is unable to satisfy basic needs for nourishment,
12 clothing, medical care, shelter, or safety in a manner that
13 creates a substantial probability of imminent death, serious
14 physical debilitation, or disease; or

15 (b) Is substantially unable to make an informed treatment
16 choice and needs care or treatment to prevent deterioration.

17 (40) "Real and present threat of substantial harm"
18 includes, but is not limited to, evidence of a substantial
19 probability that the untreated person will:

20 (a) Lack, refuse, or not receive services for health and
21 safety that are actually available in the community; or

22 (b) Suffer severe mental, emotional, or physical harm that
23 will result in the loss of his or her ability to function in the
24 community or the loss of cognitive or volitional control over
25 thoughts or actions.

26 Section 2. Subsection (13) is added to section 394.459,
27 Florida Statutes, to read:

28 394.459 Rights of patients.—

29 (13) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, a
30 respondent with a serious mental illness must be informed of the
31 essential elements of recovery and provided assistance with
32 accessing a continuum of care regimen. The department may adopt
33 rules specifying the services that may be provided to such
34 respondents.

35 Section 3. Subsection (1) of section 394.4598, Florida
36 Statutes, is amended to read:

37 394.4598 Guardian advocate.—

38 (1) The administrator may petition the court for the
39 appointment of a guardian advocate based upon the opinion of a



745770

40 psychiatrist that the patient is incompetent to consent to
41 treatment. If the court finds that a patient is incompetent to
42 consent to treatment and has not been adjudicated incapacitated
43 and a guardian with the authority to consent to mental health
44 treatment appointed, it shall appoint a guardian advocate. The
45 patient has the right to have an attorney represent him or her
46 at the hearing. If the person is indigent, the court shall
47 appoint the office of the public defender to represent him or
48 her at the hearing. The patient has the right to testify, cross-
49 examine witnesses, and present witnesses. The proceeding shall
50 be recorded either electronically or stenographically, and
51 testimony shall be provided under oath. One of the professionals
52 authorized to give an opinion in support of a petition for
53 involuntary placement, as described in ~~s. 394.4655~~ or s.
54 394.467, must testify. A guardian advocate must meet the
55 qualifications of a guardian contained in part IV of chapter
56 744, except that a professional referred to in this part, an
57 employee of the facility providing direct services to the
58 patient under this part, a departmental employee, a facility
59 administrator, or member of the Florida local advocacy council
60 may ~~shall~~ not be appointed. A person who is appointed as a
61 guardian advocate must agree to the appointment.

62 Section 4. Paragraph (d) of subsection (2) of section
63 394.4599, Florida Statutes, is amended to read:

64 394.4599 Notice.—

65 (2) INVOLUNTARY ADMISSION.—

66 (d) The written notice of the filing of the petition for
67 involuntary services for an individual being held must contain
68 the following:



745770

- 69 1. Notice that the petition for:
- 70 a. Involuntary inpatient treatment pursuant to s. 394.467
- 71 has been filed with the circuit court in the county in which the
- 72 individual is hospitalized and the address of such court; or
- 73 b. Involuntary outpatient services pursuant to s. 394.4655
- 74 has been filed with the criminal county court, ~~as defined in s.~~
- 75 ~~394.4655(1)~~, or the circuit court, as applicable, in the county
- 76 in which the individual is hospitalized and the address of such
- 77 court.
- 78 2. Notice that the office of the public defender has been
- 79 appointed to represent the individual in the proceeding, if the
- 80 individual is not otherwise represented by counsel.
- 81 3. The date, time, and place of the hearing and the name of
- 82 each examining expert and every other person expected to testify
- 83 in support of continued detention.
- 84 4. Notice that the individual, the individual's guardian,
- 85 guardian advocate, health care surrogate or proxy, or
- 86 representative, or the administrator may apply for a change of
- 87 venue for the convenience of the parties or witnesses or because
- 88 of the condition of the individual.
- 89 5. Notice that the individual is entitled to an independent
- 90 expert examination and, if the individual cannot afford such an
- 91 examination, that the court will provide for one.
- 92 Section 5. Subsection (2) of section 394.461, Florida
- 93 Statutes, is amended to read:
- 94 394.461 Designation of receiving and treatment facilities
- 95 and receiving systems.—The department is authorized to designate
- 96 and monitor receiving facilities, treatment facilities, and
- 97 receiving systems and may suspend or withdraw such designation



745770

98 for failure to comply with this part and rules adopted under
99 this part. Unless designated by the department, facilities are
100 not permitted to hold or treat involuntary patients under this
101 part.

102 (2) TREATMENT FACILITY.—The department may designate any
103 state-owned, state-operated, or state-supported facility as a
104 state treatment facility. A civil patient must ~~shall~~ not be
105 admitted to a state treatment facility without previously
106 undergoing a transfer evaluation. Before the close of the
107 state's case in chief in a court hearing for involuntary
108 ~~placement in a state treatment facility~~, the state may establish
109 that the transfer evaluation was performed and the document
110 properly executed by providing the court with a copy of the
111 transfer evaluation. The court may not ~~shall receive and~~
112 consider the substantive information ~~documented~~ in the transfer
113 evaluation unless the evaluator testifies at the hearing. Any
114 other facility, including a private facility or a federal
115 facility, may be designated as a treatment facility by the
116 department, provided that such designation is agreed to by the
117 appropriate governing body or authority of the facility.

118 Section 6. Subsection (3) of section 394.4615, Florida
119 Statutes, is amended to read:

120 394.4615 Clinical records; confidentiality.—

121 (3) Information from the clinical record may be released in
122 the following circumstances:

123 (a) When a patient has communicated to a service provider a
124 specific threat to cause serious bodily injury or death to an
125 identified or a readily available person, if the service
126 provider reasonably believes, or should reasonably believe



745770

127 according to the standards of his or her profession, that the
128 patient has the apparent intent and ability to imminently or
129 immediately carry out such threat. When such communication has
130 been made, the administrator may authorize the release of
131 sufficient information to provide adequate warning to the person
132 threatened with harm by the patient.

133 (b) When the administrator of the facility or secretary of
134 the department deems release to a qualified researcher as
135 defined in administrative rule, an aftercare treatment provider,
136 or an employee or agent of the department is necessary for
137 treatment of the patient, maintenance of adequate records,
138 compilation of treatment data, aftercare planning, or evaluation
139 of programs.

140
141 For the purpose of determining whether a person meets the
142 criteria for involuntary outpatient placement ~~or for preparing~~
143 ~~the proposed treatment plan~~ pursuant to s. 394.4655, the
144 clinical record may be released to the state attorney, the
145 public defender or the patient's private legal counsel, the
146 court, and to the appropriate mental health professionals,
147 ~~including the service provider identified in s.~~
148 ~~394.4655(7)(b)2.,~~ in accordance with state and federal law.

149 Section 7. Section 394.462, Florida Statutes, is amended to
150 read:

151 394.462 Transportation.—A transportation plan shall be
152 developed and implemented by each county in collaboration with
153 the managing entity in accordance with this section. A county
154 may enter into a memorandum of understanding with the governing
155 boards of nearby counties to establish a shared transportation



745770

156 plan. When multiple counties enter into a memorandum of
157 understanding for this purpose, the counties shall notify the
158 managing entity and provide it with a copy of the agreement. The
159 transportation plan shall describe methods of transport to a
160 facility within the designated receiving system for individuals
161 subject to involuntary examination under s. 394.463 or
162 involuntary admission under s. 397.6772, s. 397.679, s.
163 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify
164 responsibility for other transportation to a participating
165 facility when necessary and agreed to by the facility. The plan
166 may rely on emergency medical transport services or private
167 transport companies, as appropriate. The plan shall comply with
168 the transportation provisions of this section and ss. 397.6772,
169 397.6795, ~~397.6822~~, and 397.697.

170 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

171 (a) Each county shall designate a single law enforcement
172 agency within the county, or portions thereof, to take a person
173 into custody upon the entry of an ex parte order or the
174 execution of a certificate for involuntary examination by an
175 authorized professional and to transport that person to the
176 appropriate facility within the designated receiving system
177 pursuant to a transportation plan.

178 (b)1. The designated law enforcement agency may decline to
179 transport the person to a receiving facility only if:

180 a. The jurisdiction designated by the county has contracted
181 on an annual basis with an emergency medical transport service
182 or private transport company for transportation of persons to
183 receiving facilities pursuant to this section at the sole cost
184 of the county; and



745770

185 b. The law enforcement agency and the emergency medical
186 transport service or private transport company agree that the
187 continued presence of law enforcement personnel is not necessary
188 for the safety of the person or others.

189 2. The entity providing transportation may seek
190 reimbursement for transportation expenses. The party responsible
191 for payment for such transportation is the person receiving the
192 transportation. The county shall seek reimbursement from the
193 following sources in the following order:

194 a. From a private or public third-party payor, if the
195 person receiving the transportation has applicable coverage.

196 b. From the person receiving the transportation.

197 c. From a financial settlement for medical care, treatment,
198 hospitalization, or transportation payable or accruing to the
199 injured party.

200 (c) A company that transports a patient pursuant to this
201 subsection is considered an independent contractor and is solely
202 liable for the safe and dignified transport of the patient. Such
203 company must be insured and provide no less than \$100,000 in
204 liability insurance with respect to the transport of patients.

205 (d) Any company that contracts with a governing board of a
206 county to transport patients shall comply with the applicable
207 rules of the department to ensure the safety and dignity of
208 patients.

209 (e) When a law enforcement officer takes custody of a
210 person pursuant to this part, the officer may request assistance
211 from emergency medical personnel if such assistance is needed
212 for the safety of the officer or the person in custody.

213 (f) When a member of a mental health overlay program or a



745770

214 mobile crisis response service is a professional authorized to
215 initiate an involuntary examination pursuant to s. 394.463 or s.
216 397.675 and that professional evaluates a person and determines
217 that transportation to a receiving facility is needed, the
218 service, at its discretion, may transport the person to the
219 facility or may call on the law enforcement agency or other
220 transportation arrangement best suited to the needs of the
221 patient.

222 (g) When any law enforcement officer has custody of a
223 person based on either noncriminal or minor criminal behavior
224 that meets the statutory guidelines for involuntary examination
225 pursuant to s. 394.463, the law enforcement officer shall
226 transport the person to the appropriate facility within the
227 designated receiving system pursuant to a transportation plan.
228 Persons who meet the statutory guidelines for involuntary
229 admission pursuant to s. 397.675 may also be transported by law
230 enforcement officers to the extent resources are available and
231 as otherwise provided by law. Such persons shall be transported
232 to an appropriate facility within the designated receiving
233 system pursuant to a transportation plan.

234 (h) When any law enforcement officer has arrested a person
235 for a felony and it appears that the person meets the statutory
236 guidelines for involuntary examination or placement under this
237 part, such person must first be processed in the same manner as
238 any other criminal suspect. The law enforcement agency shall
239 thereafter immediately notify the appropriate facility within
240 the designated receiving system pursuant to a transportation
241 plan. The receiving facility shall be responsible for promptly
242 arranging for the examination and treatment of the person. A



745770

243 receiving facility is not required to admit a person charged
244 with a crime for whom the facility determines and documents that
245 it is unable to provide adequate security, but shall provide
246 examination and treatment to the person where he or she is held.

247 (i) If the appropriate law enforcement officer believes
248 that a person has an emergency medical condition as defined in
249 s. 395.002, the person may be first transported to a hospital
250 for emergency medical treatment, regardless of whether the
251 hospital is a designated receiving facility.

252 (j) The costs of transportation, evaluation,
253 hospitalization, and treatment incurred under this subsection by
254 persons who have been arrested for violations of any state law
255 or county or municipal ordinance may be recovered as provided in
256 s. 901.35.

257 (k) The appropriate facility within the designated
258 receiving system pursuant to a transportation plan must accept
259 persons brought by law enforcement officers, or an emergency
260 medical transport service or a private transport company
261 authorized by the county, for involuntary examination pursuant
262 to s. 394.463.

263 (l) The appropriate facility within the designated
264 receiving system pursuant to a transportation plan must provide
265 persons brought by law enforcement officers, or an emergency
266 medical transport service or a private transport company
267 authorized by the county, pursuant to s. 397.675, a basic
268 screening or triage sufficient to refer the person to the
269 appropriate services.

270 (m) Each law enforcement agency designated pursuant to
271 paragraph (a) shall establish a policy that reflects a single



745770

272 set of protocols for the safe and secure transportation and
273 transfer of custody of the person. Each law enforcement agency
274 shall provide a copy of the protocols to the managing entity.

275 (n) When a jurisdiction has entered into a contract with an
276 emergency medical transport service or a private transport
277 company for transportation of persons to facilities within the
278 designated receiving system, such service or company shall be
279 given preference for transportation of persons from nursing
280 homes, assisted living facilities, adult day care centers, or
281 adult family-care homes, unless the behavior of the person being
282 transported is such that transportation by a law enforcement
283 officer is necessary.

284 (o) This section may not be construed to limit emergency
285 examination and treatment of incapacitated persons provided in
286 accordance with s. 401.445.

287 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

288 (a) If neither the patient nor any person legally obligated
289 or responsible for the patient is able to pay for the expense of
290 transporting a voluntary or involuntary patient to a treatment
291 facility, the transportation plan established by the governing
292 board of the county or counties must specify how the
293 hospitalized patient will be transported to, from, and between
294 facilities in a safe and dignified manner.

295 (b) A company that transports a patient pursuant to this
296 subsection is considered an independent contractor and is solely
297 liable for the safe and dignified transportation of the patient.
298 Such company must be insured and provide no less than \$100,000
299 in liability insurance with respect to the transport of
300 patients.



745770

301 (c) A company that contracts with one or more counties to
302 transport patients in accordance with this section shall comply
303 with the applicable rules of the department to ensure the safety
304 and dignity of patients.

305 (d) County or municipal law enforcement and correctional
306 personnel and equipment may not be used to transport patients
307 adjudicated incapacitated or found by the court to meet the
308 criteria for involuntary placement pursuant to s. 394.467,
309 except in small rural counties where there are no cost-efficient
310 alternatives.

311 (3) TRANSFER OF CUSTODY.—Custody of a person who is
312 transported pursuant to this part, along with related
313 documentation, shall be relinquished to a responsible individual
314 at the appropriate receiving or treatment facility.

315 Section 8. Subsection (1) of section 394.4625, Florida
316 Statutes, is amended to read:

317 394.4625 Voluntary admissions.—

318 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE
319 PATIENTS.—

320 (a) In order to be admitted to a facility on a voluntary
321 basis, a person must show evidence of a mental illness and be
322 suitable for treatment by the facility.

323 1. If the person is an adult, he or she must be competent
324 to provide his or her express and informed consent in writing to
325 the facility.

326 2. A minor may only be admitted to a facility on the basis
327 of the express and informed consent of the minor's parent or
328 legal guardian in conjunction with the minor's assent.

329 a. The minor's assent is an affirmative agreement by the



745770

330 minor to remain at the facility for examination and treatment.
331 The minor's failure to object is not assent for purposes of this
332 subparagraph.

333 b. The minor's assent must be verified through a clinical
334 assessment that is documented in the minor's clinical record and
335 conducted within 12 hours after arrival at the facility by a
336 licensed professional authorized to initiate an involuntary
337 examination under s. 394.463.

338 c. In verifying the minor's assent, the examining
339 professional must first provide the minor with an explanation as
340 to why the minor will be examined and treated, what the minor
341 can expect while in the facility, and when the minor may expect
342 to be released, using language that is appropriate to the
343 minor's age, experience, maturity, and condition. The examining
344 professional must determine and document that the minor is able
345 to understand this information.

346 d. The facility must advise the minor of his or her right
347 to request and have access to legal counsel.

348 e. The facility administrator must file with the court a
349 notice of a minor's voluntary placement within 1 court working
350 day after the minor's admission to the facility.

351 f. The court shall appoint a public defender who may review
352 the voluntariness of the minor's admission to the facility and
353 further verify his or her assent. The public defender may
354 interview and represent the minor and shall have access to all
355 relevant witnesses and records. If the public defender does not
356 review the voluntariness of the admission, the clinical
357 assessment of the minor's assent shall serve as verification of
358 assent.



745770

359 g. Unless the minor's assent is verified pursuant to this
360 subparagraph, a petition for involuntary placement must be filed
361 with the court or the minor must be released to his or her
362 parent or legal guardian within 24 hours after arriving at the
363 facility ~~A facility may receive for observation, diagnosis, or~~
364 ~~treatment any person 18 years of age or older making application~~
365 ~~by express and informed consent for admission or any person age~~
366 ~~17 or under for whom such application is made by his or her~~
367 ~~guardian. If found to show evidence of mental illness, to be~~
368 ~~competent to provide express and informed consent, and to be~~
369 ~~suitable for treatment, such person 18 years of age or older may~~
370 ~~be admitted to the facility. A person age 17 or under may be~~
371 ~~admitted only after a hearing to verify the voluntariness of the~~
372 ~~consent.~~

373 (b) A mental health overlay program or a mobile crisis
374 response service or a licensed professional who is authorized to
375 initiate an involuntary examination pursuant to s. 394.463 and
376 is employed by a community mental health center or clinic must,
377 pursuant to district procedure approved by the respective
378 district administrator, conduct an initial assessment of the
379 ability of the following persons to give express and informed
380 consent to treatment before such persons may be admitted
381 voluntarily:

382 1. A person 60 years of age or older for whom transfer is
383 being sought from a nursing home, assisted living facility,
384 adult day care center, or adult family-care home, when such
385 person has been diagnosed as suffering from dementia.

386 2. A person 60 years of age or older for whom transfer is
387 being sought from a nursing home pursuant to s. 400.0255(12).



745770

388 3. A person for whom all decisions concerning medical
389 treatment are currently being lawfully made by the health care
390 surrogate or proxy designated under chapter 765.

391 (c) When an initial assessment of the ability of a person
392 to give express and informed consent to treatment is required
393 under this section, and a mobile crisis response service does
394 not respond to the request for an assessment within 2 hours
395 after the request is made or informs the requesting facility
396 that it will not be able to respond within 2 hours after the
397 request is made, the requesting facility may arrange for
398 assessment by any licensed professional authorized to initiate
399 an involuntary examination pursuant to s. 394.463 who is not
400 employed by or under contract with, and does not have a
401 financial interest in, either the facility initiating the
402 transfer or the receiving facility to which the transfer may be
403 made.

404 (d) A facility may not admit as a voluntary patient a
405 person who has been adjudicated incapacitated, unless the
406 condition of incapacity has been judicially removed. If a
407 facility admits as a voluntary patient a person who is later
408 determined to have been adjudicated incapacitated, and the
409 condition of incapacity had not been removed by the time of the
410 admission, the facility must either discharge the patient or
411 transfer the patient to involuntary status.

412 (e) The health care surrogate or proxy of a voluntary
413 patient may not consent to the provision of mental health
414 treatment for the patient. A voluntary patient who is unwilling
415 or unable to provide express and informed consent to mental
416 health treatment must either be discharged or transferred to



745770

417 involuntary status.

418 (f) Within 24 hours after admission of a voluntary patient,
419 the admitting physician shall document in the patient's clinical
420 record that the patient is able to give express and informed
421 consent for admission. If the patient is not able to give
422 express and informed consent for admission, the facility shall
423 either discharge the patient or transfer the patient to
424 involuntary status pursuant to subsection (5).

425 Section 9. Subsection (1) and paragraphs (a), (g), and (h)
426 of subsection (2) of section 394.463, Florida Statutes, are
427 amended, and subsection (5) is added to that section, to read:

428 394.463 Involuntary examination.—

429 (1) CRITERIA.—A person may be taken to a receiving facility
430 for involuntary examination if there is reason to believe that
431 the person has a mental illness and because of his or her mental
432 illness:

433 (a)1. The person has refused voluntary examination after
434 conscientious explanation and disclosure of the purpose of the
435 examination; or

436 2. The person is unable to determine for himself or herself
437 whether examination is necessary; and

438 (b)1. Without care or treatment, the person is likely to
439 suffer from neglect or refuse to care for himself or herself;
440 such neglect or refusal poses a real and present threat of
441 substantial harm to his or her well-being; and it is not
442 apparent that such harm may be avoided through the help of
443 willing, able, and responsible family members or friends or the
444 provision of other services; or

445 2. There is a substantial likelihood that in the near



745770

446 future and without care or treatment, the person will inflict
447 serious ~~cause serious bodily~~ harm to self ~~himself or herself~~ or
448 others ~~in the near future~~, as evidenced by acts, omissions, or
449 ~~recent~~ behavior causing, attempting, or threatening such harm,
450 which includes, but is not limited to, significant property
451 damage.

452 (2) INVOLUNTARY EXAMINATION.—

453 (a) An involuntary examination may be initiated by any one
454 of the following means:

455 1. A circuit or county court may enter an ex parte order
456 stating that a person appears to meet the criteria for
457 involuntary examination and specifying the findings on which
458 that conclusion is based. The ex parte order for involuntary
459 examination must be based on written or oral sworn testimony
460 that includes specific facts that support the findings. If other
461 less restrictive means are not available, such as voluntary
462 appearance for outpatient evaluation, a law enforcement officer,
463 or other designated agent of the court, shall take the person
464 into custody and deliver him or her to an appropriate, or the
465 nearest, facility within the designated receiving system
466 pursuant to s. 394.462 for involuntary examination. The order of
467 the court shall be made a part of the patient's clinical record.
468 A fee may not be charged for the filing of an order under this
469 subsection. A facility accepting the patient based on this order
470 must send a copy of the order to the department within 5 working
471 days. The order may be submitted electronically through existing
472 data systems, if available. The order shall be valid only until
473 the person is delivered to the facility or for the period
474 specified in the order itself, whichever comes first. If no time



745770

475 limit is specified in the order, the order shall be valid for 7
476 days after the date that the order was signed.

477 2. A law enforcement officer may ~~shall~~ take a person who
478 appears to meet the criteria for involuntary examination into
479 custody and deliver the person or have him or her delivered to
480 an appropriate, or the nearest, facility within the designated
481 receiving system pursuant to s. 394.462 for examination. The
482 officer shall execute a written report detailing the
483 circumstances under which the person was taken into custody,
484 which must be made a part of the patient's clinical record. Any
485 facility accepting the patient based on this report must send a
486 copy of the report to the department within 5 working days.

487 3. A physician, clinical psychologist, psychiatric nurse,
488 mental health counselor, marriage and family therapist, or
489 clinical social worker may execute a certificate stating that he
490 or she has examined a person within the preceding 48 hours and
491 finds that the person appears to meet the criteria for
492 involuntary examination and stating the observations upon which
493 that conclusion is based. If other less restrictive means, such
494 as voluntary appearance for outpatient evaluation, are not
495 available, a law enforcement officer shall take into custody the
496 person named in the certificate and deliver him or her to the
497 appropriate, or nearest, facility within the designated
498 receiving system pursuant to s. 394.462 for involuntary
499 examination. The law enforcement officer shall execute a written
500 report detailing the circumstances under which the person was
501 taken into custody. The report and certificate shall be made a
502 part of the patient's clinical record. Any facility accepting
503 the patient based on this certificate must send a copy of the



745770

504 certificate to the department within 5 working days. The
505 document may be submitted electronically through existing data
506 systems, if applicable.

507
508 When sending the order, report, or certificate to the
509 department, a facility shall, at a minimum, provide information
510 about which action was taken regarding the patient under
511 paragraph (g), which information shall also be made a part of
512 the patient's clinical record.

513 (g) The examination period must be for up to 72 hours. For
514 a minor, the examination shall be initiated within 12 hours
515 after the patient's arrival at the facility. The facility must
516 inform the department of any person who has been examined or
517 committed three or more times under this chapter within a 12-
518 month period. Within the examination period or, if the
519 examination period ends on a weekend or holiday, no later than
520 the next working day thereafter, one of the following actions
521 must be taken, based on the individual needs of the patient:

522 1. The patient shall be released, unless he or she is
523 charged with a crime, in which case the patient shall be
524 returned to the custody of a law enforcement officer;

525 2. The patient shall be released, subject to subparagraph
526 1., for voluntary outpatient treatment;

527 3. The patient, unless he or she is charged with a crime,
528 shall be asked to give express and informed consent to placement
529 as a voluntary patient and, if such consent is given, the
530 patient shall be admitted as a voluntary patient; or

531 4. A petition for involuntary services shall be filed in
532 the circuit court ~~if inpatient treatment is deemed necessary~~ or



745770

533 with a the criminal county court, as described in s. 394.4655
534 ~~defined in s. 394.4655(1)~~, as applicable. When inpatient
535 treatment is deemed necessary, the least restrictive treatment
536 consistent with the optimum improvement of the patient's
537 condition shall be made available. The petition ~~When a petition~~
538 ~~is to be filed for involuntary outpatient placement, it shall be~~
539 ~~filed by one of the petitioners specified in s. 394.4655(4)(a).~~
540 ~~A petition for involuntary inpatient placement shall be filed by~~
541 the facility administrator.

542 (h) A person for whom an involuntary examination has been
543 initiated who is being evaluated or treated at a hospital for an
544 emergency medical condition specified in s. 395.002 must be
545 examined by a facility within the examination period specified
546 in paragraph (g). The examination period begins when the patient
547 arrives at the hospital and ceases when the attending physician
548 documents that the patient has an emergency medical condition.
549 If the patient is examined at a hospital providing emergency
550 medical services by a professional qualified to perform an
551 involuntary examination and is found as a result of that
552 examination not to meet the criteria for involuntary outpatient
553 services pursuant to s. 394.4655 ~~s. 394.4655(2)~~ or involuntary
554 inpatient placement pursuant to s. 394.467(1), the patient may
555 be offered voluntary services or placement, if appropriate, or
556 released directly from the hospital providing emergency medical
557 services. The finding by the professional that the patient has
558 been examined and does not meet the criteria for involuntary
559 inpatient services or involuntary outpatient placement must be
560 entered into the patient's clinical record. This paragraph is
561 not intended to prevent a hospital providing emergency medical



745770

562 services from appropriately transferring a patient to another
563 hospital before stabilization if the requirements of s.
564 395.1041(3) (c) have been met.

565 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND
566 TREATMENT; PENALTIES.-

567 (a) Knowingly furnishing false information for the purpose
568 of obtaining emergency or other involuntary admission for any
569 person is a misdemeanor of the first degree, punishable as
570 provided in s. 775.082 and by a fine not exceeding \$5,000.

571 (b) Causing or otherwise securing, conspiring with or
572 assisting another to cause or secure, without reason for
573 believing a person to be impaired, any emergency or other
574 involuntary procedure for the person is a misdemeanor of the
575 first degree, punishable as provided in s. 775.082 and by a fine
576 not exceeding \$5,000.

577 (c) Causing, or conspiring with or assisting another to
578 cause, the denial to any person of any right accorded pursuant
579 to this chapter is a misdemeanor of the first degree, punishable
580 as provided in s. 775.082 by a fine not exceeding \$5,000.

581 Section 10. Section 394.4655, Florida Statutes, is amended
582 to read:

583 (Substantial rewording of section. See
584 s. 394.4655, F.S., for present text.)

585 394.4655 Involuntary outpatient services.-

586 (1) (a) The court may order a respondent into outpatient
587 treatment for up to 6 months if, during a hearing under s.
588 394.467, it is established that the respondent meets involuntary
589 placement criteria and:

590 1. Has been jailed or incarcerated, has been involuntarily



745770

591 admitted to a receiving or treatment facility as defined in s.
592 394.455, or has received mental health services in a forensic or
593 correctional facility at least twice during the last 36 months;

594 2. The outpatient treatment is provided in the county in
595 which the respondent resides or, if being placed from a state
596 treatment facility, will reside; and

597 3. The respondent's treating physician certifies, within a
598 reasonable degree of medical probability, that the respondent:

599 a. Can be appropriately treated on an outpatient basis; and
600 b. Can follow a prescribed treatment plan.

601 (b) For the duration of his or her treatment, the
602 respondent must be supported by a social worker or case manager
603 of the outpatient provider, or a willing, able, and responsible
604 individual appointed by the court who must inform the court,
605 state attorney, and public defender of any failure by the
606 respondent to comply with his or her outpatient program.

607 (2) The court shall retain jurisdiction over the case and
608 parties for the entry of such further orders after a hearing, as
609 the circumstances may require. Such jurisdiction includes, but
610 is not limited to, ordering inpatient treatment to stabilize a
611 respondent who decompensates during his or her up to 6-month
612 period of court-ordered treatment and meets the commitment
613 criteria of s. 394.467.

614 (3) A criminal county court exercising its original
615 jurisdiction in a misdemeanor case under s. 34.01 may order a
616 person who meets the commitment criteria into involuntary
617 outpatient services.

618 Section 11. Subsections (1) and (5) and paragraphs (a),
619 (b), and (c) of subsection (6) of section 394.467, Florida



745770

620 Statutes, are amended to read:

621 394.467 Involuntary inpatient placement.—

622 (1) CRITERIA.—A person may be ordered for involuntary
623 inpatient placement for treatment upon a finding of the court by
624 clear and convincing evidence that:

625 (a) He or she has a mental illness and because of his or
626 her mental illness:

627 1.a. He or she has refused voluntary inpatient placement
628 for treatment after sufficient and conscientious explanation and
629 disclosure of the purpose of inpatient placement for treatment;
630 or

631 b. He or she is unable to determine for himself or herself
632 whether inpatient placement is necessary; and

633 2.a. He or she is incapable of surviving alone or with the
634 help of willing, able, and responsible family or friends,
635 including available alternative services, and, without
636 treatment, is likely to suffer from neglect or refuse to care
637 for himself or herself, and such neglect or refusal poses a real
638 and present threat of substantial harm to his or her well-being;
639 or

640 b. There is substantial likelihood that in the near future
641 and without services he or she will inflict serious ~~bodily~~ harm
642 to ~~en~~ self or others, as evidenced by acts, omissions, or recent
643 behavior causing, attempting, or threatening such harm, which
644 includes, but is not limited to, significant property damage;
645 and

646 (b) All available less restrictive treatment alternatives
647 that would offer an opportunity for improvement of his or her
648 condition have been judged to be inappropriate.



745770

649 (5) CONTINUANCE OF HEARING.—The patient and the state are
650 independently entitled ~~is entitled, with the concurrence of the~~
651 ~~patient's counsel,~~ to at least one continuance of the hearing.
652 The patient's continuance may be for a period of for up to 4
653 weeks and requires the concurrence of his or her counsel. The
654 state's continuance may be for a period of up to 5 court working
655 days and requires a showing of good cause and due diligence by
656 the state before requesting the continuance. The state's failure
657 to timely review any readily available document or failure to
658 attempt to contact a known witness does not warrant a
659 continuance.

660 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

661 (a)1. The court shall hold the hearing on involuntary
662 inpatient placement within 5 court working days, unless a
663 continuance is granted.

664 2. Except for good cause documented in the court file, the
665 hearing must be held in the county or the facility, as
666 appropriate, where the patient is located, must be as convenient
667 to the patient as is consistent with orderly procedure, and
668 shall be conducted in physical settings not likely to be
669 injurious to the patient's condition. If the court finds that
670 the patient's attendance at the hearing is not consistent with
671 the best interests of, or is likely to be injurious to, the
672 patient, or the patient knowingly, intelligently, and
673 voluntarily waives his or her right to be present, and the
674 patient's counsel does not object, the court may waive the
675 presence of the patient from all or any portion of the hearing.
676 Absent a showing of good cause, such as specific symptoms of the
677 respondent's condition, the court may permit all witnesses,



745770

678 including, but not limited to, any medical professionals or
679 personnel who are or have been involved with the patient's
680 treatment, to remotely attend and testify at the hearing under
681 oath via the most appropriate and convenient technological
682 method of communication available to the court, including, but
683 not limited to, teleconference. Any witness intending to
684 remotely attend and testify at the hearing must provide the
685 parties with all relevant documents in advance of the hearing.
686 The state attorney for the circuit in which the patient is
687 located shall represent the state, rather than the petitioning
688 facility administrator, as the real party in interest in the
689 proceeding. In order to evaluate and prepare its case before the
690 hearing, the state attorney may access, by subpoena if
691 necessary, the patient, witnesses, and all relevant records.
692 Such records include, but are not limited to, any social media,
693 school records, clinical files, and reports documenting contact
694 the patient may have had with law enforcement officers or other
695 state agencies. However, these records shall remain
696 confidential, and the state attorney may not use any records
697 obtained under this part for criminal investigation or
698 prosecution purposes, or for any purpose other than the
699 patient's civil commitment under this chapter.

700 3. The court may appoint a magistrate to preside at the
701 hearing on the petition and any ancillary proceedings thereto,
702 which include, but are not limited to, writs of habeas corpus
703 issued pursuant to s. 394.459(8). One of the professionals who
704 executed the petition for involuntary inpatient placement
705 certificate shall be a witness. The patient and the patient's
706 guardian or representative shall be informed by the court of the



745770

707 right to an independent expert examination. If the patient
708 cannot afford such an examination, the court shall ensure that
709 one is provided, as otherwise provided for by law. The
710 independent expert's report is confidential and not
711 discoverable, unless the expert is to be called as a witness for
712 the patient at the hearing. The testimony in the hearing must be
713 given under oath, and the proceedings must be recorded. The
714 patient may refuse to testify at the hearing.

715 (b) If the court concludes that the patient meets the
716 criteria for involuntary inpatient placement, it may order that
717 the patient be transferred to a treatment facility or, if the
718 patient is at a treatment facility, that the patient be retained
719 there or be treated at any other appropriate facility, or that
720 the patient receive services, on an involuntary basis, for up to
721 ~~90 days. However, any order for involuntary mental health~~
722 ~~services in a treatment facility may be for up to 6 months.~~ The
723 order shall specify the nature and extent of the patient's
724 mental illness and, unless the patient has transferred to a
725 voluntary status, the facility must discharge the patient at any
726 time he or she no longer meets the criteria for involuntary
727 inpatient treatment. The court may not order an individual with
728 a developmental disability as defined in s. 393.063, traumatic
729 brain injury, or dementia who lacks a co-occurring mental
730 illness to be involuntarily placed in a state treatment
731 facility. Such individuals must be referred to the Agency for
732 Persons with Disabilities or the Department of Elderly Affairs
733 for further evaluation and the provision of appropriate services
734 for their individual needs. In addition, if it reasonably
735 appears that the individual would be found incapacitated under



745770

736 chapter 744 and the individual does not already have a legal
737 guardian, the facility must inform any known next of kin and
738 initiate guardianship proceedings. The facility may hold the
739 individual until the petition to appoint a guardian is heard by
740 the court and placement is secured. The facility shall discharge
741 a patient any time the patient no longer meets the criteria for
742 involuntary inpatient placement, unless the patient has
743 transferred to voluntary status.

744 (c) If at any time before the conclusion of the involuntary
745 placement hearing ~~on involuntary inpatient placement~~ it appears
746 to the court that the person does not meet the criteria of ~~for~~
747 ~~involuntary inpatient placement under~~ this section, but instead
748 meets the criteria for involuntary ~~outpatient services~~, the
749 court ~~may order the person evaluated for involuntary outpatient~~
750 ~~services pursuant to s. 394.4655. The petition and hearing~~
751 ~~procedures set forth in s. 394.4655 shall apply. If the person~~
752 ~~instead meets the criteria for involuntary assessment,~~
753 ~~protective custody, or involuntary admission or treatment~~
754 pursuant to s. 397.675, ~~then~~ the court may order the person to
755 be admitted for involuntary assessment ~~for a period of 5 days~~
756 pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all proceedings
757 are governed by chapter 397.

758 Section 12. Subsection (3) of section 394.495, Florida
759 Statutes, is amended to read:

760 394.495 Child and adolescent mental health system of care;
761 programs and services.—

762 (3) Assessments must be performed by:

763 (a) A clinical psychologist, clinical social worker,
764 physician, psychiatric nurse, or psychiatrist as those terms are



745770

765 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
766 ~~(7), (32), (35), or (36);~~

767 (b) A professional licensed under chapter 491; or

768 (c) A person who is under the direct supervision of a
769 clinical psychologist, clinical social worker, physician,
770 psychiatric nurse, or psychiatrist as those terms are defined in
771 s. 394.455 ~~qualified professional as defined in s. 394.455(5),~~
772 ~~(7), (32), (35), or (36)~~ or a professional licensed under
773 chapter 491.

774 Section 13. Subsection (5) of section 394.496, Florida
775 Statutes, is amended to read:

776 394.496 Service planning.—

777 (5) A clinical psychologist, clinical social worker,
778 physician, psychiatric nurse, or psychiatrist as those terms are
779 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
780 ~~(7), (32), (35), or (36)~~ or a professional licensed under
781 chapter 491 must be included among those persons developing the
782 services plan.

783 Section 14. Paragraph (a) of subsection (2) of section
784 394.499, Florida Statutes, is amended to read:

785 394.499 Integrated children's crisis stabilization
786 unit/juvenile addictions receiving facility services.—

787 (2) Children eligible to receive integrated children's
788 crisis stabilization unit/juvenile addictions receiving facility
789 services include:

790 (a) A person under 18 years of age for whom voluntary
791 application is made by his or her parent or legal guardian, if
792 such person is found to show evidence of mental illness and to
793 be suitable for treatment pursuant to s. 394.4625. A person



745770

794 under 18 years of age may be admitted for integrated facility
795 services only after a hearing to verify that the consent to
796 admission is voluntary is conducted pursuant to s. 394.4625.

797 Section 15. Subsection (6) of section 394.9085, Florida
798 Statutes, is amended to read:

799 394.9085 Behavioral provider liability.—

800 (6) For purposes of this section, the terms “detoxification
801 services,” “addictions receiving facility,” and “receiving
802 facility” have the same meanings as those provided in ss.
803 397.311(26)(a)4., 397.311(26)(a)1., and 394.455 ~~394.455(39)~~,
804 respectively.

805 Section 16. Subsection (3) of section 397.305, Florida
806 Statutes, is amended to read:

807 397.305 Legislative findings, intent, and purpose.—

808 (3) It is the purpose of this chapter to provide for a
809 comprehensive continuum of accessible and quality substance
810 abuse prevention, intervention, clinical treatment, and recovery
811 support services in the most appropriate and least restrictive
812 environment which promotes long-term recovery while protecting
813 and respecting the rights of individuals, primarily through
814 community-based private not-for-profit providers working with
815 local governmental programs involving a wide range of agencies
816 from both the public and private sectors.

817 Section 17. Present subsections (29) through (36) and (37)
818 through (50) of section 397.311, Florida Statutes, are
819 redesignated as subsections (30) through (37) and (39) through
820 (52), respectively, new subsections (29) and (38) are added to
821 that section, and subsections (19) and (23) are amended, to
822 read:



745770

823 397.311 Definitions.—As used in this chapter, except part
824 VIII, the term:

825 (19) “Impaired” or “substance abuse impaired” means having
826 a substance use disorder or a condition involving the use of
827 alcoholic beverages, illicit or prescription drugs, or any
828 psychoactive or mood-altering substance in such a manner as to
829 induce mental, emotional, or physical problems or ~~and~~ cause
830 socially dysfunctional behavior.

831 (23) “Involuntary treatment services” means an array of
832 behavioral health services that may be ordered by the court for
833 persons with substance abuse impairment or co-occurring
834 substance abuse impairment and mental health disorders.

835 (29) “Neglect or refuse to care for himself or herself”
836 includes, but is not limited to, evidence that a person:

837 (a) Is unable to satisfy basic needs for nourishment,
838 clothing, medical care, shelter, or safety in a manner that
839 creates a substantial probability of imminent death, serious
840 physical debilitation, or disease; or

841 (b) Is substantially unable to make an informed treatment
842 choice and needs care or treatment to prevent deterioration.

843 (38) “Real and present threat of substantial harm”
844 includes, but is not limited to, evidence of a substantial
845 probability that the untreated person will:

846 (a) Lack, refuse, or not receive services for health and
847 safety that are actually available in the community; or

848 (b) Suffer severe mental, emotional, or physical harm that
849 will result in the loss of ability to function in the community
850 or the loss of cognitive or volitional control over thoughts or
851 actions.



745770

852 Section 18. Section 397.416, Florida Statutes, is amended
853 to read:

854 397.416 Substance abuse treatment services; qualified
855 professional.—Notwithstanding any other provision of law, a
856 person who was certified through a certification process
857 recognized by the former Department of Health and Rehabilitative
858 Services before January 1, 1995, may perform the duties of a
859 qualified professional with respect to substance abuse treatment
860 services as defined in this chapter, and need not meet the
861 certification requirements contained in s. 397.311(36) ~~s.~~
862 ~~397.311(35)~~.

863 Section 19. Subsection (11) is added to section 397.501,
864 Florida Statutes, to read:

865 397.501 Rights of individuals.—Individuals receiving
866 substance abuse services from any service provider are
867 guaranteed protection of the rights specified in this section,
868 unless otherwise expressly provided, and service providers must
869 ensure the protection of such rights.

870 (11) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, a
871 respondent with a serious substance abuse addiction must be
872 informed of the essential elements of recovery and provided
873 assistance with accessing a continuum of care regimen. The
874 department may adopt rules specifying the services that may be
875 provided to such respondents.

876 Section 20. Section 397.675, Florida Statutes, is amended
877 to read:

878 397.675 Criteria for involuntary admissions, including
879 protective custody, emergency admission, and other involuntary
880 assessment, involuntary treatment, and alternative involuntary



745770

881 assessment for minors, for purposes of assessment and
882 stabilization, and for involuntary treatment.—A person meets the
883 criteria for involuntary admission if there is good faith reason
884 to believe that the person is substance abuse impaired, has a
885 substance use disorder, or has a substance use disorder and a
886 co-occurring mental health disorder and, because of such
887 impairment or disorder:

888 (1) Has lost the power of self-control with respect to
889 substance abuse, or has a history of noncompliance with
890 substance abuse treatment with continued substance use; and

891 (2) ~~(a)~~ Is in need of substance abuse services and, by
892 reason of substance abuse impairment, his or her judgment has
893 been so impaired that he or she is refusing voluntary care after
894 a sufficient and conscientious explanation and disclosure of the
895 purpose for such services, or is incapable of appreciating his
896 or her need for such services and of making a rational decision
897 in that regard, although mere refusal to receive such services
898 does not constitute evidence of lack of judgment with respect to
899 his or her need for such services; and ~~or~~

900 (3) (a) ~~(b)~~ Without care or treatment, is likely to suffer
901 from neglect or refuse to care for himself or herself; that such
902 neglect or refusal poses a real and present threat of
903 substantial harm to his or her well-being; and that it is not
904 apparent that such harm may be avoided through the help of
905 willing, able, and responsible family members or friends or the
906 provision of other services; or

907 (b) There is substantial likelihood that in the near future
908 and without services, the person will inflict serious harm to
909 self or others, as evidenced by acts, omissions, or behavior



745770

910 causing, attempting, or threatening such harm, which includes,
911 but is not limited to, significant property damage ~~has~~
912 ~~inflicted, or threatened to or attempted to inflict, or, unless~~
913 ~~admitted, is likely to inflict, physical harm on himself,~~
914 ~~herself, or another.~~

915 Section 21. Subsection (1) of section 397.6751, Florida
916 Statutes, is amended to read:

917 397.6751 Service provider responsibilities regarding
918 involuntary admissions.—

919 (1) It is the responsibility of the service provider to:

920 (a) Ensure that a person who is admitted to a licensed
921 service component meets the admission criteria specified in s.
922 397.675;

923 (b) Ascertain whether the medical and behavioral conditions
924 of the person, as presented, are beyond the safe management
925 capabilities of the service provider;

926 (c) Provide for the admission of the person to the service
927 component that represents the most appropriate and least
928 restrictive available setting that is responsive to the person's
929 treatment needs;

930 (d) Verify that the admission of the person to the service
931 component does not result in a census in excess of its licensed
932 service capacity;

933 (e) Determine whether the cost of services is within the
934 financial means of the person or those who are financially
935 responsible for the person's care; and

936 (f) Take all necessary measures to ensure that each
937 individual in treatment is provided with a safe environment, and
938 to ensure that each individual whose medical condition or



745770

939 behavioral problem becomes such that he or she cannot be safely
940 managed by the service component is discharged and referred to a
941 more appropriate setting for care.

942 Section 22. Section 397.681, Florida Statutes, is amended
943 to read:

944 397.681 Involuntary petitions; general provisions; court
945 jurisdiction and right to counsel.-

946 (1) JURISDICTION.-The courts have jurisdiction of
947 ~~involuntary assessment and stabilization petitions and~~
948 involuntary treatment petitions for substance abuse impaired
949 persons, and such petitions must be filed with the clerk of the
950 court in the county where the person is located. The clerk of
951 the court may not charge a fee for the filing of a petition
952 under this section. The chief judge may appoint a general or
953 special magistrate to preside over all or part of the
954 proceedings. The alleged impaired person is named as the
955 respondent.

956 (2) RIGHT TO COUNSEL.-A respondent has the right to counsel
957 at every stage of a proceeding relating to a petition for his or
958 her ~~involuntary assessment and a petition for his or her~~
959 involuntary treatment for substance abuse impairment. A
960 respondent who desires counsel and is unable to afford private
961 counsel has the right to court-appointed counsel and to the
962 benefits of s. 57.081. If the court believes that the respondent
963 needs the assistance of counsel, the court shall appoint such
964 counsel for the respondent without regard to the respondent's
965 wishes. If the respondent is a minor not otherwise represented
966 in the proceeding, the court shall immediately appoint a
967 guardian ad litem to act on the minor's behalf.



745770

968 (3) STATE REPRESENTATIVE.—Subject to legislative
969 appropriation, for all court-involved involuntary proceedings
970 under this chapter in which the petitioner has not retained
971 private counsel, the state attorney for the circuit in which the
972 respondent is located shall represent the state rather than the
973 petitioner as the real party of interest in the proceeding, but
974 the state attorney must be respectful of the petitioner's
975 interests and concerns. In order to evaluate and prepare its
976 case before the hearing, the state attorney may access, by
977 subpoena if necessary, the respondent, the witnesses, and all
978 relevant records. Such records include, but are not limited to,
979 any social media, school records, clinical files, and reports
980 documenting contact the respondent may have had with law
981 enforcement officers or other state agencies. However, these
982 records shall remain confidential, and the petitioner may not
983 access any records obtained by the state attorney unless such
984 records are entered into the court file. In addition, the state
985 attorney may not use any records obtained under this part for
986 criminal investigation or prosecution purposes, or for any
987 purpose other than the respondent's civil commitment under this
988 chapter.

989 Section 23. Section 397.6811, Florida Statutes, is
990 repealed.

991 Section 24. Section 397.6814, Florida Statutes, is
992 repealed.

993 Section 25. Section 397.6815, Florida Statutes, is
994 repealed.

995 Section 26. Section 397.6818, Florida Statutes, is
996 repealed.



745770

997 Section 27. Section 397.6819, Florida Statutes, is
998 repealed.

999 Section 28. Section 397.6821, Florida Statutes, is
1000 repealed.

1001 Section 29. Section 397.6822, Florida Statutes, is
1002 repealed.

1003 Section 30. Section 397.693, Florida Statutes, is amended
1004 to read:

1005 397.693 Involuntary treatment.—A person may be the subject
1006 of a petition for court-ordered involuntary treatment pursuant
1007 to this part, if that person:

1008 (1) Reasonably appears to meet ~~meets~~ the criteria for
1009 involuntary admission provided in s. 397.675; ~~and:~~

1010 (2) ~~(1)~~ Has been placed under protective custody pursuant to
1011 s. 397.677 within the previous 10 days;

1012 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
1013 to s. 397.679 within the previous 10 days; or

1014 (4) ~~(3)~~ Has been assessed by a qualified professional within
1015 30 ~~5~~ days;

1016 ~~(4) Has been subject to involuntary assessment and~~
1017 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
1018 ~~days; or~~

1019 ~~(5) Has been subject to alternative involuntary admission~~
1020 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1021 Section 31. Section 397.695, Florida Statutes, is amended
1022 to read:

1023 397.695 Involuntary treatment services; persons who may
1024 petition.—

1025 (1) If the respondent is an adult, a petition for



745770

1026 involuntary treatment services may be filed by the respondent's
1027 spouse or legal guardian, any relative, a service provider, or
1028 an adult who has direct personal knowledge of the respondent's
1029 substance abuse impairment and his or her prior course of
1030 assessment and treatment.

1031 (2) If the respondent is a minor, a petition for
1032 involuntary treatment may be filed by a parent, legal guardian,
1033 or service provider.

1034 (3) The court or the clerk of the court may waive or
1035 prohibit any service of process fees if a petitioner is
1036 determined to be indigent under s. 57.082.

1037 Section 32. Section 397.6951, Florida Statutes, is amended
1038 to read:

1039 397.6951 Contents of petition for involuntary treatment
1040 services.—

1041 (1) A petition for involuntary treatment services must
1042 contain the name of the respondent; the name of the petitioner
1043 or petitioners; the relationship between the respondent and the
1044 petitioner; the name of the respondent's attorney, if known; ~~the~~
1045 ~~findings and recommendations of the assessment performed by the~~
1046 ~~qualified professional;~~ and the factual allegations presented by
1047 the petitioner establishing the need for involuntary ~~outpatient~~
1048 services for substance abuse impairment. The factual allegations
1049 must demonstrate the reason for the petitioner's belief that the
1050 respondent:

1051 ~~(1) The reason for the petitioner's belief that the~~
1052 ~~respondent is substance abuse impaired;~~

1053 ~~(a)(2) The reason for the petitioner's belief that because~~
1054 ~~of such impairment the respondent Has lost the power of self-~~



745770

1055 control with respect to substance abuse, or has a history of
1056 noncompliance with substance abuse treatment with continued
1057 substance use; and

1058 (b) Needs substance abuse services, but his or her judgment
1059 is so impaired by substance abuse that he or she either is
1060 refusing voluntary care after a sufficient and conscientious
1061 explanation and disclosure of the purpose of such services, or
1062 is incapable of appreciating his or her need for such services
1063 and of making a rational decision in that regard; and

1064 (c)1. Without services, is likely to suffer from neglect or
1065 refuse to care for himself or herself; that the neglect or
1066 refusal poses a real and present threat of substantial harm to
1067 his or her well-being; and that it is not apparent that the harm
1068 may be avoided through the help of willing, able, and
1069 responsible family members or friends or the provision of other
1070 services; or

1071 2. There is a substantial likelihood that in the near
1072 future and without services, the respondent will inflict serious
1073 harm to self or others, as evidenced by acts, omissions, or
1074 behavior causing, attempting, or threatening such harm, which
1075 includes, but is not limited to, significant property damage

1076 ~~(3) (a) The reason the petitioner believes that the~~
1077 ~~respondent has inflicted or is likely to inflict physical harm~~
1078 ~~on himself or herself or others unless the court orders the~~
1079 ~~involuntary services; or~~

1080 ~~(b) The reason the petitioner believes that the~~
1081 ~~respondent's refusal to voluntarily receive care is based on~~
1082 ~~judgment so impaired by reason of substance abuse that the~~
1083 ~~respondent is incapable of appreciating his or her need for care~~



745770

1084 ~~and of making a rational decision regarding that need for care.~~

1085 (2) The petition may be accompanied by a certificate or
1086 report of a qualified professional or a licensed physician who
1087 has examined the respondent within 30 days before the petition's
1088 submission. This certificate or report must include the
1089 qualified professional or physician's findings relating to his
1090 or her assessment of the patient and his or her treatment
1091 recommendations. If the respondent was not assessed before the
1092 filing of a treatment petition or refused to submit to an
1093 evaluation, the lack of assessment or refusal must be noted in
1094 the petition.

1095 (3) If there is an emergency, the petition must also
1096 describe the respondent's exigent circumstances and include a
1097 request for an ex parte assessment and stabilization order that
1098 must be executed pursuant to s. 397.6955(4).

1099 Section 33. Section 397.6955, Florida Statutes, is amended
1100 to read:

1101 397.6955 Duties of court upon filing of petition for
1102 involuntary treatment services.-

1103 (1) Upon the filing of a petition for involuntary treatment
1104 services for a substance abuse impaired person with the clerk of
1105 the court that does not indicate the petitioner has retained
1106 private counsel, the clerk must notify the state attorney's
1107 office. In addition, the court shall immediately determine
1108 whether the respondent is represented by an attorney or whether
1109 the appointment of counsel for the respondent is appropriate.
1110 If, based on the contents of the petition, the court appoints
1111 counsel for the person, the clerk of the court shall immediately
1112 notify the office of criminal conflict and civil regional



745770

1113 counsel, created pursuant to s. 27.511, of the appointment. The
1114 office of criminal conflict and civil regional counsel shall
1115 represent the person until the petition is dismissed, the court
1116 order expires, or the person is discharged from involuntary
1117 treatment services. An attorney that represents the person named
1118 in the petition shall have access to the person, witnesses, and
1119 records relevant to the presentation of the person's case and
1120 shall represent the interests of the person, regardless of the
1121 source of payment to the attorney.

1122 (2) The court shall schedule a hearing to be held on the
1123 petition within 10 court working 5 days unless a continuance is
1124 granted. The court may appoint a magistrate to preside at the
1125 hearing.

1126 (3) A copy of the petition and notice of the hearing must
1127 be provided to the respondent; the respondent's parent,
1128 guardian, or legal custodian, in the case of a minor; the
1129 respondent's attorney, if known; the petitioner; the
1130 respondent's spouse or guardian, if applicable; and such other
1131 persons as the court may direct. If the respondent is a minor, a
1132 copy of the petition and notice of the hearing must be
1133 personally delivered to the respondent. The court shall also
1134 issue a summons to the person whose admission is sought.

1135 (4) (a) When the petitioner asserts that emergency
1136 circumstances exist, or when upon review of the petition the
1137 court determines that an emergency exists, the court may rely
1138 solely on the contents of the petition and, without the
1139 appointment of an attorney, enter an ex parte order for the
1140 respondent's involuntary assessment and stabilization which must
1141 be executed during the period that the hearing on the petition



745770

1142 for treatment is pending. The court may further order a law
1143 enforcement officer or other designated agent of the court to:
1144 1. Take the respondent into custody and deliver him or her
1145 to the nearest appropriate licensed service provider to be
1146 evaluated; and
1147 2. Serve the respondent with the notice of hearing and a
1148 copy of the petition.
1149 (b) The service provider must promptly inform the court and
1150 parties of the respondent's arrival and may not hold the
1151 respondent for longer than 72 hours of observation thereafter,
1152 unless:
1153 1. The service provider seeks additional time under s.
1154 397.6957(1)(c) and the court, after a hearing, grants that
1155 motion;
1156 2. The respondent shows signs of withdrawal, or a need to
1157 be either detoxified or treated for a medical condition, which
1158 shall extend the amount of time the respondent may be held for
1159 observation until the issue is resolved; or
1160 3. The original or extended observation period ends on a
1161 weekend or holiday, in which case the provider may hold the
1162 respondent until the next court working day.
1163 (c) If the ex parte order was not executed by the initial
1164 hearing date, it shall be deemed void. However, should the
1165 respondent not appear at the hearing for any reason, including
1166 lack of service, and upon reviewing the petition, testimony, and
1167 evidence presented, the court reasonably believes the respondent
1168 meets this chapter's commitment criteria and that a substance
1169 abuse emergency exists, the court may issue or reissue an ex
1170 parte assessment and stabilization order that is valid for 90



745770

1171 days. If the respondent's location is known at the time of the
1172 hearing, the court:

1173 1. Shall continue the case for no more than 10 court
1174 working days; and

1175 2. May order a law enforcement officer or other designated
1176 agent of the court to:

1177 a. Take the respondent into custody and deliver him or her
1178 to the nearest appropriate licensed service provider to be
1179 evaluated; and

1180 b. If a hearing date is set, serve the respondent with
1181 notice of the rescheduled hearing and a copy of the involuntary
1182 treatment petition if the respondent has not already been
1183 served.

1184
1185 Otherwise, the petitioner and the service provider must promptly
1186 inform the court that the respondent has been assessed so that
1187 the court may schedule a hearing. The service provider must
1188 serve the respondent, before his or her discharge, with the
1189 notice of hearing and a copy of the petition. However, if the
1190 respondent has not been assessed after 90 days, the court must
1191 dismiss the case.

1192 Section 34. Section 397.6957, Florida Statutes, is amended
1193 to read:

1194 397.6957 Hearing on petition for involuntary treatment
1195 services.-

1196 (1) (a) The respondent must be present at a hearing on a
1197 petition for involuntary treatment services unless he or she
1198 knowingly, intelligently, and voluntarily waives his or her
1199 right to be present or, upon receiving proof of service and



745770

1200 evaluating the circumstances of the case, the court finds that
1201 his or her presence is inconsistent with his or her best
1202 interests or is likely to be injurious to himself or herself or
1203 others. ~~The court shall hear and review all relevant evidence,~~
1204 including testimony from individuals such as family members
1205 familiar with the respondent's prior history and how it relates
1206 to his or her current condition, and the ~~review of~~ results of
1207 the assessment completed by the qualified professional in
1208 connection with this chapter. The court may also order drug
1209 tests. Absent a showing of good cause, such as specific symptoms
1210 of the respondent's condition, the court may permit all
1211 witnesses, such as any medical professionals or personnel who
1212 are or have been involved with the respondent's treatment, to
1213 remotely attend and testify at the hearing under oath via the
1214 most appropriate and convenient technological method of
1215 communication available to the court, including, but not limited
1216 to, teleconference. Any witness intending to remotely attend and
1217 testify at the hearing must provide the parties with all
1218 relevant documents in advance of the hearing ~~the respondent's~~
1219 ~~protective custody, emergency admission, involuntary assessment,~~
1220 ~~or alternative involuntary admission. The respondent must be~~
1221 ~~present unless the court finds that his or her presence is~~
1222 ~~likely to be injurious to himself or herself or others, in which~~
1223 ~~event the court must appoint a guardian advocate to act in~~
1224 ~~behalf of the respondent throughout the proceedings.~~

1225 (b) A respondent cannot be involuntarily ordered into
1226 treatment under this chapter without a clinical assessment being
1227 performed unless he or she is present in court and expressly
1228 waives the assessment. In nonemergency situations, if the



745770

1229 respondent was not, or had previously refused to be, assessed by
1230 a qualified professional and, based on the petition, testimony,
1231 and evidence presented, it reasonably appears that the
1232 respondent qualifies for involuntary treatment services, the
1233 court shall issue an involuntary assessment and stabilization
1234 order to determine the appropriate level of treatment the
1235 respondent requires. Additionally, in cases where an assessment
1236 was attached to the petition, the respondent may request, or the
1237 court on its own motion may order, an independent assessment by
1238 a court-appointed physician or an otherwise agreed-upon
1239 physician. If an assessment order is issued, it is valid for 90
1240 days, and if the respondent is present or there is either proof
1241 of service or his or her location is known, the involuntary
1242 treatment hearing shall be continued for no more than 10 court
1243 working days. Otherwise, the petitioner and the service provider
1244 must promptly inform the court that the respondent has been
1245 assessed so that the court may schedule a hearing. The service
1246 provider shall then serve the respondent, before his or her
1247 discharge, with the notice of hearing and a copy of the
1248 petition. The assessment must occur before the new hearing date,
1249 and if there is evidence indicating that the respondent will not
1250 voluntarily appear at the forthcoming hearing, or is a danger to
1251 self or others, the court may enter a preliminary order
1252 committing the respondent to an appropriate treatment facility
1253 for further evaluation until the date of the rescheduled
1254 hearing. However, if after 90 days the respondent remains
1255 unassessed, the court shall dismiss the case.

1256 (c)1. The respondent's assessment by a qualified
1257 professional must occur within 72 hours after his or her arrival



745770

1258 at a licensed service provider unless he or she shows signs of
1259 withdrawal or a need to be either detoxified or treated for a
1260 medical condition, which shall extend the amount of time the
1261 respondent may be held for observation until that issue is
1262 resolved. If the person conducting the assessment is not a
1263 licensed physician, the assessment must be reviewed by a
1264 licensed physician within the 72-hour period. If the respondent
1265 is a minor, such assessment must be initiated within the first
1266 12 hours after the minor's admission to the facility. The
1267 service provider may also move to extend the 72 hours of
1268 observation by petitioning the court in writing for additional
1269 time. The service provider must furnish copies of such motion to
1270 all parties in accordance with applicable confidentiality
1271 requirements and, after a hearing, the court may grant
1272 additional time or expedite the respondent's involuntary
1273 treatment hearing. The involuntary treatment hearing, however,
1274 may only be expedited by agreement of the parties on the hearing
1275 date, or if there is notice and proof of service as provided in
1276 s. 397.6955 (1) and (3). If the court grants the service
1277 provider's petition, the service provider may hold the
1278 respondent until its extended assessment period expires or until
1279 the expedited hearing date. However, if the original or extended
1280 observation period ends on a weekend or holiday, the provider
1281 may hold the respondent until the next court working day.

1282 2. Upon the completion of his or her report, the qualified
1283 professional, in accordance with applicable confidentiality
1284 requirements, shall provide copies to the court and all relevant
1285 parties and counsel. This report must contain a recommendation
1286 on the level, if any, of substance abuse and, if applicable, co-



745770

1287 occurring mental health treatment the respondent requires. The
1288 qualified professional's failure to include a treatment
1289 recommendation, much like a recommendation of no treatment,
1290 shall result in the petition's dismissal.

1291 (d) The court may order a law enforcement officer or other
1292 designated agent of the court to take the respondent into
1293 custody and transport him or her to or from the treating or
1294 assessing service provider and the court for his or her hearing.

1295 (2) The petitioner has the burden of proving by clear and
1296 convincing evidence that:

1297 (a) The respondent is substance abuse impaired, has lost
1298 the power of self-control with respect to substance abuse, or
1299 and has a history of lack of compliance with treatment for
1300 substance abuse with continued substance use; and

1301 (b) Because of such impairment, the respondent is unlikely
1302 to voluntarily participate in the recommended services after
1303 sufficient and conscientious explanation and disclosure of their
1304 purpose, or is unable to determine for himself or herself
1305 whether services are necessary and make a rational decision in
1306 that regard; and

1307 (c)1. Without services, the respondent is likely to suffer
1308 from neglect or refuse to care for himself or herself; that such
1309 neglect or refusal poses a real and present threat of
1310 substantial harm to his or her well-being; and that it is not
1311 apparent that such harm may be avoided through the help of
1312 willing, able, and responsible family members or friends or the
1313 provision of other services; or

1314 2. There is a substantial likelihood that in the near
1315 future and without services, the respondent will inflict serious



745770

1316 harm to self or others, as evidenced by acts, omissions, or
1317 behavior causing, attempting, or threatening such harm, which
1318 includes, but is not limited to, significant property damage
1319 ~~cause serious bodily harm to himself, herself, or another in the~~
1320 ~~near future, as evidenced by recent behavior; or~~

1321 ~~2. The respondent's refusal to voluntarily receive care is~~
1322 ~~based on judgment so impaired by reason of substance abuse that~~
1323 ~~the respondent is incapable of appreciating his or her need for~~
1324 ~~care and of making a rational decision regarding that need for~~
1325 ~~care.~~

1326 ~~(3) One of the qualified professionals who executed the~~
1327 ~~involuntary services certificate must be a witness. The court~~
1328 ~~shall allow testimony from individuals, including family~~
1329 ~~members, deemed by the court to be relevant under state law,~~
1330 ~~regarding the respondent's prior history and how that prior~~
1331 ~~history relates to the person's current condition. The Testimony~~
1332 ~~in the hearing must be taken under oath, and the proceedings~~
1333 ~~must be recorded. The respondent patient may refuse to testify~~
1334 ~~at the hearing.~~

1335 (4) If at any point during the hearing the court has reason
1336 to believe that the respondent, due to mental illness other than
1337 or in addition to substance abuse impairment, is likely to
1338 injure himself or herself or another if allowed to remain at
1339 liberty, or otherwise meets the involuntary commitment
1340 provisions of part I of chapter 394, the court may initiate
1341 involuntary proceedings under such provisions.

1342 ~~(5)~~(4) At the conclusion of the hearing, the court shall
1343 either dismiss the petition or order the respondent to receive
1344 involuntary treatment services from his or her chosen licensed



745770

1345 service provider if possible and appropriate. Any treatment
1346 order must include findings regarding the respondent's need for
1347 treatment and the appropriateness of other lesser restrictive
1348 alternatives.

1349 Section 35. Section 397.697, Florida Statutes, is amended
1350 to read:

1351 397.697 Court determination; effect of court order for
1352 involuntary treatment services.—

1353 (1) (a) When the court finds that the conditions for
1354 involuntary treatment services have been proved by clear and
1355 convincing evidence, it may order the respondent to receive
1356 involuntary treatment services from a publicly funded licensed
1357 service provider for a period not to exceed 90 days. The court
1358 may also order a respondent to undergo treatment through a
1359 privately funded licensed service provider if the respondent has
1360 the ability to pay for the treatment, or if any person on the
1361 respondent's behalf voluntarily demonstrates a willingness and
1362 an ability to pay for the treatment. If the court finds it
1363 necessary, it may direct the sheriff to take the respondent into
1364 custody and deliver him or her to the licensed service provider
1365 specified in the court order, or to the nearest appropriate
1366 licensed service provider, for involuntary treatment services.
1367 When the conditions justifying involuntary treatment services no
1368 longer exist, the individual must be released as provided in s.
1369 397.6971. When the conditions justifying involuntary treatment
1370 services are expected to exist after 90 days of treatment
1371 services, a renewal of the involuntary treatment services order
1372 may be requested pursuant to s. 397.6975 before the end of the
1373 90-day period.



745770

1374 (b) To qualify for involuntary outpatient treatment, an
1375 individual must be supported by a social worker or case manager
1376 of a licensed service provider or a willing, able, and
1377 responsible individual appointed by the court who shall inform
1378 the court and parties if the respondent fails to comply with his
1379 or her outpatient program. In addition, unless the respondent
1380 has been involuntarily ordered into inpatient treatment under
1381 this chapter at least twice during the last 36 months, or
1382 demonstrates the ability to substantially comply with the
1383 outpatient treatment while waiting for residential placement to
1384 become available, he or she must receive an assessment from a
1385 qualified professional or licensed physician expressly
1386 recommending outpatient services, such services must be
1387 available in the county in which the respondent is located, and
1388 it must appear likely that the respondent will follow a
1389 prescribed outpatient care plan.

1390 (2) In all cases resulting in an order for involuntary
1391 treatment services, the court shall retain jurisdiction over the
1392 case and the parties for the entry of such further orders as the
1393 circumstances may require, including, but not limited to,
1394 monitoring compliance with treatment, changing the treatment
1395 modality, or initiating contempt of court proceedings for
1396 violating any valid order issued pursuant to this chapter.
1397 Hearings under this section may be set by motion of the parties
1398 or under the court's own authority, and the motion and notice of
1399 hearing for these ancillary proceedings, which include, but are
1400 not limited to, civil contempt, must be served in accordance
1401 with relevant court procedural rules. The court's requirements
1402 for notification of proposed release must be included in the



745770

1403 original order.

1404 (3) An involuntary treatment services order also authorizes
1405 the licensed service provider to require the individual to
1406 receive treatment services that will benefit him or her,
1407 including treatment services at any licensable service component
1408 of a licensed service provider. While subject to the court's
1409 oversight, the service provider's authority under this section
1410 is separate and distinct from the court's broad continuing
1411 jurisdiction under subsection (2). Such oversight includes, but
1412 is not limited to, submitting reports regarding the respondent's
1413 progress or compliance with treatment as required by the court.

1414 (4) If the court orders involuntary treatment services, a
1415 copy of the order must be sent to the managing entity within 1
1416 working day after it is received from the court. Documents may
1417 be submitted electronically through ~~though~~ existing data
1418 systems, if applicable.

1419 Section 36. Section 397.6971, Florida Statutes, is amended
1420 to read:

1421 397.6971 Early release from involuntary treatment
1422 services.—

1423 (1) At any time before the end of the 90-day involuntary
1424 treatment services period, or before the end of any extension
1425 granted pursuant to s. 397.6975, an individual receiving
1426 involuntary treatment services may be determined eligible for
1427 discharge to the most appropriate referral or disposition for
1428 the individual when any of the following apply:

1429 (a) The individual no longer meets the criteria for
1430 involuntary admission and has given his or her informed consent
1431 to be transferred to voluntary treatment status.



745770

1432 (b) If the individual was admitted on the grounds of
1433 likelihood of infliction of ~~physical~~ harm upon himself or
1434 herself or others, such likelihood no longer exists.

1435 (c) If the individual was admitted on the grounds of need
1436 for assessment and stabilization or treatment, accompanied by
1437 inability to make a determination respecting such need:

1438 1. Such inability no longer exists; or

1439 2. It is evident that further treatment will not bring
1440 about further significant improvements in the individual's
1441 condition.

1442 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
1443 services.

1444 (e) The director of the service provider determines that
1445 the individual is beyond the safe management capabilities of the
1446 provider.

1447 (2) Whenever a qualified professional determines that an
1448 individual admitted for involuntary treatment services qualifies
1449 for early release under subsection (1), the service provider
1450 shall immediately discharge the individual and must notify all
1451 persons specified by the court in the original treatment order.

1452 Section 37. Section 397.6975, Florida Statutes, is amended
1453 to read:

1454 397.6975 Extension of involuntary treatment services
1455 period.-

1456 (1) Whenever a service provider believes that an individual
1457 who is nearing the scheduled date of his or her release from
1458 involuntary care services continues to meet the criteria for
1459 involuntary treatment services in s. 397.693 or s. 397.6957, a
1460 petition for renewal of the involuntary treatment services order



745770

1461 ~~must~~ may be filed with the court ~~at least 10 days~~ before the
1462 expiration of the court-ordered services period. The petition
1463 may be filed by the service provider or by the person who filed
1464 the petition for the initial treatment order if the petition is
1465 accompanied by supporting documentation from the service
1466 provider. The court shall ~~immediately~~ schedule a hearing within
1467 10 court working ~~to be held not more than 15~~ days after filing
1468 of the petition and. ~~The court shall~~ provide the copy of the
1469 petition for renewal and the notice of the hearing to all
1470 parties and counsel to the proceeding. The hearing is conducted
1471 pursuant to ss. 397.697 and 397.6957 and must be before the
1472 circuit court unless referred to a magistrate s. 397.6957.

1473 (2) If the court finds that the petition for renewal of ~~the~~
1474 involuntary treatment services ~~order~~ should be granted, it may
1475 order the respondent to receive involuntary treatment services
1476 for a period not to exceed an additional 90 days. When the
1477 conditions justifying involuntary treatment services no longer
1478 exist, the individual must be released as provided in s.
1479 397.6971. When the conditions justifying involuntary treatment
1480 services continue to exist after an additional 90 days of
1481 treatment service, a new petition requesting renewal of the
1482 involuntary treatment services order may be filed pursuant to
1483 this section.

1484 ~~(3) Within 1 court working day after the filing of a~~
1485 ~~petition for continued involuntary services, the court shall~~
1486 ~~appoint the office of criminal conflict and civil regional~~
1487 ~~counsel to represent the respondent, unless the respondent is~~
1488 ~~otherwise represented by counsel. The clerk of the court shall~~
1489 ~~immediately notify the office of criminal conflict and civil~~



745770

1490 ~~regional counsel of such appointment. The office of criminal~~
1491 ~~conflict and civil regional counsel shall represent the~~
1492 ~~respondent until the petition is dismissed or the court order~~
1493 ~~expires or the respondent is discharged from involuntary~~
1494 ~~services. Any attorney representing the respondent shall have~~
1495 ~~access to the respondent, witnesses, and records relevant to the~~
1496 ~~presentation of the respondent's case and shall represent the~~
1497 ~~interests of the respondent, regardless of the source of payment~~
1498 ~~to the attorney.~~

1499 ~~(4) Hearings on petitions for continued involuntary~~
1500 ~~services shall be before the circuit court. The court may~~
1501 ~~appoint a magistrate to preside at the hearing. The procedures~~
1502 ~~for obtaining an order pursuant to this section shall be in~~
1503 ~~accordance with s. 397.697.~~

1504 ~~(5) Notice of hearing shall be provided to the respondent~~
1505 ~~or his or her counsel. The respondent and the respondent's~~
1506 ~~counsel may agree to a period of continued involuntary services~~
1507 ~~without a court hearing.~~

1508 ~~(6) The same procedure shall be repeated before the~~
1509 ~~expiration of each additional period of involuntary services.~~

1510 ~~(7) If the respondent has previously been found incompetent~~
1511 ~~to consent to treatment, the court shall consider testimony and~~
1512 ~~evidence regarding the respondent's competence.~~

1513 Section 38. Section 397.6977, Florida Statutes, is amended
1514 to read:

1515 397.6977 Disposition of individual upon completion of
1516 involuntary treatment services.—At the conclusion of the 90-day
1517 period of court-ordered involuntary treatment services, the
1518 respondent is automatically discharged unless a motion for



745770

1519 renewal of the involuntary treatment services order has been
1520 filed with the court pursuant to s. 397.6975.

1521 Section 39. Section 397.6978, Florida Statutes, is
1522 repealed.

1523

1524 ===== T I T L E A M E N D M E N T =====

1525 And the title is amended as follows:

1526 Delete lines 2 - 192

1527 and insert:

1528 An act relating to mental health and substance abuse;
1529 amending s. 394.455, F.S.; conforming a cross-
1530 reference; revising the definition of the term "mental
1531 illness"; defining the terms "neglect or refuse to
1532 care for himself or herself" and "real and present
1533 threat of substantial harm"; amending s. 394.459,
1534 F.S.; requiring that respondents with a serious mental
1535 illness be informed of the essential elements of
1536 recovery and be provided assistance with accessing a
1537 continuum of care regimen; authorizing the Department
1538 of Children and Families to adopt certain rules;
1539 amending s. 394.4598, F.S.; conforming a cross-
1540 reference; amending s. 394.4599, F.S.; conforming
1541 provisions to changes made by the act; amending s.
1542 394.461, F.S.; authorizing the state to establish that
1543 a transfer evaluation was performed by providing the
1544 court with a copy of the evaluation before the close
1545 of the state's case in chief; prohibiting the court
1546 from considering substantive information in the
1547 transfer evaluation unless the evaluator testifies at



745770

1548 the hearing; amending s. 394.4615, F.S.; conforming
1549 provisions to changes made by the act; amending s.
1550 394.462, F.S.; conforming cross-references; amending
1551 s. 394.4625, F.S.; providing requirements relating to
1552 the voluntariness of admissions to a facility for
1553 examination and treatment; providing requirements for
1554 verifying the assent of a minor admitted to a
1555 facility; requiring the appointment of a public
1556 defender to review the voluntariness of a minor's
1557 admission to a facility; requiring the filing of a
1558 petition for involuntary placement or release of a
1559 minor to his or her parent or legal guardian under
1560 certain circumstances; conforming provisions to
1561 changes made by the act; amending s. 394.463, F.S.;
1562 revising the requirements for when a person may be
1563 taken to a receiving facility for involuntary
1564 examination; requiring a facility to inform the
1565 department of certain persons who have been examined
1566 or committed under certain circumstances; conforming
1567 provisions to changes made by the act; providing
1568 criminal and civil penalties; amending s. 394.4655,
1569 F.S.; revising the requirements for involuntary
1570 outpatient treatment; amending s. 394.467, F.S.;
1571 revising the requirements for when a person may be
1572 ordered for involuntary inpatient placement; revising
1573 requirements for continuances of hearings; revising
1574 the conditions under which a court may waive the
1575 requirement for a patient to be present at an
1576 involuntary inpatient placement hearing; authorizing



745770

1577 the court to permit all witnesses to remotely attend
1578 and testify at the hearing through certain means;
1579 authorizing the state attorney to access certain
1580 persons and records for certain purposes; specifying
1581 such records remain confidential; revising when the
1582 court may appoint a magistrate; revising the amount of
1583 time a court may require a patient to receive
1584 services; providing an exception to the prohibition on
1585 a court ordering certain individuals to be
1586 involuntarily placed in a state treatment facility;
1587 conforming a cross-reference; amending ss. 394.495 and
1588 394.496, F.S.; conforming cross-references; amending
1589 s. 394.499, F.S.; making technical and conforming
1590 changes; amending s. 394.9085, F.S.; conforming cross-
1591 references; amending s. 397.305, F.S.; revising the
1592 purposes of ch. 397, F.S.; amending s. 397.311, F.S.;
1593 revising the definition of the terms "impaired" and
1594 "substance abuse impaired"; defining the terms
1595 "involuntary treatment services," "neglect or refuse
1596 to care for himself or herself," and "real and present
1597 threat of substantial harm"; amending s. 397.416,
1598 F.S.; conforming a cross-reference; amending s.
1599 397.501, F.S.; requiring that respondents with serious
1600 substance abuse addictions be informed of the
1601 essential elements of recovery and provided assistance
1602 with accessing a continuum of care regimen;
1603 authorizing the department to adopt certain rules;
1604 amending s. 397.675, F.S.; revising the criteria for
1605 involuntary admissions; amending s. 397.6751, F.S.;



745770

1606 revising the responsibilities of a service provider;
1607 amending s. 397.681, F.S.; requiring that the state
1608 attorney represent the state as the real party of
1609 interest in an involuntary proceeding, subject to
1610 legislative appropriation; authorizing the state
1611 attorney to access certain persons and records;
1612 conforming provisions to changes made by the act;
1613 repealing s. 397.6811, F.S., relating to involuntary
1614 assessment and stabilization; repealing s. 397.6814,
1615 F.S., relating to petitions for involuntary assessment
1616 and stabilization; repealing s. 397.6815, F.S.,
1617 relating to involuntary assessment and stabilization
1618 procedures; repealing s. 397.6818, F.S., relating to
1619 court determinations for petitions for involuntary
1620 assessment and stabilization; repealing s. 397.6819,
1621 F.S., relating to the responsibilities of licensed
1622 service providers with regard to involuntary
1623 assessment and stabilization; repealing s. 397.6821,
1624 F.S., relating to extensions of time for completion of
1625 involuntary assessment and stabilization; repealing s.
1626 397.6822, F.S., relating to the disposition of
1627 individuals after involuntary assessments; amending s.
1628 397.693, F.S.; revising the circumstances under which
1629 a person is eligible for court-ordered involuntary
1630 treatment; amending s. 397.695, F.S.; authorizing the
1631 court or clerk of the court to waive or prohibit any
1632 service of process fees for an indigent petitioner;
1633 amending s. 397.6951, F.S.; revising the requirements
1634 for the contents of a petition for involuntary



745770

1635 treatment services; providing that a petitioner may
1636 include a certificate or report of a qualified
1637 professional with the petition; requiring the
1638 certificate or report to contain certain information;
1639 requiring that certain additional information must be
1640 included if an emergency exists; amending s. 397.6955,
1641 F.S.; requiring the clerk of the court to notify the
1642 state attorney's office upon the receipt of a petition
1643 filed for involuntary treatment services; revising
1644 when a hearing must be held on the petition; providing
1645 requirements for when a petitioner asserts that
1646 emergency circumstances exist or the court determines
1647 that an emergency exists; amending s. 397.6957, F.S.;
1648 expanding the exemption from the requirement that a
1649 respondent be present at a hearing on a petition for
1650 involuntary treatment services; authorizing the court
1651 to order drug tests and permit all witnesses to
1652 remotely attend and testify at the hearing through
1653 certain means; deleting a provision requiring the
1654 court to appoint a guardian advocate under certain
1655 circumstances; prohibiting a respondent from being
1656 involuntarily ordered into treatment unless certain
1657 requirements are met; providing requirements relating
1658 to involuntary assessment and stabilization orders;
1659 providing requirements relating to involuntary
1660 treatment hearings; requiring that the assessment of a
1661 respondent occur before a specified time unless
1662 certain requirements are met; requiring the service
1663 provider to discharge the respondent after a specified



745770

1664 time unless certain requirements are met; requiring a
1665 qualified professional to provide copies of his or her
1666 report to the court and all relevant parties and
1667 counsel; providing requirements for the report;
1668 authorizing certain entities to take specified actions
1669 based upon the involuntary assessment; authorizing a
1670 court to order certain persons to take a respondent
1671 into custody and transport him or her to or from
1672 certain service providers and the court; revising the
1673 petitioner's burden of proof in the hearing;
1674 authorizing the court to initiate involuntary
1675 proceedings under certain circumstances; requiring
1676 that, if a treatment order is issued, it must include
1677 certain findings; amending s. 397.697, F.S.; requiring
1678 that an individual meet certain requirements to
1679 qualify for involuntary outpatient treatment;
1680 specifying that certain hearings may be set by the
1681 motion of a party or under the court's own authority;
1682 specifying that a service provider's authority is
1683 separate and distinct from the court's jurisdiction;
1684 amending s. 397.6971, F.S.; conforming provisions to
1685 changes made by the act; amending s. 397.6975, F.S.;
1686 authorizing certain entities to file a petition for
1687 renewal of involuntary treatment; revising the
1688 timeframe during which the court is required to
1689 schedule a hearing; conforming provisions to changes
1690 made by the act; amending s. 397.6977, F.S.;
1691 conforming provisions to changes made by the act;
1692 repealing s. 397.6978, F.S., relating to the



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1693
1694

appointment of guardian advocates; amending ss.
409.972, 464.012,

By Senator Book

32-00049A-20

2020870__

1 A bill to be entitled
2 An act relating to mental health; amending s. 394.455,
3 F.S.; conforming a cross-reference; revising the
4 definition of the term "mental illness"; defining the
5 terms "neglect or refuse to care for himself or
6 herself" and "real and present threat of substantial
7 harm"; amending s. 394.459, F.S.; requiring that
8 respondents with a serious mental illness be afforded
9 essential elements of recovery and be placed in a
10 continuum of care regimen; requiring the Department of
11 Children and Families to adopt certain rules; amending
12 s. 394.4598, F.S.; conforming a cross-reference;
13 amending s. 394.4599, F.S.; requiring a receiving
14 facility to refer certain cases involving a minor to
15 the clerk of the court within a certain timeframe for
16 the appointment of a public defender; providing rights
17 for attorneys who represent such minors; requiring
18 that certain hearings be conducted in the physical
19 presence of the minor; providing criminal penalties;
20 conforming provisions to changes made by the act;
21 amending s. 394.461, F.S.; authorizing the state to
22 establish that a transfer evaluation was performed by
23 providing the court with a copy of the evaluation
24 before the close of the state's case in chief;
25 prohibiting the court from considering substantive
26 information in the transfer evaluation unless the
27 evaluator testifies at the hearing; amending s.
28 394.4615, F.S.; conforming provisions to changes made
29 by the act; amending s. 394.462, F.S.; conforming

32-00049A-20

2020870__

30 cross-references; amending s. 394.4625, F.S.; making
31 technical changes; providing requirements relating to
32 voluntariness hearings for minors; prohibiting a fee
33 from being charged for filing certain petitions;
34 providing requirements for transfers to voluntary
35 status for minors; amending s. 394.463, F.S.; revising
36 the requirements for when a person may be taken to a
37 receiving facility for involuntary examination;
38 requiring a facility to inform the department of a
39 minor's admission and case outcome at the close of an
40 examination period; conforming provisions to changes
41 made by the act; providing criminal and civil
42 penalties; amending s. 394.4655, F.S.; revising the
43 requirements for involuntary outpatient treatment;
44 amending s. 394.467, F.S.; revising the requirements
45 for when a person may be ordered for involuntary
46 inpatient placement; revising requirements for
47 continuances of hearings; revising the timeframe
48 during which a court is required to hold a hearing on
49 involuntary inpatient placement; revising the
50 conditions under which a court may waive the
51 requirement for a patient to be present at an
52 involuntary inpatient placement hearing; authorizing
53 the court to permit all witnesses to remotely attend
54 and testify at the hearing through certain means;
55 authorizing the state attorney to access certain
56 persons and records for certain purposes; specifying
57 such records remain confidential; revising when the
58 court may appoint a magistrate; revising the amount of

32-00049A-20

2020870__

59 time a court may require a patient to receive
60 services; providing an exception to the prohibition on
61 a court ordering certain individuals to be
62 involuntarily placed in a state treatment facility;
63 conforming a cross-reference; authorizing the court to
64 refer certain cases to the department; amending s.
65 394.4785, F.S.; requiring facility administrators to
66 refer certain cases to the clerk of the court;
67 providing requirements relating to the representation
68 of minors admitted to certain facilities; requiring
69 that certain hearings be conducted in the presence of
70 the child; providing criminal penalties; amending ss.
71 394.495 and 394.496, F.S.; conforming cross-
72 references; amending s. 394.499, F.S.; making
73 technical and conforming changes; amending s.
74 394.9085, F.S.; conforming cross-references; amending
75 s. 397.305, F.S.; revising the purposes of ch. 397,
76 F.S.; amending s. 397.311, F.S.; revising the
77 definition of the terms "impaired" and "substance
78 abuse impaired"; defining the terms "involuntary
79 treatment," "neglect or refuse to care for himself or
80 herself," and "real and present threat of substantial
81 harm"; amending s. 397.416, F.S.; conforming cross-
82 references; amending s. 397.501, F.S.; requiring that
83 respondents with serious substance abuse addictions be
84 afforded essential elements of recovery and placed in
85 a continuum of care regimen; requiring the department
86 to adopt certain rules; amending s. 397.675, F.S.;
87 revising the criteria for involuntary admissions;

32-00049A-20

2020870__

88 amending s. 397.6751, F.S.; revising the
89 responsibilities of a service provider; amending s.
90 397.681, F.S.; requiring that the state attorney
91 represent the state as the real party of interest in
92 an involuntary proceeding, subject to legislative
93 appropriation; authorizing the state attorney to
94 access certain persons and records; conforming
95 provisions to changes made by the act; repealing s.
96 397.6811, F.S., relating to involuntary assessment and
97 stabilization; repealing s. 397.6814, F.S., relating
98 to petitions for involuntary assessment and
99 stabilization; repealing s. 397.6815, F.S., relating
100 to involuntary assessment and stabilization
101 procedures; repealing s. 397.6818, F.S., relating to
102 court determinations for petitions for involuntary
103 assessment and stabilization; repealing s. 397.6819,
104 F.S., relating to the responsibilities of licensed
105 service providers with regard to involuntary
106 assessment and stabilization; repealing s. 397.6821,
107 F.S., relating to extensions of time for completion of
108 involuntary assessment and stabilization; repealing s.
109 397.6822, F.S., relating to the disposition of
110 individuals after involuntary assessments; amending s.
111 397.693, F.S.; revising the circumstances under which
112 a person is eligible for court-ordered involuntary
113 treatment; amending s. 397.695, F.S.; authorizing the
114 court or clerk of the court to waive or prohibit any
115 service of process fees for an indigent petitioner;
116 amending s. 397.6951, F.S.; revising the requirements

32-00049A-20

2020870__

117 for the contents of a petition for involuntary
118 treatment; providing that a petitioner may include a
119 certificate or report of a qualified professional with
120 the petition; requiring the certificate or report to
121 contain certain information; requiring that certain
122 additional information must be included if an
123 emergency exists; amending s. 397.6955, F.S.;

124 requiring the clerk of the court to notify the state
125 attorney's office upon the receipt of a petition filed
126 for involuntary treatment; revising when a hearing
127 must be held on the petition; providing requirements
128 for when a petitioner asserts that emergency
129 circumstances exist or the court determines that an
130 emergency exists; amending s. 397.6957, F.S.;

131 expanding the exemption from the requirement that a
132 respondent be present at a hearing on a petition for
133 involuntary treatment; authorizing the court to permit
134 all witnesses to remotely attend and testify at the
135 hearing through certain means; deleting a provision
136 requiring the court to appoint a guardian advocate
137 under certain circumstances; prohibiting a respondent
138 from being involuntarily ordered into treatment unless
139 certain requirements are met; providing requirements
140 relating to involuntary assessment and stabilization
141 orders; providing requirements relating to involuntary
142 treatment hearings; requiring that the assessment of a
143 respondent occur before a specified time unless
144 certain requirements are met; requiring the service
145 provider to discharge the respondent after a specified

32-00049A-20

2020870__

146 time unless certain requirements are met; requiring a
147 qualified professional to provide copies of his or her
148 report to the court and all relevant parties and
149 counsel; providing requirements for the report;
150 authorizing certain entities to take specified actions
151 based upon the involuntary assessment; authorizing a
152 court to order certain persons to take a respondent
153 into custody and transport him or her to or from
154 certain service providers and the court; revising the
155 petitioner's burden of proof in the hearing;
156 authorizing the court to initiate involuntary
157 proceedings under certain circumstances; authorizing
158 the court to refer the case to the department under
159 certain circumstances; requiring that, if a treatment
160 order is issued, it must include certain findings;
161 providing that a treatment order may designate a
162 specific service provider; amending s. 397.697, F.S.;
163 requiring that an individual meet certain requirements
164 to qualify for involuntary outpatient treatment;
165 specifying that certain hearings may be set by the
166 motion of a party or under the court's own authority;
167 specifying that a service provider's authority is
168 separate and distinct from the court's jurisdiction;
169 amending s. 397.6971, F.S.; conforming provisions to
170 changes made by the act; amending s. 397.6975, F.S.;
171 authorizing certain entities to file a petition for
172 renewal of involuntary treatment; revising the
173 timeframe during which the court is required to
174 schedule a hearing; conforming provisions to changes

32-00049A-20

2020870__

175 made by the act; creating s. 397.6976, F.S.;

176 authorizing the court to commit certain persons to

177 inpatient or outpatient treatment, or a combination

178 thereof, without an assessment under certain

179 circumstances; limiting the treatment period to a

180 specified number of days unless the period is

181 extended; defining the term "habitual abuser";

182 amending s. 397.6977, F.S.; conforming provisions to

183 changes made by the act; repealing s. 397.6978, F.S.,

184 relating to the appointment of guardian advocates;

185 amending s. 397.706, F.S.; revising whom the court may

186 require to participate in substance abuse assessment

187 and treatment services; providing requirements for

188 holding a minor in contempt of court in cases that

189 involve a minor violating an involuntary treatment

190 order; requiring service providers to prioritize a

191 minor's placement into treatment under certain

192 circumstances; amending ss. 409.972, 464.012,

193 744.2007, and 790.065, F.S.; conforming cross-

194 references; providing an effective date.

195

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

197

198 Section 1. Present subsections (31) through (38) and (39)

199 through (48) of section 394.455, Florida Statutes, are

200 redesignated as subsections (32) through (39) and (41) through

201 (50), respectively, subsections (22) and (28) of that section

202 are amended, and new subsections (31) and (40) are added to that

203 section, to read:

32-00049A-20

2020870__

204 394.455 Definitions.—As used in this part, the term:

205 (22) "Involuntary examination" means an examination
206 performed under s. 394.463, s. 397.6772, s. 397.679, s.
207 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a
208 person qualifies for involuntary services.

209 (28) "Mental illness" means an impairment of the mental or
210 emotional processes that exercise conscious control of one's
211 actions or of the ability to perceive or understand reality,
212 which impairment substantially interferes with the person's
213 ability to meet the ordinary demands of living. For the purposes
214 of this part, unless an individual has a co-occurring mental
215 illness, is displaying behavioral disturbances, or evaluations
216 show he or she may benefit from behavioral health treatment, the
217 term does not include a developmental disability as defined in
218 chapter 393, dementia, traumatic brain injury, intoxication, or
219 conditions manifested only by antisocial behavior or substance
220 abuse.

221 (31) "Neglect or refuse to care for himself or herself"
222 includes, but is not limited to, evidence that a person:

223 (a) Is unable to satisfy basic needs for nourishment,
224 clothing, medical care, shelter, or safety in a manner that
225 creates a substantial probability of imminent death, serious
226 physical debilitation, or disease; or

227 (b) Is substantially unable to make an informed treatment
228 choice and needs care or treatment to prevent deterioration.

229 (40) "Real and present threat of substantial harm"
230 includes, but is not limited to, evidence of a substantial
231 probability that the untreated person will:

232 (a) Lack, refuse, or not receive services for health or

32-00049A-20

2020870__

233 safety; or

234 (b) Suffer severe mental, emotional, or physical harm that
235 will result in the loss of his or her ability to function in the
236 community or the loss of cognitive or volitional control over
237 thoughts or actions.

238 Section 2. Subsection (13) is added to section 394.459,
239 Florida Statutes, to read:

240 394.459 Rights of patients.—

241 (13) POST-DISCHARGE RIGHT TO CONTINUUM OF CARE.—Upon
242 discharge, a respondent with a serious mental illness must be
243 afforded the essential elements of recovery and placed in a
244 continuum of care regimen. The department shall adopt rules
245 specifying the services that must be provided to such
246 respondents and identifying which serious mental illnesses
247 entitle a respondent to such services.

248 Section 3. Subsection (1) of section 394.4598, Florida
249 Statutes, is amended to read:

250 394.4598 Guardian advocate.—

251 (1) The administrator may petition the court for the
252 appointment of a guardian advocate based upon the opinion of a
253 psychiatrist that the patient is incompetent to consent to
254 treatment. If the court finds that a patient is incompetent to
255 consent to treatment and has not been adjudicated incapacitated
256 and a guardian with the authority to consent to mental health
257 treatment appointed, it shall appoint a guardian advocate. The
258 patient has the right to have an attorney represent him or her
259 at the hearing. If the person is indigent, the court shall
260 appoint the office of the public defender to represent him or
261 her at the hearing. The patient has the right to testify, cross-

32-00049A-20

2020870__

262 examine witnesses, and present witnesses. The proceeding shall
263 be recorded either electronically or stenographically, and
264 testimony shall be provided under oath. One of the professionals
265 authorized to give an opinion in support of a petition for
266 involuntary placement, as described in ~~s. 394.4655~~ or s.
267 394.467, must testify. A guardian advocate must meet the
268 qualifications of a guardian contained in part IV of chapter
269 744, except that a professional referred to in this part, an
270 employee of the facility providing direct services to the
271 patient under this part, a departmental employee, a facility
272 administrator, or member of the Florida local advocacy council
273 may ~~shall~~ not be appointed. A person who is appointed as a
274 guardian advocate must agree to the appointment.

275 Section 4. Paragraphs (c) and (d) of subsection (2) of
276 section 394.4599, Florida Statutes, are amended to read:

277 394.4599 Notice.—

278 (2) INVOLUNTARY ADMISSION.—

279 (c)1.a. A receiving facility shall give notice of the
280 whereabouts of a minor who is being involuntarily held for
281 examination pursuant to s. 394.463 to the minor's parent,
282 guardian, caregiver, or guardian advocate, in person or by
283 telephone or other form of electronic communication, immediately
284 after the minor's arrival at the facility. The facility may
285 delay notification for no more than 24 hours after the minor's
286 arrival if the facility has submitted a report to the central
287 abuse hotline, pursuant to s. 39.201, based upon knowledge or
288 suspicion of abuse, abandonment, or neglect and if the facility
289 deems a delay in notification to be in the minor's best
290 interest.

32-00049A-20

2020870__

291 b. The receiving facility shall refer the case to the clerk
292 of the court for the appointment of a public defender within the
293 first 72 hours after the minor's arrival for potential
294 initiation of a clinical or judicial hearing under s. 394.4625
295 or s. 394.467. An attorney who represents the minor shall have
296 access to all records relevant to the presentation of the
297 minor's case. All hearings involving minors shall be conducted
298 in the physical presence of the minor and may not be conducted
299 by electronic or video communication. A person who violates this
300 sub-subparagraph commits a misdemeanor of the first degree,
301 punishable as provided in s. 775.082 or s. 775.083.

302 2. The receiving facility shall attempt to notify the
303 minor's parent, guardian, caregiver, or guardian advocate until
304 the receiving facility receives confirmation from the parent,
305 guardian, caregiver, or guardian advocate, verbally, by
306 telephone or other form of electronic communication, or by
307 recorded message, that notification has been received. Attempts
308 to notify the parent, guardian, caregiver, or guardian advocate
309 must be repeated at least once every hour during the first 12
310 hours after the minor's arrival and once every 24 hours
311 thereafter and must continue until such confirmation is
312 received, unless the minor is released at the end of the 72-hour
313 examination period, or until a petition for involuntary services
314 is filed with the court pursuant to s. 394.463(2)(g). The
315 receiving facility may seek assistance from a law enforcement
316 agency to notify the minor's parent, guardian, caregiver, or
317 guardian advocate if the facility has not received within the
318 first 24 hours after the minor's arrival a confirmation by the
319 parent, guardian, caregiver, or guardian advocate that

32-00049A-20

2020870__

320 notification has been received. The receiving facility must
321 document notification attempts in the minor's clinical record.

322 (d) The written notice of the filing of the petition for
323 involuntary services for an individual being held must contain
324 the following:

325 1. Notice that the petition for:

326 a. Involuntary inpatient treatment pursuant to s. 394.467
327 has been filed with the circuit court in the county in which the
328 individual is hospitalized and the address of such court; or

329 b. Involuntary outpatient services pursuant to s. 394.4655
330 has been filed with the criminal county court, ~~as defined in s.~~
331 ~~394.4655(1), or the circuit court, as applicable,~~ in the county
332 in which the individual is hospitalized and the address of such
333 court.

334 2. Notice that the office of the public defender has been
335 appointed to represent the individual in the proceeding, if the
336 individual is not otherwise represented by counsel.

337 3. The date, time, and place of the hearing and the name of
338 each examining expert and every other person expected to testify
339 in support of continued detention.

340 4. Notice that the individual, the individual's guardian,
341 guardian advocate, health care surrogate or proxy, or
342 representative, or the administrator may apply for a change of
343 venue for the convenience of the parties or witnesses or because
344 of the condition of the individual.

345 5. Notice that the individual is entitled to an independent
346 expert examination and, if the individual cannot afford such an
347 examination, that the court will provide for one.

348 Section 5. Subsection (2) of section 394.461, Florida

32-00049A-20

2020870__

349 Statutes, is amended to read:

350 394.461 Designation of receiving and treatment facilities
351 and receiving systems.—The department is authorized to designate
352 and monitor receiving facilities, treatment facilities, and
353 receiving systems and may suspend or withdraw such designation
354 for failure to comply with this part and rules adopted under
355 this part. Unless designated by the department, facilities are
356 not permitted to hold or treat involuntary patients under this
357 part.

358 (2) TREATMENT FACILITY.—The department may designate any
359 state-owned, state-operated, or state-supported facility as a
360 state treatment facility. A civil patient may ~~shall~~ not be
361 admitted to a state treatment facility without previously
362 undergoing a transfer evaluation. Before the close of the
363 state's case in chief in a court hearing for involuntary
364 placement ~~in a state treatment facility~~, the state may establish
365 that the transfer evaluation was performed and the document
366 properly executed by providing the court with a copy of the
367 transfer evaluation. The court may not ~~shall receive and~~
368 consider the substantive information ~~documented~~ in the transfer
369 evaluation unless the evaluator testifies at the hearing. Any
370 other facility, including a private facility or a federal
371 facility, may be designated as a treatment facility by the
372 department, provided that such designation is agreed to by the
373 appropriate governing body or authority of the facility.

374 Section 6. Subsection (3) of section 394.4615, Florida
375 Statutes, is amended to read:

376 394.4615 Clinical records; confidentiality.—

377 (3) Information from the clinical record may be released in

32-00049A-20

2020870__

378 the following circumstances:

379 (a) When a patient has communicated to a service provider a
380 specific threat to cause serious bodily injury or death to an
381 identified or a readily available person, if the service
382 provider reasonably believes, or should reasonably believe
383 according to the standards of his or her profession, that the
384 patient has the apparent intent and ability to imminently or
385 immediately carry out such threat. When such communication has
386 been made, the administrator may authorize the release of
387 sufficient information to provide adequate warning to the person
388 threatened with harm by the patient.

389 (b) When the administrator of the facility or secretary of
390 the department deems release to a qualified researcher as
391 defined in administrative rule, an aftercare treatment provider,
392 or an employee or agent of the department is necessary for
393 treatment of the patient, maintenance of adequate records,
394 compilation of treatment data, aftercare planning, or evaluation
395 of programs.

396
397 For the purpose of determining whether a person meets the
398 criteria for involuntary outpatient placement ~~or for preparing~~
399 ~~the proposed treatment plan~~ pursuant to s. 394.4655, the
400 clinical record may be released to the state attorney, the
401 public defender or the patient's private legal counsel, the
402 court, and to the appropriate mental health professionals,
403 ~~including the service provider identified in s.~~
404 ~~394.4655(7)(b)2.,~~ in accordance with state and federal law.

405 Section 7. Section 394.462, Florida Statutes, is amended to
406 read:

32-00049A-20

2020870__

407 394.462 Transportation.—A transportation plan shall be
408 developed and implemented by each county in collaboration with
409 the managing entity in accordance with this section. A county
410 may enter into a memorandum of understanding with the governing
411 boards of nearby counties to establish a shared transportation
412 plan. When multiple counties enter into a memorandum of
413 understanding for this purpose, the counties shall notify the
414 managing entity and provide it with a copy of the agreement. The
415 transportation plan shall describe methods of transport to a
416 facility within the designated receiving system for individuals
417 subject to involuntary examination under s. 394.463 or
418 involuntary admission under s. 397.6772, s. 397.679, s.
419 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify
420 responsibility for other transportation to a participating
421 facility when necessary and agreed to by the facility. The plan
422 may rely on emergency medical transport services or private
423 transport companies, as appropriate. The plan shall comply with
424 the transportation provisions of this section and ss. 397.6772,
425 397.6795, ~~397.6822~~, and 397.697.

426 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

427 (a) Each county shall designate a single law enforcement
428 agency within the county, or portions thereof, to take a person
429 into custody upon the entry of an ex parte order or the
430 execution of a certificate for involuntary examination by an
431 authorized professional and to transport that person to the
432 appropriate facility within the designated receiving system
433 pursuant to a transportation plan.

434 (b)1. The designated law enforcement agency may decline to
435 transport the person to a receiving facility only if:

32-00049A-20

2020870__

436 a. The jurisdiction designated by the county has contracted
437 on an annual basis with an emergency medical transport service
438 or private transport company for transportation of persons to
439 receiving facilities pursuant to this section at the sole cost
440 of the county; and

441 b. The law enforcement agency and the emergency medical
442 transport service or private transport company agree that the
443 continued presence of law enforcement personnel is not necessary
444 for the safety of the person or others.

445 2. The entity providing transportation may seek
446 reimbursement for transportation expenses. The party responsible
447 for payment for such transportation is the person receiving the
448 transportation. The county shall seek reimbursement from the
449 following sources in the following order:

450 a. From a private or public third-party payor, if the
451 person receiving the transportation has applicable coverage.

452 b. From the person receiving the transportation.

453 c. From a financial settlement for medical care, treatment,
454 hospitalization, or transportation payable or accruing to the
455 injured party.

456 (c) A company that transports a patient pursuant to this
457 subsection is considered an independent contractor and is solely
458 liable for the safe and dignified transport of the patient. Such
459 company must be insured and provide no less than \$100,000 in
460 liability insurance with respect to the transport of patients.

461 (d) Any company that contracts with a governing board of a
462 county to transport patients shall comply with the applicable
463 rules of the department to ensure the safety and dignity of
464 patients.

32-00049A-20

2020870__

465 (e) When a law enforcement officer takes custody of a
466 person pursuant to this part, the officer may request assistance
467 from emergency medical personnel if such assistance is needed
468 for the safety of the officer or the person in custody.

469 (f) When a member of a mental health overlay program or a
470 mobile crisis response service is a professional authorized to
471 initiate an involuntary examination pursuant to s. 394.463 or s.
472 397.675 and that professional evaluates a person and determines
473 that transportation to a receiving facility is needed, the
474 service, at its discretion, may transport the person to the
475 facility or may call on the law enforcement agency or other
476 transportation arrangement best suited to the needs of the
477 patient.

478 (g) When any law enforcement officer has custody of a
479 person based on either noncriminal or minor criminal behavior
480 that meets the statutory guidelines for involuntary examination
481 pursuant to s. 394.463, the law enforcement officer shall
482 transport the person to the appropriate facility within the
483 designated receiving system pursuant to a transportation plan.
484 Persons who meet the statutory guidelines for involuntary
485 admission pursuant to s. 397.675 may also be transported by law
486 enforcement officers to the extent resources are available and
487 as otherwise provided by law. Such persons shall be transported
488 to an appropriate facility within the designated receiving
489 system pursuant to a transportation plan.

490 (h) When any law enforcement officer has arrested a person
491 for a felony and it appears that the person meets the statutory
492 guidelines for involuntary examination or placement under this
493 part, such person must first be processed in the same manner as

32-00049A-20

2020870__

494 any other criminal suspect. The law enforcement agency shall
495 thereafter immediately notify the appropriate facility within
496 the designated receiving system pursuant to a transportation
497 plan. The receiving facility shall be responsible for promptly
498 arranging for the examination and treatment of the person. A
499 receiving facility is not required to admit a person charged
500 with a crime for whom the facility determines and documents that
501 it is unable to provide adequate security, but shall provide
502 examination and treatment to the person where he or she is held.

503 (i) If the appropriate law enforcement officer believes
504 that a person has an emergency medical condition as defined in
505 s. 395.002, the person may be first transported to a hospital
506 for emergency medical treatment, regardless of whether the
507 hospital is a designated receiving facility.

508 (j) The costs of transportation, evaluation,
509 hospitalization, and treatment incurred under this subsection by
510 persons who have been arrested for violations of any state law
511 or county or municipal ordinance may be recovered as provided in
512 s. 901.35.

513 (k) The appropriate facility within the designated
514 receiving system pursuant to a transportation plan must accept
515 persons brought by law enforcement officers, or an emergency
516 medical transport service or a private transport company
517 authorized by the county, for involuntary examination pursuant
518 to s. 394.463.

519 (l) The appropriate facility within the designated
520 receiving system pursuant to a transportation plan must provide
521 persons brought by law enforcement officers, or an emergency
522 medical transport service or a private transport company

32-00049A-20

2020870__

523 authorized by the county, pursuant to s. 397.675, a basic
524 screening or triage sufficient to refer the person to the
525 appropriate services.

526 (m) Each law enforcement agency designated pursuant to
527 paragraph (a) shall establish a policy that reflects a single
528 set of protocols for the safe and secure transportation and
529 transfer of custody of the person. Each law enforcement agency
530 shall provide a copy of the protocols to the managing entity.

531 (n) When a jurisdiction has entered into a contract with an
532 emergency medical transport service or a private transport
533 company for transportation of persons to facilities within the
534 designated receiving system, such service or company shall be
535 given preference for transportation of persons from nursing
536 homes, assisted living facilities, adult day care centers, or
537 adult family-care homes, unless the behavior of the person being
538 transported is such that transportation by a law enforcement
539 officer is necessary.

540 (o) This section may not be construed to limit emergency
541 examination and treatment of incapacitated persons provided in
542 accordance with s. 401.445.

543 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

544 (a) If neither the patient nor any person legally obligated
545 or responsible for the patient is able to pay for the expense of
546 transporting a voluntary or involuntary patient to a treatment
547 facility, the transportation plan established by the governing
548 board of the county or counties must specify how the
549 hospitalized patient will be transported to, from, and between
550 facilities in a safe and dignified manner.

551 (b) A company that transports a patient pursuant to this

32-00049A-20

2020870__

552 subsection is considered an independent contractor and is solely
553 liable for the safe and dignified transportation of the patient.
554 Such company must be insured and provide no less than \$100,000
555 in liability insurance with respect to the transport of
556 patients.

557 (c) A company that contracts with one or more counties to
558 transport patients in accordance with this section shall comply
559 with the applicable rules of the department to ensure the safety
560 and dignity of patients.

561 (d) County or municipal law enforcement and correctional
562 personnel and equipment may not be used to transport patients
563 adjudicated incapacitated or found by the court to meet the
564 criteria for involuntary placement pursuant to s. 394.467,
565 except in small rural counties where there are no cost-efficient
566 alternatives.

567 (3) TRANSFER OF CUSTODY.—Custody of a person who is
568 transported pursuant to this part, along with related
569 documentation, shall be relinquished to a responsible individual
570 at the appropriate receiving or treatment facility.

571 Section 8. Paragraph (a) of subsection (1) and subsection
572 (4) of section 394.4625, Florida Statutes, are amended to read:
573 394.4625 Voluntary admissions.—

574 (1) AUTHORITY TO RECEIVE PATIENTS.—

575 (a) A facility may receive for observation, diagnosis, or
576 treatment any person 18 years of age or older applying to the
577 facility ~~making application~~ by express and informed consent for
578 admission to the facility, or any person age 17 or under for
579 whom such application is made by his or her parent or legal
580 guardian. If found to show evidence of mental illness, to be

32-00049A-20

2020870__

581 competent to provide express and informed consent, and to be
582 suitable for treatment, such person 18 years of age or older may
583 be admitted to the facility. A person age 17 or under may be
584 admitted only after a hearing to verify the voluntariness of the
585 minor's consent.

586 1. The minor's voluntariness hearing shall be a clinical,
587 noncourt proceeding organized by the receiving facility in
588 accordance with all rules and regulations adopted by the
589 department. No later than 72 hours after the minor's arrival at
590 the facility for observation, diagnosis, or treatment pursuant
591 to subsection (4), the facility administrator must initiate the
592 voluntariness hearing by filing a petition for involuntary
593 treatment pursuant to s. 394.463(2) and a petition for voluntary
594 placement. The petition for voluntary placement must include all
595 forms and information required by the department, including, but
596 not limited to, the application for voluntary admission; the
597 express and informed consent of the person age 17 or under and
598 his or her parent or legal guardian to admission for treatment;
599 certification that the disclosures to obtain express and
600 informed consent required under s. 394.459 were communicated to
601 the minor and his or her parent or legal guardian; and pertinent
602 demographic information about the minor and his or her parent or
603 legal guardian, including whether a parenting plan in a final
604 judgment of paternity or dissolution of marriage has been
605 entered, whether the parent or legal guardian is authorized to
606 make health care decisions on behalf of the person, and
607 certification that a copy of the final judgment or other
608 document that establishes the authority of the parent or legal
609 guardian has been or will be provided to the court.

32-00049A-20

2020870__

610 2. Upon filing, the clerk of the court shall provide copies
611 to the department, to the person age 17 or under, and to his or
612 her parent or legal guardian. A public defender shall also be
613 immediately appointed to represent the minor and shall
614 coordinate with the facility administrator to schedule the
615 voluntariness hearing. A fee may not be charged for filing a
616 petition pursuant to subparagraph 1., and the voluntariness
617 hearing must occur before the date the clerk sets in the
618 simultaneously filed involuntary placement petition.

619 3. Unless the public defender determines otherwise, the
620 minor's consent is presumed voluntary and, upon verification,
621 the facility shall inform the court of this result and withdraw
622 its involuntary admission petition. If the minor's consent is
623 determined to be involuntary, the facility must either discharge
624 the minor or proceed to continue treating him or her on an
625 involuntary basis.

626 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient
627 who applies to be transferred to voluntary status shall be
628 transferred to voluntary status immediately, unless the patient
629 has been charged with a crime, or has been involuntarily placed
630 for treatment by a court pursuant to s. 394.467 and continues to
631 meet the criteria for involuntary placement. When transfer to
632 voluntary status occurs, notice shall be given as provided in s.
633 394.4599 and, if the patient requesting transfer is 17 years of
634 age or younger, the facility administrator must contact the
635 public defender who represented the patient in the involuntary
636 proceeding and arrange a voluntariness hearing pursuant to
637 subparagraph (1)(a)2. The voluntariness hearing must be held
638 within 72 hours after the patient's transfer request and the

32-00049A-20

2020870__

639 facility must submit the voluntariness application to the clerk
640 of court and then inform the court of the result of the hearing.

641 Section 9. Subsection (1) and paragraphs (g) and (h) of
642 subsection (2) of section 394.463, Florida Statutes, are
643 amended, and subsection (5) is added to that section, to read:

644 394.463 Involuntary examination.—

645 (1) CRITERIA.—A person may be taken to a receiving facility
646 for involuntary examination if there is reason to believe that
647 the person has a mental illness and because of his or her mental
648 illness:

649 (a)1. The person has refused voluntary examination after
650 conscientious explanation and disclosure of the purpose of the
651 examination; or

652 2. The person is unable to determine for himself or herself
653 whether examination is necessary; and

654 (b)1. Without care or treatment, the person is likely to
655 suffer from neglect or refuse to care for himself or herself;
656 such neglect or refusal poses a real and present threat of
657 substantial harm to his or her well-being; and it is not
658 apparent that such harm may be avoided through the help of
659 willing, able, and responsible family members or friends or the
660 provision of other services; or

661 2. There is a substantial likelihood that in the near
662 future and without care or treatment, the person will inflict
663 serious ~~cause serious bodily~~ harm to self ~~himself or herself~~ or
664 others ~~in the near future~~, as evidenced by acts, omissions, or
665 ~~recent~~ behavior causing, attempting, or threatening such harm,
666 which includes, but is not limited to, significant property
667 damage.

32-00049A-20

2020870__

668 (2) INVOLUNTARY EXAMINATION.—

669 (g) The examination period must be for up to 72 hours. For
670 a minor, the examination shall be initiated within 12 hours
671 after the patient's arrival at the facility, and at the close of
672 the examination period, the facility must inform the department
673 of the minor's admission and case outcome. Within the
674 examination period or, if the examination period ends on a
675 weekend or holiday, no later than the next working day
676 thereafter, one of the following actions must be taken, based on
677 the individual needs of the patient:

678 1. The patient shall be released, unless he or she is
679 charged with a crime, in which case the patient shall be
680 returned to the custody of a law enforcement officer;

681 2. The patient shall be released, subject to subparagraph
682 1., for voluntary outpatient treatment;

683 3. The patient, unless he or she is charged with a crime,
684 shall be asked to give express and informed consent to placement
685 as a voluntary patient and, if such consent is given, the
686 patient shall be admitted as a voluntary patient; or

687 4. A petition for involuntary services shall be filed in
688 the circuit court ~~if inpatient treatment is deemed necessary~~ or
689 with a the criminal county court, as described in s. 394.4655
690 ~~defined in s. 394.4655(1)~~, as applicable. When inpatient
691 treatment is deemed necessary, the least restrictive treatment
692 consistent with the optimum improvement of the patient's
693 condition shall be made available. The petition ~~When a petition~~
694 ~~is to be filed for involuntary outpatient placement, it shall be~~
695 ~~filed by one of the petitioners specified in s. 394.4655(4)(a).~~
696 ~~A petition for involuntary inpatient placement shall be filed by~~

32-00049A-20

2020870__

697 the facility administrator.

698 (h) A person for whom an involuntary examination has been
699 initiated who is being evaluated or treated at a hospital for an
700 emergency medical condition specified in s. 395.002 must be
701 examined by a facility within the examination period specified
702 in paragraph (g). The examination period begins when the patient
703 arrives at the hospital and ceases when the attending physician
704 documents that the patient has an emergency medical condition.
705 If the patient is examined at a hospital providing emergency
706 medical services by a professional qualified to perform an
707 involuntary examination and is found as a result of that
708 examination not to meet the criteria for involuntary outpatient
709 services pursuant to s. 394.4655 ~~s. 394.4655(2)~~ or involuntary
710 inpatient placement pursuant to s. 394.467(1), the patient may
711 be offered voluntary services or placement, if appropriate, or
712 released directly from the hospital providing emergency medical
713 services. The finding by the professional that the patient has
714 been examined and does not meet the criteria for involuntary
715 inpatient services or involuntary outpatient placement must be
716 entered into the patient's clinical record. This paragraph is
717 not intended to prevent a hospital providing emergency medical
718 services from appropriately transferring a patient to another
719 hospital before stabilization if the requirements of s.
720 395.1041(3)(c) have been met.

721 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND
722 TREATMENT; PENALTIES.-

723 (a) Knowingly furnishing false information for the purpose
724 of obtaining emergency or other involuntary admission for any
725 person is a misdemeanor of the first degree, punishable as

32-00049A-20

2020870__

726 provided in s. 775.082 and by a fine not exceeding \$5,000.

727 (b) Causing or otherwise securing, conspiring with or
728 assisting another to cause or secure, without reason for
729 believing a person to be impaired, any emergency or other
730 involuntary procedure for the person is a misdemeanor of the
731 first degree, punishable as provided in s. 775.082 and by a fine
732 not exceeding \$5,000.

733 (c) Causing, or conspiring with or assisting another to
734 cause, the denial to any person of any right accorded pursuant
735 to this chapter is a misdemeanor of the first degree, punishable
736 as provided in s. 775.082 by a fine not exceeding \$5,000.

737 Section 10. Section 394.4655, Florida Statutes, is amended
738 to read:

739 (Substantial rewording of section. See
740 s. 394.4655, F.S., for present text.)

741 394.4655 Involuntary outpatient services.-

742 (1) (a) In lieu of inpatient treatment, the court may order
743 a respondent into outpatient treatment, or some combination of
744 each service, for up to 6 months if, during a hearing under s.
745 394.467, it is established that the respondent meets involuntary
746 placement criteria and:

747 1. Has been jailed or incarcerated, has been involuntarily
748 admitted to a receiving or treatment facility as defined in s.
749 394.455, or has received mental health services in a forensic or
750 correctional facility at least twice during the last 36 months;

751 2. The outpatient treatment is provided in the county in
752 which the respondent resides or, if being placed from a state
753 treatment facility, will reside;

754 3. And the respondent's treating physician certifies,

32-00049A-20

2020870__

755 within a reasonable degree of medical probability, that the
756 respondent:

757 a. Can be more appropriately treated on an outpatient
758 basis;

759 b. Can follow a prescribed treatment plan; and

760 c. Is not likely to become dangerous, suffer more serious
761 harm or illness, or further deteriorate if such plan is
762 followed.

763 (b) For the duration of his or her treatment, the
764 respondent must be supervised by a willing, able, and
765 responsible friend, family member, social worker, case manager
766 of a licensed service provider, guardian, or guardian advocate.
767 This supervisor must inform the court, state attorney, and
768 public defender of any failure by the respondent to comply with
769 his or her outpatient program.

770 (2) The court shall retain jurisdiction over the case and
771 parties for the entry of such further orders after a hearing, as
772 the circumstances may require.

773 (3) A criminal county court exercising its original
774 jurisdiction in a misdemeanor case under s. 34.01 may order a
775 person into involuntary outpatient services.

776 Section 11. Subsections (1) and (5) and paragraphs (a),
777 (b), and (c) of subsection (6) of section 394.467, Florida
778 Statutes, are amended to read:

779 394.467 Involuntary inpatient placement.—

780 (1) CRITERIA.—A person may be ordered for involuntary
781 inpatient placement for treatment upon a finding of the court by
782 clear and convincing evidence that:

783 (a) He or she has a mental illness and because of his or

32-00049A-20

2020870__

784 her mental illness:

785 1.a. He or she has refused voluntary inpatient placement
786 for treatment after sufficient and conscientious explanation and
787 disclosure of the purpose of inpatient placement for treatment;
788 or

789 b. He or she is unable to determine for himself or herself
790 whether inpatient placement is necessary; and

791 2.a. He or she is incapable of surviving alone or with the
792 help of willing, able, and responsible family or friends,
793 including available alternative services, and, without
794 treatment, is likely to suffer from neglect or refuse to care
795 for himself or herself, and such neglect or refusal poses a real
796 and present threat of substantial harm to his or her well-being;
797 or

798 b. There is substantial likelihood that in the near future
799 and without services, he or she will inflict serious ~~bodily~~ harm
800 to ~~en~~ self or others, as evidenced by acts, omissions, or recent
801 behavior causing, attempting, or threatening such harm, which
802 includes, but is not limited to, significant property damage;
803 and

804 (b) All available less restrictive treatment alternatives
805 that would offer an opportunity for improvement of his or her
806 condition have been judged to be inappropriate.

807 (5) CONTINUANCE OF HEARING.—The patient and the state are
808 independently entitled ~~is entitled, with the concurrence of the~~
809 ~~patient's counsel,~~ to at least one continuance of the hearing.
810 The patient's continuance may be for a period of ~~for~~ up to 4
811 weeks and requires the concurrence of his or her counsel. The
812 state's continuance may be for a period of up to 7 court working

32-00049A-20

2020870__

813 days and requires a showing of good cause and due diligence by
814 the state before requesting the continuance. The state's failure
815 to timely review any readily available document or failure to
816 attempt to contact a known witness does not warrant a
817 continuance.

818 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

819 (a)1. The court shall hold the hearing on involuntary
820 inpatient placement within 7 ~~5~~ court working days, unless a
821 continuance is granted.

822 2. Except for good cause documented in the court file, the
823 hearing must be held in the county or the facility, as
824 appropriate, where the patient is located, must be as convenient
825 to the patient as is consistent with orderly procedure, and
826 shall be conducted in physical settings not likely to be
827 injurious to the patient's condition. If the court finds that
828 the patient's attendance at the hearing is not consistent with
829 the best interests of, or is likely to be injurious to, the
830 patient, or the patient knowingly, intelligently, and
831 voluntarily waives his or her right to be present, and the
832 patient's counsel does not object, the court may waive the
833 presence of the patient from all or any portion of the hearing.
834 Absent a showing of good cause, the court may permit all
835 witnesses, including, but not limited to, any medical
836 professionals or personnel who are or have been involved with
837 the patient's treatment, to remotely attend and testify at the
838 hearing under oath via the most appropriate and convenient
839 technological method of communication available to the court,
840 including, but not limited to, teleconference. The state
841 attorney for the circuit in which the patient is located shall

32-00049A-20

2020870__

842 represent the state, rather than the petitioning facility
843 administrator, as the real party in interest in the proceeding.
844 In order to evaluate and prepare its case, the state attorney
845 may access, by subpoena if necessary, the patient, witnesses,
846 and all relevant records. Such records include, but are not
847 limited to, any social media, school records, clinical files,
848 and reports documenting contact the patient may have had with
849 law enforcement officers or other state agencies. However, these
850 records shall remain confidential, and the state attorney may
851 not use any records obtained under this part for criminal
852 investigation or prosecution purposes, or for any purpose other
853 than the patient's civil commitment under this chapter.

854 3. The court may appoint a magistrate to preside at the
855 hearing on the petition and any ancillary proceedings thereto,
856 which include, but are not limited to, writs of habeas corpus
857 issued pursuant to s. 394.459(8). One of the professionals who
858 executed the petition for involuntary inpatient placement
859 certificate shall be a witness. The patient and the patient's
860 guardian or representative shall be informed by the court of the
861 right to an independent expert examination. If the patient
862 cannot afford such an examination, the court shall ensure that
863 one is provided, as otherwise provided for by law. The
864 independent expert's report is confidential and not
865 discoverable, unless the expert is to be called as a witness for
866 the patient at the hearing. The testimony in the hearing must be
867 given under oath, and the proceedings must be recorded. The
868 patient may refuse to testify at the hearing.

869 (b) If the court concludes that the patient meets the
870 criteria for involuntary inpatient placement, it may order that

32-00049A-20

2020870__

871 the patient be transferred to a treatment facility or, if the
872 patient is at a treatment facility, that the patient be retained
873 there or be treated at any other appropriate facility, or that
874 the patient receive services, on an involuntary basis, for up to
875 ~~90 days. However, any order for involuntary mental health~~
876 ~~services in a treatment facility may be for up to 6 months.~~ The
877 order shall specify the nature and extent of the patient's
878 mental illness and, unless the patient has transferred to a
879 voluntary status, the facility must discharge the patient at any
880 time he or she no longer meets the criteria for involuntary
881 inpatient treatment. The court may not order an individual with
882 traumatic brain injury or dementia who lacks a co-occurring
883 mental illness or is displaying behavioral disturbances to be
884 involuntarily placed in a state treatment facility unless
885 evaluations show that the individual may benefit from behavioral
886 health treatment. Such individuals must be referred to the
887 Agency for Persons with Disabilities or the Department of
888 Elderly Affairs for further evaluation and placement in a
889 medical rehabilitation facility or supportive residential
890 placement that addresses their individual needs. In addition, if
891 it reasonably appears that the individual would be found
892 incapacitated under chapter 744 and the individual does not
893 already have a legal guardian, the facility must inform any
894 known next of kin and initiate guardianship proceedings. The
895 facility may hold the individual until the petition to appoint a
896 guardian is heard by the court and placement is secured. ~~The~~
897 ~~facility shall discharge a patient any time the patient no~~
898 ~~longer meets the criteria for involuntary inpatient placement,~~
899 ~~unless the patient has transferred to voluntary status.~~

32-00049A-20

2020870__

900 (c) If at any time before the conclusion of the involuntary
901 placement ~~hearing on involuntary inpatient placement~~ it appears
902 to the court that the person does not meet the criteria of ~~for~~
903 ~~involuntary inpatient placement~~ under this section, but instead
904 meets the criteria for involuntary ~~outpatient services~~, the
905 ~~court may order the person evaluated for involuntary outpatient~~
906 ~~services pursuant to s. 394.4655. The petition and hearing~~
907 ~~procedures set forth in s. 394.4655 shall apply. If the person~~
908 ~~instead meets the criteria for involuntary assessment,~~
909 ~~protective custody, or involuntary admission or treatment~~
910 pursuant to s. 397.675, then the court may order the person to
911 be admitted for involuntary assessment ~~for a period of 5 days~~
912 pursuant to s. 397.6957 s. 397.6811. Thereafter, all proceedings
913 are governed by chapter 397. The court may also refer the case
914 to the department so that the department may investigate and
915 initiate protective services under chapter 39 or chapter 415, or
916 provide other home health services as needed.

917 Section 12. Section 394.4785, Florida Statutes, is amended
918 to read:

919 394.4785 Children and adolescents; admission and placement
920 in mental health facilities.-

921 (1) A child or adolescent as defined in s. 394.492 may not
922 be admitted to a state-owned or state-operated mental health
923 treatment facility. A child may be admitted pursuant to s.
924 394.4625 or s. 394.467 to a crisis stabilization unit or a
925 residential treatment center licensed under this chapter or a
926 hospital licensed under chapter 395. The treatment center, unit,
927 or hospital must provide the least restrictive available
928 treatment that is appropriate to the individual needs of the

32-00049A-20

2020870__

929 child or adolescent and must adhere to the guiding principles,
930 system of care, and service planning provisions contained in
931 part III of this chapter.

932 (2) A person under the age of 14 who is admitted to any
933 hospital licensed pursuant to chapter 395 may not be admitted to
934 a bed in a room or ward with an adult patient in a mental health
935 unit or share common areas with an adult patient in a mental
936 health unit. However, a person 14 years of age or older may be
937 admitted to a bed in a room or ward in the mental health unit
938 with an adult if the admitting physician documents in the case
939 record that such placement is medically indicated or for reasons
940 of safety. Such placement shall be reviewed by the attending
941 physician or a designee or on-call physician each day and
942 documented in the case record.

943 (3) Within 72 hours after a minor is admitted to a crisis
944 stabilization unit or a residential treatment center licensed
945 under this chapter or a hospital licensed under chapter 395, the
946 facility administrator must refer the case to the clerk of the
947 court for the appointment of a public defender for a potential
948 initiation of a clinical or judicial hearing under s. 394.4625
949 or s. 394.467. An attorney who represents the minor shall have
950 access to all records relevant to the presentation of the
951 minor's case. All hearings involving patients under the age of
952 18 must be conducted in the physical presence of the minor and
953 may not be conducted through electronic or video communication.
954 A person who violates this subsection commits a misdemeanor of
955 the first degree, punishable as provided in s. 775.082 or s.
956 775.083.

957 Section 13. Subsection (3) of section 394.495, Florida

32-00049A-20

2020870__

958 Statutes, is amended to read:

959 394.495 Child and adolescent mental health system of care;
960 programs and services.—

961 (3) Assessments must be performed by:

962 (a) A clinical psychologist, clinical social worker,
963 physician, psychiatric nurse, or psychiatrist as those terms are
964 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
965 ~~(7), (32), (35), or (36);~~

966 (b) A professional licensed under chapter 491; or

967 (c) A person who is under the direct supervision of a
968 clinical psychologist, clinical social worker, physician,
969 psychiatric nurse, or psychiatrist as those terms are defined in
970 s. 394.455 ~~qualified professional as defined in s. 394.455(5),~~
971 ~~(7), (32), (35), or (36)~~ or a professional licensed under
972 chapter 491.

973 Section 14. Subsection (5) of section 394.496, Florida
974 Statutes, is amended to read:

975 394.496 Service planning.—

976 (5) A clinical psychologist, clinical social worker,
977 physician, psychiatric nurse, or psychiatrist as those terms are
978 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
979 ~~(7), (32), (35), or (36)~~ or a professional licensed under
980 chapter 491 must be included among those persons developing the
981 services plan.

982 Section 15. Paragraph (a) of subsection (2) of section
983 394.499, Florida Statutes, is amended to read:

984 394.499 Integrated children's crisis stabilization
985 unit/juvenile addictions receiving facility services.—

986 (2) Children eligible to receive integrated children's

32-00049A-20

2020870__

987 crisis stabilization unit/juvenile addictions receiving facility
988 services include:

989 (a) A person under 18 years of age for whom voluntary
990 application is made by his or her parent or legal guardian, if
991 such person is found to show evidence of mental illness and to
992 be suitable for treatment pursuant to s. 394.4625. A person
993 under 18 years of age may be admitted for integrated facility
994 services only after a hearing to verify that the consent to
995 admission is voluntary is conducted pursuant to s. 394.4625.

996 Section 16. Subsection (6) of section 394.9085, Florida
997 Statutes, is amended to read:

998 394.9085 Behavioral provider liability.—

999 (6) For purposes of this section, the terms "detoxification
1000 services," "addictions receiving facility," and "receiving
1001 facility" have the same meanings as those provided in ss.
1002 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(41) ~~394.455(39)~~,
1003 respectively.

1004 Section 17. Subsection (3) of section 397.305, Florida
1005 Statutes, is amended to read:

1006 397.305 Legislative findings, intent, and purpose.—

1007 (3) It is the purpose of this chapter to provide for a
1008 comprehensive continuum of accessible and quality substance
1009 abuse prevention, intervention, clinical treatment, and recovery
1010 support services in the most appropriate and least restrictive
1011 environment which promotes long-term recovery while protecting
1012 and respecting the rights of individuals, primarily through
1013 community-based private not-for-profit providers working with
1014 local governmental programs involving a wide range of agencies
1015 from both the public and private sectors.

32-00049A-20

2020870__

1016 Section 18. Present subsections (29) through (36) and (37)
1017 through (50) of section 397.311, Florida Statutes, are
1018 redesignated as subsections (30) through (37) and (39) through
1019 (52), respectively, new subsections (29) and (38) are added to
1020 that section, and subsections (19) and (23) of that section are
1021 amended, to read:

1022 397.311 Definitions.—As used in this chapter, except part
1023 VIII, the term:

1024 (19) "Impaired" or "substance abuse impaired" means a
1025 condition involving the use of alcoholic beverages, illicit or
1026 prescription drugs, or any psychoactive or mood-altering
1027 substance in such a manner as to induce mental, emotional, or
1028 physical problems or ~~and~~ cause socially dysfunctional behavior.

1029 (23) "Involuntary treatment services" means an array of
1030 behavioral health services that may be ordered by the court for
1031 persons with substance abuse impairment or co-occurring
1032 substance abuse impairment and mental health disorders.

1033 (29) "Neglect or refuse to care for himself or herself"
1034 includes, but is not limited to, evidence that a person:

1035 (a) Is unable to satisfy basic needs for nourishment,
1036 clothing, medical care, shelter, or safety in a manner that
1037 creates a substantial probability of imminent death, serious
1038 physical debilitation, or disease; or

1039 (b) Is substantially unable to make an informed treatment
1040 choice and needs care or treatment to prevent deterioration.

1041 (38) "Real and present threat of substantial harm"
1042 includes, but is not limited to, evidence of a substantial
1043 probability that the untreated person will:

1044 (a) Lack, refuse, or not receive services for health or

32-00049A-20

2020870__

1045 safety; or

1046 (b) Suffer severe mental, emotional, or physical harm that
 1047 will result in the loss of ability to function in the community
 1048 or the loss of cognitive or volitional control over thoughts or
 1049 actions.

1050 Section 19. Section 397.416, Florida Statutes, is amended
 1051 to read:

1052 397.416 Substance abuse treatment services; qualified
 1053 professional.—Notwithstanding any other provision of law, a
 1054 person who was certified through a certification process
 1055 recognized by the former Department of Health and Rehabilitative
 1056 Services before January 1, 1995, may perform the duties of a
 1057 qualified professional with respect to substance abuse treatment
 1058 services as defined in this chapter, and need not meet the
 1059 certification requirements contained in s. 397.311(36) ~~s.~~
 1060 ~~397.311(35)~~.

1061 Section 20. Subsection (11) is added to section 397.501,
 1062 Florida Statutes, to read:

1063 397.501 Rights of individuals.—Individuals receiving
 1064 substance abuse services from any service provider are
 1065 guaranteed protection of the rights specified in this section,
 1066 unless otherwise expressly provided, and service providers must
 1067 ensure the protection of such rights.

1068 (11) POST-DISCHARGE RIGHT TO CONTINUUM OF CARE.—Upon
 1069 discharge, a respondent with a serious substance abuse addiction
 1070 must be afforded the essential elements of recovery and placed
 1071 in a continuum of care regimen. The department shall adopt rules
 1072 specifying the services that must be provided to such
 1073 respondents and identifying which substance abuse addictions

32-00049A-20

2020870__

1074 entitle a respondent to such services.

1075 Section 21. Section 397.675, Florida Statutes, is amended
1076 to read:

1077 397.675 Criteria for involuntary admissions, including
1078 protective custody, emergency admission, and other involuntary
1079 assessment, involuntary treatment, and alternative involuntary
1080 assessment for minors, for purposes of assessment and
1081 stabilization, and for involuntary treatment.—A person meets the
1082 criteria for involuntary admission if there is good faith reason
1083 to believe that the person is substance abuse impaired or has a
1084 co-occurring mental health disorder and, because of such
1085 impairment or disorder:

1086 (1) Has lost the power of self-control with respect to
1087 substance abuse, or has a history of noncompliance with
1088 substance abuse treatment; and

1089 (2) ~~(a)~~ Is in need of substance abuse services and, by
1090 reason of substance abuse impairment, his or her judgment has
1091 been so impaired that he or she is refusing voluntary care after
1092 a sufficient and conscientious explanation and disclosure of the
1093 purpose for such services, or is incapable of appreciating his
1094 or her need for such services and of making a rational decision
1095 in that regard, although mere refusal to receive such services
1096 does not constitute evidence of lack of judgment with respect to
1097 his or her need for such services; and ~~or~~

1098 (3) (a) ~~(b)~~ Without care or treatment, is likely to suffer
1099 from neglect or refuse to care for himself or herself; that such
1100 neglect or refusal poses a real and present threat of
1101 substantial harm to his or her well-being; and that it is not
1102 apparent that such harm may be avoided through the help of

32-00049A-20

2020870__

1103 willing, able, and responsible family members or friends or the
1104 provision of other services;~~7~~ or

1105 (b) There is substantial likelihood that, in the near
1106 future and without services, the person will inflict serious
1107 harm to self or others, as evidenced by acts, omissions, or
1108 behavior causing, attempting, or threatening such harm, which
1109 includes, but is not limited to, significant property damage ~~has~~
1110 ~~inflicted, or threatened to or attempted to inflict, or, unless~~
1111 ~~admitted, is likely to inflict, physical harm on himself,~~
1112 ~~herself, or another.~~

1113 Section 22. Subsection (1) of section 397.6751, Florida
1114 Statutes, is amended to read:

1115 397.6751 Service provider responsibilities regarding
1116 involuntary admissions.-

1117 (1) It is the responsibility of the service provider to:

1118 (a) Ensure that a person who is admitted to a licensed
1119 service component meets the admission criteria specified in s.
1120 397.675;

1121 (b) Ascertain whether the medical and behavioral conditions
1122 of the person, as presented, are beyond the safe management
1123 capabilities of the service provider;

1124 (c) Provide for the admission of the person to the service
1125 component that represents the most appropriate and least
1126 restrictive available setting that is responsive to the person's
1127 treatment needs;

1128 (d) Verify that the admission of the person to the service
1129 component does not result in a census in excess of its licensed
1130 service capacity;

1131 (e) Determine whether the cost of services is within the

32-00049A-20

2020870__

1132 financial means of the person or those who are financially
1133 responsible for the person's care; and

1134 (f) Take all necessary measures to ensure that each
1135 individual in treatment is provided with a safe environment, and
1136 to ensure that each individual whose medical condition or
1137 behavioral problem becomes such that he or she cannot be safely
1138 managed by the service component is discharged and referred to a
1139 more appropriate setting for care.

1140 Section 23. Section 397.681, Florida Statutes, is amended
1141 to read:

1142 397.681 Involuntary petitions; general provisions; court
1143 jurisdiction and right to counsel.—

1144 (1) JURISDICTION.—The courts have jurisdiction of
1145 ~~involuntary assessment and stabilization petitions and~~
1146 involuntary treatment petitions for substance abuse impaired
1147 persons, and such petitions must be filed with the clerk of the
1148 court in the county where the person is located. The clerk of
1149 the court may not charge a fee for the filing of a petition
1150 under this section. The chief judge may appoint a general or
1151 special magistrate to preside over all or part of the
1152 proceedings. The alleged impaired person is named as the
1153 respondent.

1154 (2) RIGHT TO COUNSEL.—A respondent has the right to counsel
1155 at every stage of a proceeding relating to a petition for his or
1156 her ~~involuntary assessment and a petition for his or her~~
1157 involuntary treatment for substance abuse impairment. A
1158 respondent who desires counsel and is unable to afford private
1159 counsel has the right to court-appointed counsel and to the
1160 benefits of s. 57.081. If the court believes that the respondent

32-00049A-20

2020870__

1161 needs the assistance of counsel, the court shall appoint such
1162 counsel for the respondent without regard to the respondent's
1163 wishes. If the respondent is a minor not otherwise represented
1164 in the proceeding, the court shall immediately appoint a
1165 guardian ad litem to act on the minor's behalf.

1166 (3) STATE REPRESENTATIVE.—Subject to legislative
1167 appropriation, for all court-involved involuntary proceedings
1168 under this chapter, the state attorney for the circuit in which
1169 the respondent is located shall represent the state rather than
1170 the petitioner as the real party of interest in the proceeding,
1171 but the state attorney must be respectful of the petitioner's
1172 interests and concerns. In order to evaluate and prepare its
1173 case, the state attorney may access, by subpoena if necessary,
1174 the respondent, the witnesses, and all relevant records. Such
1175 records include, but are not limited to, any social media,
1176 school records, clinical files, and reports documenting contact
1177 the respondent may have had with law enforcement officers or
1178 other state agencies. However, these records shall remain
1179 confidential, and the petitioner may not access any records
1180 obtained by the state attorney unless such records are entered
1181 into the court file. In addition, the state attorney may not use
1182 any records obtained under this part for criminal investigation
1183 or prosecution purposes, or for any purpose other than the
1184 respondent's civil commitment under this chapter.

1185 Section 24. Section 397.6811, Florida Statutes, is
1186 repealed.

1187 Section 25. Section 397.6814, Florida Statutes, is
1188 repealed.

1189 Section 26. Section 397.6815, Florida Statutes, is

32-00049A-20

2020870__

1190 repealed.

1191 Section 27. Section 397.6818, Florida Statutes, is
 1192 repealed.

1193 Section 28. Section 397.6819, Florida Statutes, is
 1194 repealed.

1195 Section 29. Section 397.6821, Florida Statutes, is
 1196 repealed.

1197 Section 30. Section 397.6822, Florida Statutes, is
 1198 repealed.

1199 Section 31. Section 397.693, Florida Statutes, is amended
 1200 to read:

1201 397.693 Involuntary treatment.—A person may be the subject
 1202 of a petition for court-ordered involuntary treatment pursuant
 1203 to this part, if that person:

1204 (1) Reasonably appears to meet ~~meets~~ the criteria for
 1205 involuntary admission provided in s. 397.675; ~~and:~~

1206 (2) ~~(1)~~ Has been placed under protective custody pursuant to
 1207 s. 397.677 within the previous 10 days;

1208 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
 1209 to s. 397.679 within the previous 10 days; or

1210 (4) ~~(3)~~ Has been assessed by a qualified professional within
 1211 30 ~~5~~ days;

1212 ~~(4) Has been subject to involuntary assessment and~~
 1213 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
 1214 ~~days; or~~

1215 ~~(5) Has been subject to alternative involuntary admission~~
 1216 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1217 Section 32. Section 397.695, Florida Statutes, is amended
 1218 to read:

32-00049A-20

2020870__

1219 397.695 Involuntary treatment ~~services~~; persons who may
1220 petition.-

1221 (1) If the respondent is an adult, a petition for
1222 involuntary treatment ~~services~~ may be filed by the respondent's
1223 spouse or legal guardian, any relative, a service provider, or
1224 an adult who has direct personal knowledge of the respondent's
1225 substance abuse impairment and his or her prior course of
1226 assessment and treatment.

1227 (2) If the respondent is a minor, a petition for
1228 involuntary treatment may be filed by a parent, legal guardian,
1229 or service provider.

1230 (3) The court or the clerk of the court may waive or
1231 prohibit any service of process fees if a petitioner is
1232 determined to be indigent under s. 57.082.

1233 Section 33. Section 397.6951, Florida Statutes, is amended
1234 to read:

1235 397.6951 Contents of petition for involuntary treatment
1236 ~~services~~.-

1237 (1) A petition for involuntary treatment ~~services~~ must
1238 contain the name of the respondent; the name of the petitioner
1239 or petitioners; the relationship between the respondent and the
1240 petitioner; the name of the respondent's attorney, if known; ~~the~~
1241 ~~findings and recommendations of the assessment performed by the~~
1242 ~~qualified professional;~~ and the factual allegations presented by
1243 the petitioner establishing the need for involuntary ~~outpatient~~
1244 services for substance abuse impairment. The factual allegations
1245 must demonstrate the reason for the petitioner's belief that the
1246 respondent:

1247 ~~(1) The reason for the petitioner's belief that the~~

32-00049A-20

2020870__

1248 ~~respondent is substance abuse impaired;~~

1249 ~~(a) (2) The reason for the petitioner's belief that because~~
 1250 ~~of such impairment the respondent Has lost the power of self-~~
 1251 ~~control with respect to substance abuse, or has a history of~~
 1252 ~~noncompliance with substance abuse treatment; and~~

1253 ~~(b) Needs substance abuse services, but his or her judgment~~
 1254 ~~is so impaired by substance abuse that he or she either is~~
 1255 ~~refusing voluntary care after a sufficient and conscientious~~
 1256 ~~explanation and disclosure of the purpose of such services, or~~
 1257 ~~is incapable of appreciating his or her need for such services~~
 1258 ~~and of making a rational decision in that regard; and~~

1259 ~~(c) 1. Without services, is likely to suffer from neglect or~~
 1260 ~~refuse to care for himself or herself; that the neglect or~~
 1261 ~~refusal poses a real and present threat of substantial harm to~~
 1262 ~~his or her well-being; and that it is not apparent that the harm~~
 1263 ~~may be avoided through the help of willing, able, and~~
 1264 ~~responsible family members or friends or the provision of other~~
 1265 ~~services; or~~

1266 ~~2. There is a substantial likelihood that in the near~~
 1267 ~~future and without services, the respondent will inflict serious~~
 1268 ~~harm to self or others, as evidenced by acts, omissions, or~~
 1269 ~~behavior causing, attempting, or threatening such harm, which~~
 1270 ~~includes, but is not limited to, significant property damage~~

1271 ~~(3) (a) The reason the petitioner believes that the~~
 1272 ~~respondent has inflicted or is likely to inflict physical harm~~
 1273 ~~on himself or herself or others unless the court orders the~~
 1274 ~~involuntary services; or~~

1275 ~~(b) The reason the petitioner believes that the~~
 1276 ~~respondent's refusal to voluntarily receive care is based on~~

32-00049A-20

2020870__

1277 ~~judgment so impaired by reason of substance abuse that the~~
1278 ~~respondent is incapable of appreciating his or her need for care~~
1279 ~~and of making a rational decision regarding that need for care.~~

1280 (2) The petition may be accompanied by a certificate or
1281 report of a qualified professional or a licensed physician who
1282 has examined the respondent within 30 days before the petition's
1283 submission. This certificate or report must include the
1284 qualified professional or physician's findings relating to his
1285 or her assessment of the patient and his or her treatment
1286 recommendations. If the respondent was not assessed before the
1287 filing of a treatment petition or refused to submit to an
1288 evaluation, the lack of assessment or refusal must be noted in
1289 the petition.

1290 (3) If there is an emergency, the petition must also
1291 describe the respondent's exigent circumstances and include a
1292 request for an ex parte assessment and stabilization order that
1293 must be executed pursuant to s. 397.6955(4).

1294 Section 34. Section 397.6955, Florida Statutes, is amended
1295 to read:

1296 397.6955 Duties of court upon filing of petition for
1297 involuntary treatment ~~services~~.-

1298 (1) Upon the filing of a petition for involuntary treatment
1299 ~~services~~ for a substance abuse impaired person with the clerk of
1300 the court, the clerk must notify the state attorney's office. In
1301 addition, the court shall immediately determine whether the
1302 respondent is represented by an attorney or whether the
1303 appointment of counsel for the respondent is appropriate. If,
1304 based on the contents of the petition, the court appoints
1305 counsel for the person, the clerk of the court shall immediately

32-00049A-20

2020870__

1306 notify the office of criminal conflict and civil regional
1307 counsel, created pursuant to s. 27.511, of the appointment. The
1308 office of criminal conflict and civil regional counsel shall
1309 represent the person until the petition is dismissed, the court
1310 order expires, or the person is discharged from involuntary
1311 treatment services. An attorney that represents the person named
1312 in the petition shall have access to the person, witnesses, and
1313 records relevant to the presentation of the person's case and
1314 shall represent the interests of the person, regardless of the
1315 source of payment to the attorney.

1316 (2) The court shall schedule a hearing to be held on the
1317 petition within 10 court working ~~5~~ days unless a continuance is
1318 granted. The court may appoint a magistrate to preside at the
1319 hearing.

1320 (3) A copy of the petition and notice of the hearing must
1321 be provided to the respondent; the respondent's parent,
1322 guardian, or legal custodian, in the case of a minor; the
1323 respondent's attorney, if known; the petitioner; the
1324 respondent's spouse or guardian, if applicable; and such other
1325 persons as the court may direct. If the respondent is a minor, a
1326 copy of the petition and notice of the hearing must be
1327 personally delivered to the respondent. The court shall also
1328 issue a summons to the person whose admission is sought.

1329 (4) (a) When the petitioner asserts that emergency
1330 circumstances exist, or when upon review of the petition the
1331 court determines that an emergency exists, the court may:

1332 1. Rely solely on the contents of the petition and, without
1333 the appointment of an attorney, enter an ex parte order for the
1334 respondent's involuntary assessment and stabilization which must

32-00049A-20

2020870__

1335 be executed during the period that the hearing on the petition
1336 for treatment is pending;

1337 2. Further order a law enforcement officer or other
1338 designated agent of the court to take the respondent into
1339 custody and deliver him or her to the nearest appropriate
1340 licensed service provider to be evaluated; and

1341 3. If a hearing date is set, serve the respondent with the
1342 notice of hearing and a copy of the petition. The service
1343 provider must promptly inform the court and parties of the
1344 respondent's arrival and may not hold the respondent for longer
1345 than 72 hours of observation thereafter, unless:

1346 a. The service provider seeks additional time under s.
1347 397.6957(1)(c) and the court, after a hearing, grants that
1348 motion; or

1349 b. The respondent shows signs of withdrawal or a need to be
1350 either detoxified or treated for a medical condition, which
1351 shall reset the amount of time the respondent may be held for
1352 observation until the issue is resolved.

1353 (b) If the ex parte order was not executed by the initial
1354 hearing date, it shall be deemed void. However, should the
1355 respondent not appear at the hearing for any reason, including
1356 lack of service, and upon reviewing the petition, testimony, and
1357 evidence presented, the court reasonably believes the respondent
1358 meets this chapter's commitment criteria and that a substance
1359 abuse emergency exists, the court may issue or reissue an ex
1360 parte assessment and stabilization order that is valid for 90
1361 days. If the respondent's location is known at the time of the
1362 hearing, the court:

1363 1. Shall continue the case for no more than 10 court

32-00049A-20

2020870__

1364 working days;

1365 2. May order a law enforcement officer or other designated
1366 agent of the court to take the respondent into custody and
1367 deliver him or her to the nearest appropriate licensed service
1368 provider to be evaluated; and

1369 3. May serve the respondent with notice of the rescheduled
1370 hearing and a copy of the involuntary treatment petition if the
1371 respondent has not already been served.

1372
1373 Otherwise, the petitioner and the service provider must promptly
1374 inform the court that the respondent has been assessed so that
1375 the court may schedule a hearing. The service provider must
1376 serve the respondent, before his or her discharge, with the
1377 notice of hearing and a copy of the petition. However, if the
1378 respondent has not been assessed after 90 days, the court must
1379 dismiss the case.

1380 Section 35. Section 397.6957, Florida Statutes, is amended
1381 to read:

1382 397.6957 Hearing on petition for involuntary treatment
1383 services.—

1384 (1) (a) The respondent must be present at a hearing on a
1385 petition for involuntary treatment services unless he or she
1386 knowingly, intelligently, and voluntarily waives his or her
1387 right to be present or, upon receiving proof of service and
1388 evaluating the circumstances of the case, the court finds that
1389 his or her presence is inconsistent with his or her best
1390 interests or is likely to be injurious to himself or herself or
1391 others. ~~services,~~ The court shall hear and review all relevant
1392 evidence, including testimony from individuals such as family

32-00049A-20

2020870__

1393 members familiar with the respondent's prior history and how it
1394 relates to his or her current condition, and the review of
1395 results of the assessment completed by the qualified
1396 professional in connection with this chapter. Absent a showing
1397 of good cause, the court may permit all witnesses, such as any
1398 medical professionals or personnel who are or have been involved
1399 with the respondent's treatment, to remotely attend and testify
1400 at the hearing under oath via the most appropriate and
1401 convenient technological method of communication available to
1402 the court, including, but not limited to, teleconference the
1403 ~~respondent's protective custody, emergency admission,~~
1404 ~~involuntary assessment, or alternative involuntary admission.~~
1405 ~~The respondent must be present unless the court finds that his~~
1406 ~~or her presence is likely to be injurious to himself or herself~~
1407 ~~or others, in which event the court must appoint a guardian~~
1408 ~~advocate to act in behalf of the respondent throughout the~~
1409 ~~proceedings.~~

1410 (b) A respondent cannot be involuntarily ordered into
1411 treatment under this chapter without a clinical assessment being
1412 performed unless the respondent is present and expressly waives
1413 the assessment or the respondent qualifies as a habitual abuser
1414 under s. 397.6976. In nonemergency situations, if the respondent
1415 was not, or had previously refused to be, assessed by a
1416 qualified professional and, based on the petition, testimony,
1417 and evidence presented, it reasonably appears that the
1418 respondent qualifies for involuntary placement, the court shall
1419 issue an involuntary assessment and stabilization order to
1420 determine the appropriate level of treatment the respondent
1421 requires. Additionally, in cases where an assessment was

32-00049A-20

2020870__

1422 attached to the petition, the respondent may request, or the
1423 court on its own motion may order, an independent assessment by
1424 a court-appointed physician or an otherwise agreed-upon
1425 physician. If an assessment order is issued, it is valid for 90
1426 days, and if the respondent is present or there is either proof
1427 of service or his or her location is known, the involuntary
1428 treatment hearing shall be continued for no more than 10 court
1429 working days. Otherwise, the petitioner and the service provider
1430 must promptly inform the court that the respondent has been
1431 assessed so that the court may schedule a hearing. The service
1432 provider shall then serve the respondent, before his or her
1433 discharge, with the notice of hearing and a copy of the
1434 petition. The assessment must occur before the new hearing date,
1435 and if there is evidence indicating that the respondent will not
1436 voluntarily appear at the forthcoming hearing, or is a danger to
1437 self or others, the court may enter a preliminary order
1438 committing the respondent to an appropriate treatment facility
1439 for further evaluation until the date of the rescheduled
1440 hearing. However, if after 90 days the respondent remains
1441 unassessed, the court shall dismiss the case.

1442 (c)1. The respondent's assessment by a qualified
1443 professional must occur within 72 hours after his or her arrival
1444 at a licensed service provider unless he or she shows signs of
1445 withdrawal or a need to be either detoxified or treated for a
1446 medical condition, which shall reset the amount of time the
1447 respondent may be held for observation until that issue is
1448 resolved. If the person conducting the assessment is not a
1449 licensed physician, the assessment must be reviewed by a
1450 licensed physician within the 72-hour period. The service

32-00049A-20

2020870__

1451 provider must also discharge the respondent after 72 hours of
1452 observation unless the service provider petitions the court in
1453 writing for additional time to observe the respondent or for the
1454 court to hold the respondent's treatment hearing on an expedited
1455 basis. The service provider must furnish copies of the motion to
1456 all parties in accordance with applicable confidentiality
1457 requirements and, after a hearing, the court may grant
1458 additional time. The treatment hearing, however, may only be
1459 expedited by agreement of the parties on the hearing date, or if
1460 there is notice and proof of service as provided in s. 397.6955
1461 (1) and (3). If the court grants the service provider's
1462 petition, the service provider may hold the respondent until its
1463 extended assessment period expires or until the expedited
1464 hearing date.

1465 2. Upon the completion of his or her report, the qualified
1466 professional, in accordance with applicable confidentiality
1467 requirements, shall provide copies to the court and all relevant
1468 parties and counsel. This report must contain a recommendation
1469 on the level, if any, of substance abuse and, if applicable, co-
1470 occurring mental health treatment the respondent requires. The
1471 qualified professional's failure to include a treatment
1472 recommendation, much like a recommendation of no treatment,
1473 shall result in the petition's dismissal.

1474 (d) The court may order a law enforcement officer or other
1475 designated agent of the court to take the respondent into
1476 custody and transport him or her to or from the treating or
1477 assessing service provider and the court for his or her hearing.

1478 (2) The petitioner has the burden of proving by clear and
1479 convincing evidence that:

32-00049A-20

2020870__

1480 (a) The respondent is substance abuse impaired, has lost
1481 the power of self-control with respect to substance abuse, or
1482 ~~and~~ has a history of lack of compliance with treatment for
1483 substance abuse; ~~and~~

1484 (b) Because of such impairment, the respondent is unlikely
1485 to voluntarily participate in the recommended services after
1486 sufficient and conscientious explanation and disclosure of their
1487 purpose, or is unable to determine for himself or herself
1488 whether services are necessary and make a rational decision in
1489 that regard; and ~~÷~~

1490 (c) 1. Without services, the respondent is likely to suffer
1491 from neglect or refuse to care for himself or herself; that such
1492 neglect or refusal poses a real and present threat of
1493 substantial harm to his or her well-being; and that it is not
1494 apparent that such harm may be avoided through the help of
1495 willing, able, and responsible family members or friends or the
1496 provision of other services; or

1497 2. There is a substantial likelihood that ~~without services,~~
1498 the respondent, in the near future, will inflict serious harm to
1499 self or others, as evidenced by acts, omissions, or behavior
1500 causing, attempting, or threatening such harm, which includes,
1501 but is not limited to, significant property damage ~~cause serious~~
1502 ~~bodily harm to himself, herself, or another in the near future,~~
1503 ~~as evidenced by recent behavior; or~~

1504 2. ~~The respondent's refusal to voluntarily receive care is~~
1505 ~~based on judgment so impaired by reason of substance abuse that~~
1506 ~~the respondent is incapable of appreciating his or her need for~~
1507 ~~care and of making a rational decision regarding that need for~~
1508 ~~care.~~

32-00049A-20

2020870__

1509 (3) ~~One of the qualified professionals who executed the~~
1510 ~~involuntary services certificate must be a witness. The court~~
1511 ~~shall allow testimony from individuals, including family~~
1512 ~~members, deemed by the court to be relevant under state law,~~
1513 ~~regarding the respondent's prior history and how that prior~~
1514 ~~history relates to the person's current condition. The Testimony~~
1515 in the hearing must be taken under oath, and the proceedings
1516 must be recorded. The respondent patient may refuse to testify
1517 at the hearing.

1518 (4) If at any point during the hearing the court has reason
1519 to believe that the respondent, due to mental illness other than
1520 or in addition to substance abuse impairment, is likely to
1521 injure himself or herself or another if allowed to remain at
1522 liberty, or otherwise meets the involuntary commitment
1523 provisions of part I of chapter 394, the court may initiate
1524 involuntary proceedings under such provisions and may refer the
1525 case to the department so that the department may investigate
1526 and initiate protective services under chapter 39 or chapter 415
1527 or provide other home health services as needed.

1528 (5)~~(4)~~ At the conclusion of the hearing, the court shall
1529 either dismiss the petition or order the respondent to receive
1530 involuntary treatment services from his or her chosen licensed
1531 service provider if possible and appropriate. Any treatment
1532 order must include findings regarding the respondent's need for
1533 treatment and the appropriateness of other least restrictive
1534 alternatives. The order may designate a specific service
1535 provider.

1536 Section 36. Section 397.697, Florida Statutes, is amended
1537 to read:

32-00049A-20

2020870__

1538 397.697 Court determination; effect of court order for
1539 involuntary treatment ~~services~~.-

1540 (1)(a) When the court finds that the conditions for
1541 involuntary treatment ~~services~~ have been proved by clear and
1542 convincing evidence, it may order the respondent to receive
1543 involuntary treatment ~~services~~ from a publicly funded licensed
1544 service provider for a period not to exceed 90 days. The court
1545 may also order a respondent to undergo treatment through a
1546 privately funded licensed service provider if the respondent has
1547 the ability to pay for the treatment, or if any person on the
1548 respondent's behalf voluntarily demonstrates a willingness and
1549 an ability to pay for the treatment. If the court finds it
1550 necessary, it may direct the sheriff to take the respondent into
1551 custody and deliver him or her to the licensed service provider
1552 specified in the court order, or to the nearest appropriate
1553 licensed service provider, for involuntary treatment ~~services~~.
1554 When the conditions justifying involuntary treatment ~~services~~ no
1555 longer exist, the individual must be released as provided in s.
1556 397.6971. When the conditions justifying involuntary treatment
1557 ~~services~~ are expected to exist after 90 days of treatment
1558 ~~services~~, a renewal of the involuntary treatment ~~services~~ order
1559 may be requested pursuant to s. 397.6975 before the end of the
1560 90-day period.

1561 (b) To qualify for involuntary outpatient treatment, an
1562 individual must be supervised by a willing, able, and
1563 responsible friend, family member, social worker, guardian,
1564 guardian advocate, or case manager of a licensed service
1565 provider; and this supervisor shall inform the court and parties
1566 if the respondent fails to comply with his or her outpatient

32-00049A-20

2020870__

1567 program. In addition, unless the respondent has been
1568 involuntarily ordered into inpatient treatment under this
1569 chapter at least twice during the last 36 months, or
1570 demonstrates the ability to substantially comply with the
1571 outpatient treatment while waiting for residential placement to
1572 become available, he or she must receive an assessment from a
1573 qualified professional or licensed physician expressly
1574 recommending outpatient services, and it must appear likely that
1575 the respondent will follow a prescribed outpatient care plan. It
1576 must also appear that the respondent is unlikely to become
1577 dangerous, suffer more serious harm or illness, or further
1578 deteriorate if such plan is followed.

1579 (2) In all cases resulting in an order for involuntary
1580 treatment services, the court shall retain jurisdiction over the
1581 case and the parties for the entry of such further orders as the
1582 circumstances may require, including, but not limited to,
1583 monitoring compliance with treatment, changing the treatment
1584 modality, or initiating contempt of court proceedings for
1585 violating any valid order issued pursuant to this chapter.
1586 Hearings under this section may be set by motion of the parties
1587 or under the court's own authority, and the motion and notice of
1588 hearing for these ancillary proceedings, which include, but are
1589 not limited to, civil contempt, must be served in accordance
1590 with chapter 48 or chapter 49. The court's requirements for
1591 notification of proposed release must be included in the
1592 original order.

1593 (3) An involuntary treatment ~~services~~ order also authorizes
1594 the licensed service provider to require the individual to
1595 receive treatment ~~services~~ that will benefit him or her,

32-00049A-20

2020870__

1596 including treatment ~~services~~ at any licensable service component
1597 of a licensed service provider. While subject to the court's
1598 oversight, the service provider's authority under this section
1599 is separate and distinct from the court's broad continuing
1600 jurisdiction under subsection (2).

1601 (4) If the court orders involuntary treatment ~~services~~, a
1602 copy of the order must be sent to the managing entity within 1
1603 working day after it is received from the court. Documents may
1604 be submitted electronically through ~~through~~ existing data
1605 systems, if applicable.

1606 Section 37. Section 397.6971, Florida Statutes, is amended
1607 to read:

1608 397.6971 Early release from involuntary treatment
1609 ~~services~~.—

1610 (1) At any time before the end of the 90-day involuntary
1611 treatment ~~services~~ period, or before the end of any extension
1612 granted pursuant to s. 397.6975, an individual receiving
1613 involuntary treatment ~~services~~ may be determined eligible for
1614 discharge to the most appropriate referral or disposition for
1615 the individual when any of the following apply:

1616 (a) The individual no longer meets the criteria for
1617 involuntary admission and has given his or her informed consent
1618 to be transferred to voluntary treatment status.

1619 (b) If the individual was admitted on the grounds of
1620 likelihood of infliction of physical harm upon himself or
1621 herself or others, such likelihood no longer exists.

1622 (c) If the individual was admitted on the grounds of need
1623 for assessment and stabilization or treatment, accompanied by
1624 inability to make a determination respecting such need:

32-00049A-20

2020870__

1625 1. Such inability no longer exists; or

1626 2. It is evident that further treatment will not bring
1627 about further significant improvements in the individual's
1628 condition.

1629 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
1630 ~~services~~.

1631 (e) The director of the service provider determines that
1632 the individual is beyond the safe management capabilities of the
1633 provider.

1634 (2) Whenever a qualified professional determines that an
1635 individual admitted for involuntary treatment ~~services~~ qualifies
1636 for early release under subsection (1), the service provider
1637 shall immediately discharge the individual and must notify all
1638 persons specified by the court in the original treatment order.

1639 Section 38. Section 397.6975, Florida Statutes, is amended
1640 to read:

1641 397.6975 Extension of involuntary treatment ~~services~~
1642 period.—

1643 (1) Whenever a service provider believes that an individual
1644 who is nearing the scheduled date of his or her release from
1645 involuntary care ~~services~~ continues to meet the criteria for
1646 involuntary treatment ~~services~~ in s. 397.693 or s. 397.6957, a
1647 petition for renewal of the involuntary treatment ~~services~~ order
1648 may be filed with the court ~~at least 10 days~~ before the
1649 expiration of the court-ordered services period. The petition
1650 may be filed by the service provider or by the person who filed
1651 the petition for the initial treatment order if the petition is
1652 accompanied by supporting documentation from the service
1653 provider. The court shall immediately schedule a hearing to be

32-00049A-20

2020870__

1654 held not more than 10 court working ~~15~~ days after filing and of
1655 ~~the petition. The court shall~~ provide the copy of the petition
1656 for renewal and the notice of the hearing to all parties and
1657 counsel to the proceeding. The hearing is conducted pursuant to
1658 ss. 397.697 and 397.6957 and must be before the circuit court
1659 unless referred to a magistrate s. 397.6957.

1660 (2) If the court finds that the petition for renewal of the
1661 involuntary treatment ~~services~~ order should be granted, it may
1662 order the respondent to receive involuntary treatment ~~services~~
1663 for a period not to exceed an additional 90 days. When the
1664 conditions justifying involuntary treatment ~~services~~ no longer
1665 exist, the individual must be released as provided in s.
1666 397.6971. When the conditions justifying involuntary treatment
1667 ~~services~~ continue to exist after an additional 90 days of
1668 treatment ~~service~~, a new petition requesting renewal of the
1669 involuntary treatment ~~services~~ order may be filed pursuant to
1670 this section.

1671 ~~(3) Within 1 court working day after the filing of a~~
1672 ~~petition for continued involuntary services, the court shall~~
1673 ~~appoint the office of criminal conflict and civil regional~~
1674 ~~counsel to represent the respondent, unless the respondent is~~
1675 ~~otherwise represented by counsel. The clerk of the court shall~~
1676 ~~immediately notify the office of criminal conflict and civil~~
1677 ~~regional counsel of such appointment. The office of criminal~~
1678 ~~conflict and civil regional counsel shall represent the~~
1679 ~~respondent until the petition is dismissed or the court order~~
1680 ~~expires or the respondent is discharged from involuntary~~
1681 ~~services. Any attorney representing the respondent shall have~~
1682 ~~access to the respondent, witnesses, and records relevant to the~~

32-00049A-20

2020870__

1683 ~~presentation of the respondent's case and shall represent the~~
1684 ~~interests of the respondent, regardless of the source of payment~~
1685 ~~to the attorney.~~

1686 ~~(4) Hearings on petitions for continued involuntary~~
1687 ~~services shall be before the circuit court. The court may~~
1688 ~~appoint a magistrate to preside at the hearing. The procedures~~
1689 ~~for obtaining an order pursuant to this section shall be in~~
1690 ~~accordance with s. 397.697.~~

1691 ~~(5) Notice of hearing shall be provided to the respondent~~
1692 ~~or his or her counsel. The respondent and the respondent's~~
1693 ~~counsel may agree to a period of continued involuntary services~~
1694 ~~without a court hearing.~~

1695 ~~(6) The same procedure shall be repeated before the~~
1696 ~~expiration of each additional period of involuntary services.~~

1697 ~~(7) If the respondent has previously been found incompetent~~
1698 ~~to consent to treatment, the court shall consider testimony and~~
1699 ~~evidence regarding the respondent's competence.~~

1700 Section 39. Section 397.6976, Florida Statutes, is created
1701 to read:

1702 397.6976 Involuntary treatment of habitual abusers.—Upon
1703 petition by any person authorized under s. 397.695, a person who
1704 meets the involuntary treatment criteria of this chapter who is
1705 also determined to be a habitual abuser may be committed by the
1706 court, after notice and hearing as provided in this chapter, to
1707 inpatient or outpatient treatment, or some combination thereof,
1708 without an assessment. Such commitment may not be for longer
1709 than 90 days, unless extended pursuant to s. 397.6975. For
1710 purposes of this section, "habitual abuser" means any person who
1711 has been involuntarily treated for substance abuse under this

32-00049A-20

2020870__

1712 chapter 3 or more times during the 24 months before the date of
1713 the hearing, if each prior commitment order was initially for a
1714 period of 90 days.

1715 Section 40. Section 397.6977, Florida Statutes, is amended
1716 to read:

1717 397.6977 Disposition of individual upon completion of
1718 involuntary treatment ~~services~~.—At the conclusion of the 90-day
1719 period of court-ordered involuntary treatment ~~services~~, the
1720 respondent is automatically discharged unless a motion for
1721 renewal of the involuntary treatment ~~services~~ order has been
1722 filed with the court pursuant to s. 397.6975.

1723 Section 41. Section 397.6978, Florida Statutes, is
1724 repealed.

1725 Section 42. Section 397.706, Florida Statutes, is amended
1726 to read:

1727 397.706 Screening, assessment, and disposition of minors
1728 and juvenile offenders.—

1729 (1) The substance abuse treatment needs of juvenile
1730 offenders and their families must be identified and addressed
1731 through diversionary programs and adjudicatory proceedings
1732 pursuant to chapter 984 or chapter 985.

1733 (2) The juvenile and circuit courts, in conjunction with
1734 department substate entity administration, shall establish
1735 policies and procedures to ensure that juvenile offenders are
1736 appropriately screened for substance abuse problems and that
1737 diversionary and adjudicatory proceedings include appropriate
1738 conditions and sanctions to address substance abuse problems.
1739 Policies and procedures must address:

1740 (a) The designation of local service providers responsible

32-00049A-20

2020870__

1741 for screening and assessment services and dispositional
1742 recommendations to the department and the court.

1743 (b) The means by which juvenile offenders are processed to
1744 ensure participation in screening and assessment services.

1745 (c) The role of the court in securing assessments when
1746 juvenile offenders or their families are noncompliant.

1747 (d) Safeguards to ensure that information derived through
1748 screening and assessment is used solely to assist in
1749 dispositional decisions and not for purposes of determining
1750 innocence or guilt.

1751 (3) Because resources available to support screening and
1752 assessment services are limited, the judicial circuits and
1753 department substate entity administration must develop those
1754 capabilities to the extent possible within available resources
1755 according to the following priorities:

1756 (a) Juvenile substance abuse offenders.

1757 (b) Juvenile offenders who are substance abuse impaired at
1758 the time of the offense.

1759 (c) Second or subsequent juvenile offenders.

1760 (d) Minors taken into custody.

1761 (4) The court may require minors found to be substance
1762 abuse impaired under s. 397.6957, juvenile offenders, and the
1763 families of such minors or juvenile offenders ~~and their families~~
1764 to participate in substance abuse assessment and treatment
1765 services in accordance with ~~the provisions of~~ chapter 984 or
1766 chapter 985, and the court may use its contempt powers to
1767 enforce its orders. If a minor violates an involuntary treatment
1768 order and there is a substantial risk of overdose or danger to
1769 self or others, the court's civil contempt powers are exempt

32-00049A-20

2020870__

1770 from the time limitations of chapters 984 and 985, and the court
 1771 may instead hold the minor in contempt for the same amount of
 1772 time as his or her court-ordered treatment, if the court clearly
 1773 informs the minor that he or she may immediately purge the
 1774 contempt finding by complying with the treatment order. If the
 1775 contempt order results in incarceration, the minor must be
 1776 placed in a juvenile addictions receiving facility or, if no
 1777 such facility is available, a facility for juveniles. The court
 1778 must also hold a status conference every 1 to 2 weeks to assess
 1779 the minor's well-being and inquire as to whether he or she will
 1780 go to, and remain in, treatment. If the incarcerated minor
 1781 agrees to comply with the court's involuntary treatment order,
 1782 service providers must prioritize his or her placement into
 1783 treatment.

1784 Section 43. Paragraph (b) of subsection (1) of section
 1785 409.972, Florida Statutes, is amended to read:

1786 409.972 Mandatory and voluntary enrollment.—

1787 (1) The following Medicaid-eligible persons are exempt from
 1788 mandatory managed care enrollment required by s. 409.965, and
 1789 may voluntarily choose to participate in the managed medical
 1790 assistance program:

1791 (b) Medicaid recipients residing in residential commitment
 1792 facilities operated through the Department of Juvenile Justice
 1793 or a treatment facility as defined in s. 394.455 ~~s. 394.455(47)~~.

1794 Section 44. Paragraph (e) of subsection (4) of section
 1795 464.012, Florida Statutes, is amended to read:

1796 464.012 Licensure of advanced practice registered nurses;
 1797 fees; controlled substance prescribing.—

1798 (4) In addition to the general functions specified in

32-00049A-20

2020870__

1799 subsection (3), an advanced practice registered nurse may
1800 perform the following acts within his or her specialty:

1801 (e) A psychiatric nurse, who meets the requirements in s.
1802 394.455(36) ~~s. 394.455(35)~~, within the framework of an
1803 established protocol with a psychiatrist, may prescribe
1804 psychotropic controlled substances for the treatment of mental
1805 disorders.

1806 Section 45. Subsection (7) of section 744.2007, Florida
1807 Statutes, is amended to read:

1808 744.2007 Powers and duties.—

1809 (7) A public guardian may not commit a ward to a treatment
1810 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
1811 involuntary placement proceeding as provided by law.

1812 Section 46. Paragraph (a) of subsection (2) of section
1813 790.065, Florida Statutes, is amended to read:

1814 790.065 Sale and delivery of firearms.—

1815 (2) Upon receipt of a request for a criminal history record
1816 check, the Department of Law Enforcement shall, during the
1817 licensee's call or by return call, forthwith:

1818 (a) Review any records available to determine if the
1819 potential buyer or transferee:

1820 1. Has been convicted of a felony and is prohibited from
1821 receipt or possession of a firearm pursuant to s. 790.23;

1822 2. Has been convicted of a misdemeanor crime of domestic
1823 violence, and therefore is prohibited from purchasing a firearm;

1824 3. Has had adjudication of guilt withheld or imposition of
1825 sentence suspended on any felony or misdemeanor crime of
1826 domestic violence unless 3 years have elapsed since probation or
1827 any other conditions set by the court have been fulfilled or

32-00049A-20

2020870__

1828 expunction has occurred; or

1829 4. Has been adjudicated mentally defective or has been
1830 committed to a mental institution by a court or as provided in
1831 sub-sub-subparagraph b.(II), and as a result is prohibited by
1832 state or federal law from purchasing a firearm.

1833 a. As used in this subparagraph, "adjudicated mentally
1834 defective" means a determination by a court that a person, as a
1835 result of marked subnormal intelligence, or mental illness,
1836 incompetency, condition, or disease, is a danger to himself or
1837 herself or to others or lacks the mental capacity to contract or
1838 manage his or her own affairs. The phrase includes a judicial
1839 finding of incapacity under s. 744.331(6)(a), an acquittal by
1840 reason of insanity of a person charged with a criminal offense,
1841 and a judicial finding that a criminal defendant is not
1842 competent to stand trial.

1843 b. As used in this subparagraph, "committed to a mental
1844 institution" means:

1845 (I) Involuntary commitment, commitment for mental
1846 defectiveness or mental illness, and commitment for substance
1847 abuse. The phrase includes involuntary inpatient placement under
1848 ~~as defined in s. 394.467~~, involuntary outpatient placement as
1849 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
1850 ~~under s. 397.6818~~, and involuntary substance abuse treatment
1851 under s. 397.6957, but does not include a person in a mental
1852 institution for observation or discharged from a mental
1853 institution based upon the initial review by the physician or a
1854 voluntary admission to a mental institution; or

1855 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
1856 admission to a mental institution for outpatient or inpatient

32-00049A-20

2020870__

1857 treatment of a person who had an involuntary examination under
1858 s. 394.463, where each of the following conditions have been
1859 met:

1860 (A) An examining physician found that the person is an
1861 imminent danger to himself or herself or others.

1862 (B) The examining physician certified that if the person
1863 did not agree to voluntary treatment, a petition for involuntary
1864 outpatient or inpatient treatment would have been filed under s.
1865 394.463(2)(g)4., or the examining physician certified that a
1866 petition was filed and the person subsequently agreed to
1867 voluntary treatment prior to a court hearing on the petition.

1868 (C) Before agreeing to voluntary treatment, the person
1869 received written notice of that finding and certification, and
1870 written notice that as a result of such finding, he or she may
1871 be prohibited from purchasing a firearm, and may not be eligible
1872 to apply for or retain a concealed weapon or firearms license
1873 under s. 790.06 and the person acknowledged such notice in
1874 writing, in substantially the following form:

1875
1876 "I understand that the doctor who examined me believes I am a
1877 danger to myself or to others. I understand that if I do not
1878 agree to voluntary treatment, a petition will be filed in court
1879 to require me to receive involuntary treatment. I understand
1880 that if that petition is filed, I have the right to contest it.
1881 In the event a petition has been filed, I understand that I can
1882 subsequently agree to voluntary treatment prior to a court
1883 hearing. I understand that by agreeing to voluntary treatment in
1884 either of these situations, I may be prohibited from buying
1885 firearms and from applying for or retaining a concealed weapons

32-00049A-20

2020870__

1886 or firearms license until I apply for and receive relief from
1887 that restriction under Florida law.”

1888
1889 (D) A judge or a magistrate has, pursuant to sub-sub-
1890 subparagraph c.(II), reviewed the record of the finding,
1891 certification, notice, and written acknowledgment classifying
1892 the person as an imminent danger to himself or herself or
1893 others, and ordered that such record be submitted to the
1894 department.

1895 c. In order to check for these conditions, the department
1896 shall compile and maintain an automated database of persons who
1897 are prohibited from purchasing a firearm based on court records
1898 of adjudications of mental defectiveness or commitments to
1899 mental institutions.

1900 (I) Except as provided in sub-sub-subparagraph (II), clerks
1901 of court shall submit these records to the department within 1
1902 month after the rendition of the adjudication or commitment.
1903 Reports shall be submitted in an automated format. The reports
1904 must, at a minimum, include the name, along with any known alias
1905 or former name, the sex, and the date of birth of the subject.

1906 (II) For persons committed to a mental institution pursuant
1907 to sub-sub-subparagraph b.(II), within 24 hours after the
1908 person's agreement to voluntary admission, a record of the
1909 finding, certification, notice, and written acknowledgment must
1910 be filed by the administrator of the receiving or treatment
1911 facility, as defined in s. 394.455, with the clerk of the court
1912 for the county in which the involuntary examination under s.
1913 394.463 occurred. No fee shall be charged for the filing under
1914 this sub-sub-subparagraph. The clerk must present the records to

32-00049A-20

2020870__

1915 a judge or magistrate within 24 hours after receipt of the
1916 records. A judge or magistrate is required and has the lawful
1917 authority to review the records ex parte and, if the judge or
1918 magistrate determines that the record supports the classifying
1919 of the person as an imminent danger to himself or herself or
1920 others, to order that the record be submitted to the department.
1921 If a judge or magistrate orders the submittal of the record to
1922 the department, the record must be submitted to the department
1923 within 24 hours.

1924 d. A person who has been adjudicated mentally defective or
1925 committed to a mental institution, as those terms are defined in
1926 this paragraph, may petition the court that made the
1927 adjudication or commitment, or the court that ordered that the
1928 record be submitted to the department pursuant to sub-sub-
1929 subparagraph c. (II), for relief from the firearm disabilities
1930 imposed by such adjudication or commitment. A copy of the
1931 petition shall be served on the state attorney for the county in
1932 which the person was adjudicated or committed. The state
1933 attorney may object to and present evidence relevant to the
1934 relief sought by the petition. The hearing on the petition may
1935 be open or closed as the petitioner may choose. The petitioner
1936 may present evidence and subpoena witnesses to appear at the
1937 hearing on the petition. The petitioner may confront and cross-
1938 examine witnesses called by the state attorney. A record of the
1939 hearing shall be made by a certified court reporter or by court-
1940 approved electronic means. The court shall make written findings
1941 of fact and conclusions of law on the issues before it and issue
1942 a final order. The court shall grant the relief requested in the
1943 petition if the court finds, based on the evidence presented

32-00049A-20

2020870__

1944 with respect to the petitioner's reputation, the petitioner's
1945 mental health record and, if applicable, criminal history
1946 record, the circumstances surrounding the firearm disability,
1947 and any other evidence in the record, that the petitioner will
1948 not be likely to act in a manner that is dangerous to public
1949 safety and that granting the relief would not be contrary to the
1950 public interest. If the final order denies relief, the
1951 petitioner may not petition again for relief from firearm
1952 disabilities until 1 year after the date of the final order. The
1953 petitioner may seek judicial review of a final order denying
1954 relief in the district court of appeal having jurisdiction over
1955 the court that issued the order. The review shall be conducted
1956 de novo. Relief from a firearm disability granted under this
1957 sub-subparagraph has no effect on the loss of civil rights,
1958 including firearm rights, for any reason other than the
1959 particular adjudication of mental defectiveness or commitment to
1960 a mental institution from which relief is granted.

1961 e. Upon receipt of proper notice of relief from firearm
1962 disabilities granted under sub-subparagraph d., the department
1963 shall delete any mental health record of the person granted
1964 relief from the automated database of persons who are prohibited
1965 from purchasing a firearm based on court records of
1966 adjudications of mental defectiveness or commitments to mental
1967 institutions.

1968 f. The department is authorized to disclose data collected
1969 pursuant to this subparagraph to agencies of the Federal
1970 Government and other states for use exclusively in determining
1971 the lawfulness of a firearm sale or transfer. The department is
1972 also authorized to disclose this data to the Department of

32-00049A-20

2020870__

1973 Agriculture and Consumer Services for purposes of determining
1974 eligibility for issuance of a concealed weapons or concealed
1975 firearms license and for determining whether a basis exists for
1976 revoking or suspending a previously issued license pursuant to
1977 s. 790.06(10). When a potential buyer or transferee appeals a
1978 nonapproval based on these records, the clerks of court and
1979 mental institutions shall, upon request by the department,
1980 provide information to help determine whether the potential
1981 buyer or transferee is the same person as the subject of the
1982 record. Photographs and any other data that could confirm or
1983 negate identity must be made available to the department for
1984 such purposes, notwithstanding any other provision of state law
1985 to the contrary. Any such information that is made confidential
1986 or exempt from disclosure by law shall retain such confidential
1987 or exempt status when transferred to the department.

1988 Section 47. 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)

SB 870

Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____

Topic SB 870 BAKER / MARCHMAN ACT

Name STEVE LEIFMAN

Job Title JUDGE - MIAMI-DADE

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Street

MIAMI FL 33125

City

State

Zip

Phone 305 803 3181

Email slEIFMAN@jud11.flcourts.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

APPEARANCE RECORD

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

1/28/10

Meeting Date

870

Bill Number (if applicable)

Topic

Mental Health

Name

Dr. Danielle Thomas

Job Title

Legislation Chair

Address

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Orlando

City

FL

State

32809

Zip

Phone

407 855 7604

Email

legislation@floridapter.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)

1/28/20
Meeting Date

SB 870
Bill Number (if applicable)

Topic SB 870

Amendment Barcode (if applicable)

Name Nyema Murray

Job Title Full time student / Therapist assist.

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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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/28/20
Meeting Date

~~870~~ 870
Bill Number (if applicable)

Topic MENTAL HEALTH

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title CEO

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1 ALACHUA FL 32301
City State Zip

Email NATALIE@FLMANAGING ENTITIES.COM

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

SB 870
Bill Number (if applicable)

Meeting Date _____

Topic Mental Health

Amendment Barcode (if applicable) _____

Name Karen Woodall

Job Title _____

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee, FL 32301
Street 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 Southern Poverty Law Center Action Fund

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.



2020 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 870
BILL TITLE:	Mental Health
BILL SPONSOR:	Senator Lauren Book
EFFECTIVE DATE:	July 1, 2020

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Judiciary
3) Appropriations
4)
5)

<u>CURRENT COMMITTEE</u>
Children, Families, and Elder Affairs

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 1229
SPONSOR:	Representative Gottlieb

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	2019: SB 818
SPONSOR:	
YEAR:	
LAST ACTION:	2019 SB 818: Indefinitely postponed and withdrawn from consideration • Died in Judiciary

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A

<u>Is this bill part of an agency package?</u>
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	November 18, 2019
LEAD AGENCY ANALYST:	Heather Allman, DCF, SAMH
ADDITIONAL ANALYST(S):	William Hardin, DCF, SAMH Elaine Fygetakis, DCF, SMHTF
LEGAL ANALYST:	Ivory Avant, DCF, OGC
FISCAL ANALYST:	Paula Anthony, DCF, ASB

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Senate Bill (SB) 870 will create significant changes to the processes for mental health and substance abuse examinations and treatment in Florida. The bill makes the following substantive changes:

- Adds qualifications to the definition for mental illness to exclude dementia and traumatic brain injury.
- Defines the terms “neglect or refuse to care for himself or herself” and “real and present threat of substantial harm.”
- Expands court authority by adding the power of contempt of court.
- Mandates that persons with a serious mental illness and a serious substance abuse addiction be afforded a post-discharge continuum of care regimen and that individuals with serious mental illness be provided “the essential elements of recovery.”
- Relating to guardian advocates, removes the prohibition for employees and administrators of treatment facilities, Departmental employees, or members of the Florida local advocacy council to be appointed as guardian advocates.
- Mandates that Baker Act receiving facilities refer a minor’s involuntary admission case to the court within 72 hours to get a public defender appointed for potential initiation of a clinical or judicial hearing.
- Allows individuals to be admitted as a civil patient in a state treatment facility without a transfer evaluation.
- Adds specific requirements for the minor’s voluntariness hearing who is seeking observation, diagnosis, or treatment of a mental health condition at a facility.
- Requires the facility administrator of a crisis stabilization unit or a residential treatment center to refer the case involving a minor’s admission to the clerk of the court for the appointment of a public defender.
- Repeals several sections of Part V of the Marchman Act, relating to involuntary assessment and stabilization and adds language to sections of involuntary treatment to place processes in the repealed sections.
- Defines the term “habitual abuser.”
- Allows the court to order six months of involuntary outpatient treatment if the individual meets the criteria for involuntary placement
- Changes the term “involuntary treatment” to “involuntary services.”

The bill has an effective date of July 1, 2020.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department of Children and Families’ (Department) Office of Substance Abuse and Mental Health (SAMH) is recognized as the single state authority for substance abuse and mental health services. SAMH is statutorily responsible for the planning and administration of all publicly-funded substance abuse and mental health services, and for licensing substance abuse providers.

Part I of Chapter 394, F.S., otherwise referred to as the Baker Act, defines and establishes procedures for involuntary examination and treatment of individuals with mental illness who are believed to be a danger to themselves or others. Prior to a voluntary admission to a designated receiving facility for evaluation and crisis stabilization, s. 394.4625(1)(a), F.S., requires a minor to undergo a hearing to verify the voluntariness of the consent. A hearing is not required for persons 18 years of age or older making application by express and informed consent for admission. The “hearing” referred to in this section for minors has been determined to be judicial, rather than administrative.

Chapter 397, F.S., otherwise referred to as the Marchman Act, provides the legislative authority to support a system of care that includes prevention, intervention, clinical treatment, and recovery support services for substance use. Parts I and V of the Marchman Act define and establish procedures for involuntary substance abuse admissions. The Marchman Act encourages individuals to seek services on a voluntary basis and to be actively involved in planning their own services with the assistance of qualified professionals. However, services often come as a result of outside intervention on behalf of the individual in need. An individual must meet specific criteria in order to be considered eligible for substance abuse services on an involuntary basis. The Marchman

Act establishes three non-court and two court-involved admission procedures under which substance abuse assessment, stabilization, and services can be obtained on an involuntary basis.

2. EFFECT OF THE BILL:

Section 1

The bill amends s. 394.455, F.S., relating to the definition section of the Baker Act. The bill amends the definition of mental illness to exclude dementia and traumatic brain injury, unless the person displays behavioral disturbances. The addition of “displaying behavioral disturbances” would also make individuals with developmental disabilities who display behavioral disturbances eligible for involuntary examination. However, behavioral disturbances are inherent in developmental disabilities such as autism, as well as, in neurological disorders such as dementia. Adding this statutory language may negate the beneficial effects of the exclusion, and may result in more individuals with developmental disabilities, traumatic brain injuries, and dementia being inappropriately admitted for mental health examinations under a Baker Act.

The bill adds a new definition for “neglect or refuse to care for himself or herself” to mean that a person is unable to satisfy basic needs that may result in death or serious harm, or the person is substantially unable to make an informed treatment choice and needs care or treatment to prevent deterioration. The new language including “clothing” as a basic need and the use of the word “or” as a connector, would indicate that a perceived need for clothing alone would meet the definition of “Neglect or refuse to care for himself or herself.” In addition, the word “disease” can include life-threatening as well as non-life-threatening illnesses.

The bill adds a definition for a “real and present threat of substantial harm” to include evidence that an untreated person will lack, refuse, or not receive services for health or safety, or will suffer severe harm leading to an inability to function cognitively or in their community generally. The definition of “real and present threat of substantial harm” includes the phrase “refusal of treatment.” Refusal of treatment may not constitute a threat of harm to oneself or others. For example, an individual who declines therapy for depression may not ever suffer from harm, intend to harm themselves, or anyone else. In addition, these criteria do not include active threats or attempts to harm oneself or others. Those actual verbalized threats or actions are not included in this definition. The Department will need to revise associated forms through rulemaking and provide training to law enforcement, practitioners, and public stakeholders.

Section 2

This section of the bill amends s. 394.459, F.S., relating to the rights of patients. It adds a subsection mandating that persons with a serious mental illness be afforded a post-discharge continuum of care regimen. These individuals with serious mental illness must be provided “the essential elements of recovery.” The Department will be required to adopt rules specifying the required services and the recipients who are entitled to these services. The phrase “essential elements of recovery” is not defined. Section 394.674, F.S. currently defines the Department’s priority populations, stating that individuals with serious mental illness are eligible to receive substance abuse and mental health services funded by the Department when the individual does not have some type of insurance or other way to pay for services. Some individuals impacted by this provision may not be eligible for Department funded services. It is unclear how services to those individuals would be provided. This provision may require additional funding.

Section 3

The bill amends s. 394.4598, F.S., relating to guardian advocates, stating employees and administrators of treatment facilities, Departmental employees, or members of the Florida local advocacy council “may” not be appointed as guardian advocates, instead of “shall” not.

Section 4

This section of the bill amends s. 394.4599, F.S., relating to involuntary admission, to mandate that receiving facilities refer a minor’s involuntary admission case to the court within 72 hours to get a public defender appointed for potential initiation of a clinical or judicial hearing. The facility must provide the representing attorney with all relevant records, and all hearings must be conducted in-person with the minor physically present. Violating provisions in this section’s subparagraph will constitute a first-degree misdemeanor.

If this bill is enacted, the Department will need to revise monitoring tools for designated receiving facilities. Receiving facilities may be impacted due to the potential for staff to be charged with a misdemeanor and may result in fewer providers wishing to render these services.

The requirement to notify the clerk of courts for involuntary inpatient placement beyond the 72-hour assessment period is already established s. 394.463(g), F.S., as is appointment of counsel and their access to the patient and records in s.394.467(b)4, F.S.

Section 5

The bill amends s. 394.461, F.S., to allow individuals to be admitted as a civil patient in a state treatment facility without a transfer evaluation. Before the Baker Act hearing case is closed, the state may establish that a transfer evaluation was conducted. The bill also prohibits the court from considering the substantive information in the transfer evaluation unless the psychiatric evaluator testifies at the hearing.

This provision in statute currently requires the transfer evaluation prior to admission to a state mental health treatment facility. This bill language removes the requirement for the transfer evaluation to be completed prior to admission to a state mental health treatment facility and may enable some flexibility in the transfer process.

Section 6

Section 394.4615, F.S., relating to clinical records; confidentiality, is amended. It deletes one of the two purposes for releasing the clinical record to the state attorney, the public defender or the patient's private legal counsel, the court, and to the appropriate mental health professionals. The remaining purpose is to determine if the person meets involuntary outpatient placement criteria. This section also deletes the service provider as a party to whom the clinical record may be released.

Section 7

This section of the bill amends s. 394.462, F.S., relating to transportation of individuals to and from receiving facilities, to delete one referenced section from Chapter 397, F.S. regarding court-involved admissions. It adds another section from Chapter 397, F.S., relating to hearings for involuntary hearings for substance abuse treatment.

Section 8

The bill amends s. 394.4625, F.S., to define a voluntariness hearing for minors seeking observation, diagnosis, or treatment of a mental health condition at a facility. The hearing must be a clinical proceeding organized within 72 hours of arrival by the receiving facility and initiated by the facility administrator. The bill requires the facility administrator to initiate the voluntariness hearing by filing two petitions, one for involuntary treatment and one for voluntary placement. Currently, petitions for voluntary placement do not exist. Also, a public defender will be immediately appointed to determine whether the minor's consent is voluntary or not. If not, the facility will be required to discharge the minor or admit him or her involuntarily. The Department will have to develop rules for the clinical non-court proceeding hearing.

In addition, the bill amends s. 394.4625(4), F.S., to add that a minor who applies to be transferred from involuntary status to voluntary status must receive a voluntariness hearing within 72 hours. The facility will be required to contact the same public defender and notify the court.

Section 9

This section of the bill amends s. 394.463(1), F.S., providing that a person may be subject to an involuntary examination if the person is subject to severe harm and it is not apparent that such harm may be avoided through the help of willing, *able*, and *responsible* family members or friends. The bill also provides that if there is a substantial likelihood that, *in the near future and* without care or treatment, the person will *inflict serious* harm to self or others. The bill adds that the evidence of likelihood for harm can be acts, omissions, or behaviors that can include significant damage to property.

Section 394.463(2), F.S., is amended in the bill to add that the facility must notify the Department of the minor's admission and case outcome at the end of the involuntary mental health examination period.

The bill creates s. 394.463(5), F.S., regarding penalties for unlawful activities relating to examination and treatment. The unlawful activities detailed in the bill are: (a) knowingly furnishing false information for the purpose of obtaining emergency or other involuntary admission for any person; (b) causing or conspiring with another to cause, any involuntary mental health procedure for the person without a reason for believing a person is impaired; or, (c) causing, or conspiring to cause, any person to be denied their rights under the mental health statutes unlawful acts would be a misdemeanor of the first degree, punishable as provided by a fine up to \$5,000.

Section 10

The bill amends s. 394.4655, F.S., relating to involuntary outpatient services. Section 394.4655(1)(a), F.S., allows the court to order six months of involuntary outpatient treatment if the individual meets the criteria for involuntary placement and has been jailed or incarcerated, involuntarily admitted into a facility, or received forensic or correctional mental health treatment, at least twice during the past 36 months. The outpatient treatment must be provided where the individual will reside. Also, the individual's treating physician must certify that the individual can be more appropriately treated on an outpatient basis, can follow a treatment plan, and not likely to become dangerous, suffer more harm, or deteriorate if the treatment plan is followed.

Section 394.4655(1)(b), F.S., states: for the duration of his or her treatment, the respondent must be supervised by a willing, able, and responsible friend, family member, social worker, case manager of a licensed service provider, guardian, and guardian advocate. This supervisor must inform the court, state attorney, and public defender of any failure by the respondent to comply with his or her outpatient program. Also, the bill adds that criminal county courts may order a person into involuntary outpatient services.

Involuntary outpatient services will no longer be limited to adults, and these services are an alternative to involuntary inpatient placement. The language creates specific criteria for the physician to certify including whether the individual is more appropriately served by outpatient services, can follow a treatment plan and is not likely to become dangerous.

Section 11

This section of the bill amends s. 394.467, F.S., relating to involuntary inpatient placement. The bill adds the term "able" to the persons inability to survive without the assistance of willing and responsible family or friends. Also, it mirrors amended language to 394.463, relating to involuntary examination criteria. The bill provides that with respect to a hearing on involuntary inpatient placement, both the patient and the state are independently entitled to at least one continuance of the hearing. The patient's continuance may be for a period of up to four weeks and requires concurrence of the patient's counsel. The state's continuance may be for a period of up to seven court working days and requires a showing of good cause and due diligence by the state before it can be requested. The state's failure to timely review readily available document, or failure to attempt to contact a known witness does not merit a continuance. The bill requires the court to increase the number of court working days in which the hearing may be held from five to seven. The bill allows for all witnesses to a hearing to appear telephonically or by other remote means. The bill also allows the state attorney to access the patient, any witnesses, and any records needed to prepare its case.

The bill also amends s. 394.467(1)(a)2.b., F.S., by deleting the word "bodily" from the phrase "serious bodily harm" when referencing the likelihood of harm to justify involuntary placement. The section is additionally amended to stipulate that individuals will be considered for involuntary placement when they are likely to commit "serious harm" to themselves or others, which includes "but is not limited to, significant property damage." The inclusion of "significant property damage" may increase civil commitments to state mental health treatment facilities. In addition, serious harm to include "significant property damage" is not defined. The bill adds new language that allows for "acts" or "omissions" to be utilized as evidence for involuntary placement. The bill also removes the requirement that the evidence utilized to determine involuntary placement be "recent" acts, omissions or behaviors causing, attempting or threatening harm. These proposed changes may expand the things that can be utilized as evidence, including allowing consideration for behaviors that are not recent.

The bill increases the period of time during which a patient being treated on an involuntary basis may be retained at a treatment facility or otherwise continue to receive inpatient services from 90 days to six months. The bill also permits a court to order an individual with traumatic brain injury or dementia who lacks a co-occurring mental illness to be placed in a state treatment facility only if evaluations show that such individuals may benefit from behavioral health treatment; requiring that such individuals must be referred to the Agency for Persons with Disabilities (APD) or the Department of Elder Affairs (DOEA) for placement in a medical rehabilitation facility or supportive residential placement addressing their needs. There is no timeline noted, however, as to how quickly either of these departments need to act. If the treatment facility determines that the individual would be found incapacitated, and the individual does not already have a legal guardian, the facility must inform any known next of kin and initiate guardianship proceedings. The facility may hold the individual until the petition to appoint a guardian is heard by the court and placement is secured.

Section 12

The bill amends s. 394.4785, F.S., relating to admission and placement of children and adolescents in mental health facilities. The bill requires the facility administrator of a crisis stabilization unit or a Residential Treatment Center (RTC) to refer the case involving a minor's admission to the clerk of the court for the appointment of a

public defender for a potential initiation of a clinical or judicial hearing within 72 hours after the minor is admitted. The bill requires the attorney who represents the minor to have access to all relevant records. In addition, all hearings involving minors must be conducted in the physical presence of the minor and may not be conducted through electronic or video communication. Violation of this subsection is punishable as a misdemeanor of the first degree.

This section of the bill includes RTCs, which are not designated by the Department and cannot receive or admit children under the Baker Act. In addition, the 72-hour standard is already required for crisis stabilization units and hospitals licensed under Chapter 395, F.S. It is unclear why children and adolescents in an RTC would be subject to a clinical or judicial hearing under this section of the law. Services provided in those facilities are longer term and not specific to individuals in crisis and the courts would be required to conduct a clinical or judicial hearing for most youth served by RTCs. This may lead to an increase in the number of hearings. This bill may disrupt the entire process by which individuals are admitted into RTCs. The Department will be required to amend rule Chapter 65E-9, F.A.C. which regulates residential treatment for children and adolescents.

Section 13

This section of the bill amends s. 394.495, F.S., relating to the child and adolescent mental health system of care. It identifies professionals who can perform an assessment and who can directly supervise others who conduct an assessment as “a clinical psychologist, clinical social worker, physician, psychiatric nurse, or psychiatrist”, as well, as professionals licensed under Chapter 491, F.S.

This section has no impact on the Department.

Section 14

The bill amends s. 394.496, F.S., relating to service planning under comprehensive child and adolescent mental health services. Like Section 13, this section identifies professionals who can develop a service plan as “a clinical psychologist, clinical social worker, physician, psychiatric nurse, or psychiatrist”, as well, as professionals licensed under Chapter 491, F.S.

This section has no impact on the Department.

Section 15

This bill amends s. 394.499, F.S. relating to integrated children’s crisis stabilization unit/juvenile addictions receiving facility services. It adds the terms “parent or legal” in front of guardian to state: (a) A person under 18 years of age for whom voluntary application is made by his or her *parent or legal* guardian. Also, the bill adds a statutory reference to the voluntary admissions section in statute (s. 394.4625, F.S.).

This section of the bill will have no impact on the Department.

Section 16

This section of the bill amends s. 394.9085, F.S., relating to behavioral provider liability. The amended language re-numbers the subsection for the definition for “Receiving facility”.

This section of the bill will have no impact on the Department.

Section 17

The bill amends s. 397.305, F.S., relating to the Legislative findings, intent, and purpose of the Substance Abuse Services Chapter. The bill adds the term “most appropriate” to state: It is the purpose of this chapter to provide for a comprehensive continuum of accessible and quality substance abuse prevention, intervention, clinical treatment, and recovery support services in the *most appropriate and* least restrictive environment.

This section of the bill will have no impact on the Department.

Section 18

The bill re-designates certain subsections relating to s. 397.311, F.S., relating to definitions for the substance abuse services chapter. Also, it adds the new definitions proposed in section 1 of this bill.

This section of the bill will have no impact on the Department.

Section 19

The bill amends s. 397.416, F.S., relating to qualified professionals for substance abuse treatment services to re-designate a statutory reference.

This section of the bill will have no impact on the Department.

Section 20

This section of the bill amends s. 397.501, F.S., relating to rights of individuals receiving substance abuse services. The bill adds a subsection requiring that a person with a serious substance abuse addiction be afforded “essential elements of recovery” and “placed in a continuum of care regimen”. Under this bill, the Department must adopt rules specifying the specific services and eligibility criteria to receive the services.

The “essential elements of recovery” is not defined in Chapter 397, F.S., relating to Substance Abuse Services. Section 394.674, F.S. currently defines the Department’s priority populations for substance abuse services based on federal block grant requirements. The individuals that are included in this section of the bill may not meet the criteria for the priority populations currently identified in statute. This provision may require additional funding.

Section 21

The bill amends s. 397.675, F.S., relating to the criteria for involuntary admissions for substance abuse services. This section of the bill mirrors the statutory section of the Marchman Act to the proposed changes to the involuntary treatment criteria under the Baker Act, as detailed in section 9 of this bill.

Section 22

The bill amends s. 397.6751, F.S., relating to substance abuse service provider responsibilities regarding involuntary admissions. The bill adds the term “most appropriate”. It requires that all individuals who are involuntarily admitted receive the *most appropriate* and least restrictive environment conducive to the patient’s treatment needs.

Best practice and Department rules for providers already dictate that behavioral health treatment is appropriate, necessary, individualized, and least restrictive. This section of the bill will have no impact on the Department.

Section 23

This section of the bill amends s. 397.681, F.S., relating to involuntary petitions, general provisions, court jurisdiction, and right to counsel regarding Marchman Act services. The bill adds a new subsection requiring, for court-involved proceedings, that the state attorney represent the state rather than the petitioner in all proceedings for involuntary admissions. The state attorney may access a wide variety of documents, media, and reports to evaluate and prepare its case. The records will remain confidential. The petitioner cannot access any of these records not entered into the court file. The state attorney cannot use the records for any purpose other than civil commitment, including criminal investigation or prosecution.

Providers and facility administrators are impacted by these changes to accommodate the state attorneys’ efforts in obtaining access to records, and to the respondent. This section of the bill will not impact the Department.

Section 24

The bill repeals s. 397.6811, F.S., relating to involuntary assessment and stabilization. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

This section of the bill will have no impact on the Department.

Section 25

The bill repeals s. 397.6814, F.S., relating to involuntary assessment and stabilization; contents of petition. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

The bill repeals all the involuntary assessment and stabilization sections of the law. However, without that level of services, it is challenging to determine when the assessment is required and how it is utilized for the admission process.

Section 26

The bill repeals s. 397.6815, F.S., relating to involuntary assessment and stabilization; procedure. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

The bill repeals the involuntary assessment and stabilization procedure sections of the law. Without this section of law, it may be challenging to determine when the assessment is required and how it is utilized for the admission process.

Section 27

The bill repeals s. 397.6818, F.S., relating to court determination. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

In repealing the court determination section of the statutes regulating involuntary admissions procedures for substance abuse services, it will be challenging to determine when and how this process will be utilized.

Section 28

The bill repeals s. 397.6819, F.S., relating to involuntary assessment and stabilization; responsibility of licensed service provider. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

This section of the bill will have no impact on the Department.

Section 29

The bill repeals s. 397.6821, F.S., relating to extension of time for completion of involuntary assessment and stabilization. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

Other proposed amendments in this bill change these extension of time requirements. The Department will likely be required to amend rules and conduct needed training.

Section 30

The bill repeals s. 397.6822, F.S., relating to disposition of individual after involuntary assessment. It appears that the bill is streamlining the involuntary treatment process by adding new language in other sections of the bill to regulate the involuntary treatment process.

This section of the bill will have no impact on the Department.

Section 31

This section of the bill amends s. 397.693, F.S., relating to involuntary treatment, to add that a person subject to involuntary treatment merely needs to “reasonably appear to meet” the admission criteria instead of meeting the admission criteria. This bill deletes the admission criteria that a person was subject to involuntary assessment and stabilization or alternative involuntary admission with the previous 12 days.

Section 32

The bill amends s. 397.695, F.S., relating to involuntary services. In the bill, the term services is changed to “treatment”. A subsection is added to state that fees for service of process may be waived or prohibited.

This section of the bill will have no impact on the Department.

Section 33

This section of the bill amends s. 397.6951, F.S., relating to the contents of the petition for involuntary services. The bill replaces “services” with “treatment”. The bill removes the requirement that petitions for involuntary treatment contain findings and recommendations of the qualified professional’s assessment.

The bill requires a petition for involuntary treatment to show the petitioner’s belief that the individual:

- a) Lost the power of self-control or has a history of noncompliance with treatment;
- b) Needs the services, but the substance abuse has impaired their judgment; and,
- c) Without the services, the individual will likely suffer from neglect or refuse to care for themselves which poses a real and substantial threat of harm and is unavoidable without the help of others or provision of

services; or, there is substantial likelihood of serious harm to self or others, including significant property damage.

The bill provides that a petition may be accompanied by a certificate or report of a qualified professional or licensed physician who conducted the examination within the past 30 days. The certificate must contain the professional's findings and if the respondent refuses to submit to an examination must document the refusal.

The bill provides that in the event of an emergency, the petition must also include a description of the exigent circumstances and a request for an ex parte assessment and stabilization order.

This section of the bill will have no impact on the Department.

Section 34

The bill amends s. 397.6955, F.S., relating to duties of the court upon filing of petition for involuntary treatment. The bill amends the duties of the court upon the filing of a petition for involuntary treatment, requiring the clerk of court to notify the state attorney of the filed petition, in addition to notifying the respondent's counsel if appointed. The court must schedule a hearing on the petition within 10 court working days unless a continuance is granted.

If an emergency is asserted, then the court may rely solely on the contents of a petition to enter an ex parte order for an involuntary assessment and stabilization of the respondent. The court may order a law enforcement officer or other designated agent to take the respondent into custody and deliver them to the nearest treatment facility; and, serve that person with the notice of the hearing and a copy of the petition, if a hearing date was set. Also, under this bill, the service provider has 72 hours of observation unless certain conditions specified in the bill are present.

This section of the bill will have no impact on the Department.

Section 35

The bill amends s. 397.6957, F.S., relating to hearings on petitions for involuntary treatment. The bill mandates that a respondent be present during a hearing on an involuntary treatment petition unless the respondent has knowingly and willingly waived their right to appear. Testimony from family members familiar with the respondent's history and how it relates to their current condition is permissible. The bill allows for all witnesses to a hearing to appear telephonically or by other remote means.

The bill provides that if the respondent has not previously been assessed by a qualified professional, the court must allow 10 days for the respondent to undergo such evaluation, unless the court suspects that the respondent will not appear at a rescheduled hearing or refuses to submit to an evaluation, the court may enter a preliminary order committing the respondent to an appropriate treatment facility until the rescheduled hearing date. The respondent's evaluation must occur within 72 hours of arrival at the treatment facility, unless the individual shows signs of withdrawal, the need for detoxification, or treatment of their medical condition. If the facility cannot have the evaluation completed in this time period, they must petition the court for an extension of time not to extend beyond a period of 72 hours before the reschedule hearing. Copies of the evaluation report must be provided to all parties and their counsel, and the respondent may be held, and treatment initiated until the rescheduled hearing. The court may order law enforcement to transport the respondent as needed to and from a treatment facility to the court for the rescheduled hearing.

The bill requires the petitioner to prove, through clear and convincing evidence that the respondent is substance abuse impaired, has lost the power of self-control with respect to substance abuse, and has a history of lack of compliance with treatment. The bill requires the petitioner to also prove that it is likely that the respondent poses a threat of substantial harm to their own well-being and it is apparent that such harm may not be avoided through the help of willing, able, and responsible family member or friends or the provision of services, or that there is a substantial likelihood that, unless admitted, the respondent will cause harm to themselves or others, which may include property damage.

The bill allows the court to initiate involuntary proceedings at any point during the hearing if it reasonably believes that the respondent is likely to injure themselves if allowed to remain free. Any treatment order entered by the court at the conclusion of the hearing must contain findings regarding the respondent's need for treatment and the appropriateness of other less restrictive alternatives. The bill also allows such orders to designate specific service providers. In this section of the bill, if after 90 days the respondent remains unassessed, then the court shall dismiss the case.

Section 36

This section of the bill amends s. 397.697, F.S., relating to court determination and effect of the court order for involuntary treatment. The bill states that, in order to qualify for involuntary outpatient treatment, an individual must be accompanied by a willing, able, and responsible advocate who will inform the court if the individual fails to comply with their outpatient program. The bill also requires that if outpatient treatment is offered in lieu of inpatient treatment, it may be offered for up to six months if it is established that the respondent meets involuntary placement criteria and has been involuntarily ordered into inpatient treatment at least twice during the past 36 months, the outpatient provider is in the same county as the respondent, and the respondent's treating physician certifies that the respondent can be more appropriately treated on an outpatient basis, can follow a treatment plan, and is not likely to become more dangerous or deteriorate if such a plan is followed.

The bill requires the court to retain jurisdiction in all cases resulting in involuntary inpatient treatment so that it may monitor compliance with treatment, change treatment modalities, or initiate contempt of court proceedings as needed.

Section 37

The bill amends s. 397.6971, F.S., relating to early release from involuntary services. Under this section, the term "services" is replaced with "treatment" throughout this section.

This section of the bill will have no impact on the Department.

Section 38

This section of the bill amends s. 397.6975, F.S., relating to the extension of involuntary services. Under this section, the term "services" is replaced with "treatment" throughout. The bill also adds that a petition for extending treatment may be filed by the service provider or by the person who filed the petition for the initial treatment order if the petition includes supporting documentation. The court's requirement for scheduling a hearing is reduced from 15 days to 10 court working days. This section of the bill also deletes the requirement for the court to appoint the office of criminal conflict and civil regional counsel to represent the individual. Also deleted are requirements for: the hearings to occur before the circuit court; providing a notice of the hearing to the respondent and their counsel and allowing the respondent and their counsel to agree to continued involuntary services without a hearing; mandating the same court procedure for each involuntary services extension; and, mandating that the court consider testimony and evidence regarding competence if the respondent was previously found incompetent.

Section 39

The bill creates s. 397.6976, F.S., providing that a person who meets the involuntary treatment criteria under the Marchman Act and is determined to be a habitual abuser may be committed by the court, after notice and hearing, to inpatient or outpatient treatment without an assessment, not to exceed 90 days unless extended as permitted under statute. The bill defines a habitual abuser as any person who has been involuntarily treated under the Marchman Act three or more times during the 24 months before the date of the hearing if each prior treatment was initially for a 90-day period.

Section 40

The bill amends s. 397.6977, relating to the disposition of individual upon completion of involuntary service. Under this section, the term "services" is replaced with "treatment" throughout.

This section of the bill will have no impact on the Department.

Section 41

The bill repeals s. 397.6978, F.S., relating to relating to guardian advocates; patients' incompetent consent; and, substance abuse disorder.

This section of the bill will have no impact on the Department.

Section 42

This section of the bill amends s. 397.706, F.S., relating to screening, assessment, and disposition of juvenile offenders. The bill adds minors found to be "substance abuse impaired" with juvenile offenders, and the families of both, for whom the court may require assessment and treatment.

Under this bill, providers will be required to prioritize placement into treatment for a minor who agrees to comply with the court's involuntary treatment order. These placements are in demand, and this provision may reduce access to placement for individuals seeking services voluntarily.

Section 43

The bill amends s. 409.972, F.S., relating to Medicaid enrollment, to change a statute cross reference.

This section of the bill will have no impact on the Department.

Section 44

The bill amends s. 464.012, F.S., relating to licensure of advanced practice registered nurses, fees, and controlled substance prescribing, to change a statute cross reference.

This section of the bill will have no impact on the Department.

Section 45

The bill amends s. 744.2007, F.S., relating to powers and duties of the public guardians to change a statute cross reference.

This section of the bill will have no impact on the Department.

Section 46

The bill amends s. 790.065, F.S., relating sale and delivery of firearms to eliminate cross references.

This section of the bill will have no impact on the Department.

Section 47

This section provides an effective date of July 1, 2020.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

If yes, explain:	The Legislation directs the Department to adopt rules specifying the mental health and substance use treatment services that must be provided post-discharge involuntary assessment and treatment. Rulemaking will also be needed to amend Baker Act forms.
What is the expected impact to the agency's core mission?	None.
Rule(s) impacted (provide references to F.A.C., etc.):	Chapters 65E-5, 65E-9 and 65D-30

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

If yes, provide a description:	No.
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

Board:	No.
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The Department's Office of Administrative Services finds that there are no expenditures generated by this bill.
Does the legislation increase local taxes or fees?	The Department's Office of Administrative Services finds that this bill does not increase local taxes or fees.
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?	The Department's Office of Administrative Services finds that this section is not applicable.

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	<p>The bill adds subsections mandating that persons with a serious mental illness or serious substance abuse addiction be afforded "the essential elements of recovery" upon discharge. This phrase is not defined. Section 394.674, F.S. currently defines the Department's priority populations, stating that individuals with serious mental illness are eligible to receive substance abuse and mental health services funded by the Department when the individual does not have some type of insurance or other way to pay for services. It is likely that some individuals impacted by this provision will not be eligible for Department funded services. The Department has no feasible way to predict how many more individuals would require services through a community mental health center, as a result of the changes proposed by the bill. Managing Entities negotiate rates with community mental health providers for various behavioral health services. For example, on average, Managing Entities pay \$86.00 per hour for an assessment, which is usually the first of an array of needed services needed for recovery. For the increase in the number of individuals eligible for these services through the Department, the funding available to pay for those services will need to be increased.</p> <p>The Department's Office of Administrative Services cannot determine the increase in expenditures for individuals that will be generated by this bill.</p>

	Costs incurred for revisions to policy changes, procedures, updates to forms and training to Managing Entities and providers will be minimal.
Does the legislation contain a State Government appropriation?	The Department's Office of Administrative Services finds that this bill does not contain a State Government Appropriation.
If yes, was this appropriated last year?	The Department's Office of Administrative Services finds that this section is not applicable.

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The Department's Office of Administrative Services finds that there are expenditures generated by this bill that require updates to forms to accommodate new requirements and to train service provider staff and administrators on the new requirements.
Other:	The Department's Office of Administrative Services finds that this section is not applicable.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	The Department's Office of Administrative Services finds that the bill adds a fine not exceeding \$5,000 as a penalty for certain unlawful activities relating to examination and treatment. The bill does not increase taxes or fees.
Does the bill decrease taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not decrease taxes, fees, or fines.
What is the impact of the increase or decrease?	The Department's Office of Administrative Services finds that the penalties in this bill will not impact the Department. The impact of the penalties on public stakeholders is unknown, at this time.
Bill Section Number:	Section 9 of the bill.

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	The Department's Office of Information Technology Services finds that this bill does not impact the Department's technology systems.
If yes, describe the anticipated impact to the agency including any fiscal impact.	The Department's Office of Information Technology Services finds that this section is not applicable.

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding,	The Department's Office of Substance Abuse and Mental Health does not find that there will be a federal impact due to the provisions of this bill.
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federal agency involvement, etc.)?	
If yes, describe the anticipated impact including any fiscal impact.	The Department's Office of Substance Abuse and Mental Health finds that this section is not applicable.

ADDITIONAL COMMENTS

Sections 9 and 21

The bill language identifying the criteria for involuntary admissions, adding “significant property damage” appears vague. If this bill is enacted, the Department will be required to revise rules and forms to align with this statute. These newly enacted terms may prove to be challenging to meet the State’s rulemaking standards. The Department will also need to provide additional training.

Sections 10 and 36

The provision allowing a friend or family member to act as an individual’s “supervisor” is may be difficult to enforce.

Section 35

It would be beneficial to add a specific time-frame in the bill for re-setting the 72-hour period to address signs of withdrawal, the need for detoxification, or treatment of their medical condition. Moreover, there is a provision ordering involuntary treatment for “habitual abusers”, *without a clinical assessment*. The clinical assessment drives the course of treatment and is needed to determine the appropriate type and frequency of services needed. Regardless of the pattern or severity of an individual’s substance use, a clinical assessment conducted within 5 days of admission would be beneficial to determine whether services are necessary.

Section 39

There is a provision in this section permitting inpatient or outpatient treatment for “habitual abusers”, without a clinical assessment. It would be beneficial to require that an assessment be conducted within 5 days of admission or that a previous assessment conducted during the individual’s most recent admission be obtained. It should be noted that many individuals with substance use disorders may meet the criteria as a habitual abuser, because the road to recovery typically includes at least some relapse.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments and recommended action:	The Department’s Office of the General Counsel has no issues, concerns, or comments on this bill.
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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 Children, Families, and Elder Affairs

BILL: CS/SB 1120

INTRODUCER: Children, Families, and Elder Affairs and Senator Harrell

SUBJECT: Substance Abuse Services

DATE: January 29, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

CS/SB 1120 addresses individuals who have been disqualified for employment with substance abuse service providers following a failed background screening by requiring the Department of Children and Families (DCF) to provide exemptions from employment disqualification for certain offenses. The bill condenses several background screening sections of Chapter 397, F.S., into a single set of requirements and modifies patient-brokering laws to exempt discount, waivers of payment, or payments not prohibited by federal anti-kickback statutes. The bill also applies such exemptions to all payment methods by a federal health care program, and provides that patient-brokering constitutes a first-degree misdemeanor.

The bill may have a positive impact on both private service providers and DCF and takes effect on July 1, 2020.

II. Present Situation:

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ Substance use disorder occurs when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.² Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use

¹ World Health Organization. *Substance Abuse*, available at http://www.who.int/topics/substance_abuse/en/ (last visited on January 22, 2020).

² Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, available at <http://www.samhsa.gov/disorders/substance-use> (last visited on January 22, 2020).

disorder.³ Brain imaging studies of persons with substance use disorder show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.⁴

Substance Abuse Treatment in Florida

DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. SAMH programs include a range of prevention, acute interventions (such as crisis stabilization or detoxification), residential, transitional housing, outpatient treatment, and recovery support services.

DCF provides treatment for substance abuse through a community-based provider system that serves adolescents and adults affected by substance misuse, abuse or dependence.⁵ DCF regulates substance abuse treatment by licensing individual treatment components under chapter 397, F.S., and chapter 65D-30, F.A.C.

The 2017 Legislature passed and the Governor approved HB 807, which made several changes to DCF's licensure program for substance abuse treatment providers in chapter 397, F.S.⁶ HB 807 revised the licensure application requirements and process and required applicants to provide detailed information about the clinical services they provide.

Recovery Residences

Recovery residences function under the premise that individuals benefit in their recovery by residing in an alcohol and drug-free environment. Recovery residences are designed to be financially self-sustaining through rent and fees paid by residents, and there is no limit on the length of stay for those who abide by the rules.

Section 397.311, F.S., defines a recovery residence as a residential dwelling unit, or other form of group housing, offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A 2009 Connecticut study notes the following: "Sober houses do not provide treatment, [they are] just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation."⁷

³ National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited on January 22, 2020).

⁴ *Id.*

⁵ Department of Children and Families, *Treatment for Substance Abuse*, <http://www.myflfamilies.com/service-programs/substance-abuse/treatment-and-detoxification>, (last visited on January 22, 2020).

⁶ Ch. 2017-173, L.O.F.

⁷ *Id.*

Voluntary Certification of Recovery Residences in Florida

Florida does not license recovery residences. Instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.

While certification is voluntary, Florida law incentivizes certification. Since July 1, 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence is certified and is actively managed by a certified recovery residence administrator.⁸ Referrals by licensed service providers to uncertified recovery residences are limited to those licensed service providers under contract with a managing entity as defined in s. 394.9082, F.S.; referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral; and referrals before July 1, 2018 by a licensed service provider to that licensed service provider’s wholly owned subsidiary.⁹

Background Screening Under Ch. 435, F.S.

Chapter 435, F.S., addresses background screening requirements for persons seeking employment or for employees in positions that require a background screening. An employer¹⁰ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person¹¹ that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency¹² as provided under s. 435.07, F.S.¹³

If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires a background screening until the arrest is resolved in a way that the employer determines that the employee is still eligible for employment under ch. 435, F.S.¹⁴ The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of ch. 435, F.S., or place the employee in a position

⁸ S. 397.4873(1), F.S.

⁹ S. 397.4873(2), F.S.

¹⁰ “Employer” means any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S. Section 435.02(3), F.S.

¹¹ Vulnerable persons are defined as minors in s. 1.01, F.S., or as vulnerable adults in s. 415.102, F.S.

¹² “Agency” means any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer or is itself an employer or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, “agency” means the DCF. Section 435.02(1), F.S.

¹³ Section 435.06(2)(a), F.S.

¹⁴ Section 435.06(2)(b), F.S.

for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07, F.S.¹⁵

An employer may hire an employee to a position that requires a background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.¹⁶

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening: level 1 and level 2:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,¹⁷ and may include criminal records checks through local law enforcement agencies.¹⁸
- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.¹⁹

The security background investigations under s. 435.04, F.S., for level 2 screening must ensure that no persons subject to this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent, and the record has not been sealed or expunged for, any offense listed in s. 435.04(2), F.S., or a similar law of another jurisdiction.²⁰ Additionally, such investigations must ensure that no person subject to s. 435.04, F.S., has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense that constitutes domestic violence in s. 741.28, F.S., whether such act was committed in this state or another jurisdiction.²¹

For both levels of screening, the person required to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening under ch. 435, F.S.,²² and must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.²³ Every employee must attest, subject to penalty of perjury, to meeting the requirements for qualifying

¹⁵ Section 435.06(2)(c), F.S.

¹⁶ Section 435.06(2)(d), F.S.

¹⁷ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited on January 22, 2020).

¹⁸ Section 435.03(1), F.S.

¹⁹ Section 435.04(1)(a), F.S.

²⁰ Section 435.04(2), F.S.

²¹ Section 435.04(3), F.S.

²² Section 435.05(1)(a), F.S.

²³ Section 435.05(1)(d), F.S.

for employment pursuant ch. 435, F.S., and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.²⁴

For level 1 screening, the employer must submit the information necessary for screening to the Florida Department of Law Enforcement (FDLE) within 5 working days after receiving it. The FDLE must conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.²⁵

For level 2 screening, the employer or agency must submit the information necessary for screening to the FDLE within 5 working days after receiving it. The FDLE must perform a criminal history record check of its records and request that the FBI perform a national criminal history record check. The FDLE must respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.²⁶

Each employer licensed or registered with an agency must conduct level 2 screening and must submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed attestation attesting to compliance with the provisions of ch. 435, F.S.²⁷

Individuals Requiring Background Screening Under Ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services, and peer specialists who have direct contact with individuals receiving services, to undergo level 2 background screenings. The credentialing entity for recovery residences must deny an application if any of these individuals has been found guilty of, plead nolo contendere to, or had an adjudication of guilt withheld for, any offense listed in s. 408.809(4), F.S., unless the department has issued an exemption under s. 397.4073, F.S.

Regarding recovery residences, ss. 397.487(6), F.S., 397.4871(5), F.S., and 408.809, F.S., each require level 2 background screening for all recovery residence owners, directors, and chief financial officers, and for administrators seeking certification.

Exemptions from Disqualification for Employment

Section 435.07(1), F.S., authorizes the head of the appropriate agency to grant to any employee otherwise disqualified from employment due to certain disqualifying offenses an exemption from such disqualification. For a felony, three years must have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed. No waiting period applies to misdemeanors.

- Additionally, s. 435.07(2), F.S., provides that persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are

²⁴ Section 435.05(2), F.S.

²⁵ Section 435.05(1)(b), F.S.

²⁶ Section 435.05(1)(c), F.S.

²⁷ Section 435.05(3), F.S.

disqualified from employment solely because of certain crimes may be exempted from disqualification from employment pursuant to ch. 435, F.S., without application of the 3-year waiting period for felony offenses in s. 435.07(1)(a)1., F.S. The crimes specified under the statute are:²⁸

- s. 817.563, F.S. (sale of imitation controlled substance),
- s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking),
- s. 893.147, F.S. (drug paraphernalia offenses)
- s. 796.07(2)(e), F.S., (prostitution-related offenses)
- s. 810.02(4), F.S. (unarmed burglary of a structure)
- s. 812.014(2), F.S. (third degree grand theft)
- s. 831.01, F.S. (forgery)
- s. 832.02, F.S. (offenses involving uttering or publishing a forged instrument); and
- Any attempt, solicitation, or conspiracy to commit any of these offenses or any offense currently listed in the section.

Section 397.4073(4), F.S., authorizes DCF to grant any service provider personnel an exemption from disqualification as provided in s. 435.07, F.S. DCF may grant exemptions from disqualification to service provider personnel whose backgrounds checks indicate crimes under s. 817.563, F.S., s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking), or s. 893.147, F.S., or grant exemptions from disqualification which would limit service provider personnel to working with adults in substance abuse treatment facilities. DCF must render a decision on the application for exemption from disqualification within 60 days after DCF receives the complete application. Additionally, individuals are permitted to work under supervision for up to 90 days solely in mental health treatment programs or facilities or in programs or facilities that treat co-occurring substance use and mental health disorders while DCF evaluates their applications for an exemption from disqualification, so long as it has been five or more years since the individuals have completed all non-monetary conditions associated with their most recent disqualifying offense.

Section 397.4872(1), F.S., provides that the individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to DCF within 20 days after the denial by the credentialing entity and must include a justification for the exemption. Subsection (2) provides, with some exceptions, DCF may exempt a person from ss. 397.487(6), and 397.4871(5), F.S., if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense.

Patient Brokering

In Florida, it is unlawful for any person, including a health care provider or health care facility, to engage in patient brokering.²⁹ Patient brokering is paying to induce, or make a payment in return for, a referral of a patient to or from a health care provider or health care facility. Such payments include commissions, benefits, bonuses, rebates, kickbacks, bribes, split-fee

²⁸ Section 435.07(2), F.S.

²⁹ Section 817.505, F.S.

arrangements, in cash or in kind, provided directly or indirectly.³⁰ A person who violates the patient brokering statute commits a felony of the third degree.³¹ If the violation involves 10 to 19 patients, the person commits a felony of the second degree.³² If the violation involves more than 20 patients, the person commits a felony of the first degree.³³

There are a number of exceptions to the prohibition on patient brokering, including:³⁴

- Any discount, payment, waiver of payment, or payment expressly authorized by the Federal Anti-Kickback Statute or regulations;
- Any payment, compensation or financial arrangements within a group practice, provided such payment, compensation, or arrangement is not to or from persons who are not members of the group practice;
- Payments to a health care provider or health care facility for professional consultation services;
- Commissions, fees, or other remuneration lawfully paid to insurance agents;
- Payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance abuse goods or services under a health benefit plan;
- Payments to or by a health care provider or health care facility that has contracted with a health insurer, health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance abuse goods or services under a health benefit;
- Lawfully authorized insurance advertising gifts;
- Commissions or fees paid to a nurse registry for referring persons providing health care services to clients of the nurse registry;
- Certain payments by health care providers or health care facilities to a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about provider of health care good or services to enable consumers to select appropriate providers of facilities; and
- Certain payments authorized for assisted living facilities

Until 2019, the patient brokering statute did not apply to any discount, payment, waiver of payment, or payment practice that was not prohibited by the federal anti-kickback statute. In 2019, the Legislature enacted legislation that applied this exception to only those payment schemes expressly authorized under federal law.³⁵ This change created uncertainty for those using payment practices that were not prohibited under federal law but also not expressly authorized.

Federal Anti-Kickback Statute

Federal law prohibits payment for the referral of an individual to a person for furnishing or arranging to furnish any item or service for which payment may be made under a federal health care program.³⁶ Violation of the federal anti-kickback statute is a felony that is punishable by a

³⁰ Section 817.505(1), F.S.

³¹ Punishable by a term of imprisonment not to exceed 5 years and a fine of \$50,000.

³² Punishable by a term of imprisonment not to exceed 15 years and a fine of \$100,000.

³³ Punishable by a term of imprisonment not to exceed 30 years and a fine of \$500,000.

³⁴ Section 817.505(3), F.S.

³⁵ Chapter 2019-59, L.O.F.

³⁶ 42 U.S.C. s. 1320a-7b(b).

fine of up to \$25,000 or up to 5 years in prison, or both.³⁷ However, there are several exceptions to the federal statute, including, but not limited to:³⁸

- Discounts properly disclosed and appropriately reflected in the costs claimed and charges made by the provider or entity;
- Payments between employers and employees for employment in the provision of covered items or services;
- Certain payments to a group purchasing organization;
- Waivers of co-insurance;
- Certain risk-sharing agreements; and
- The waiver of any cost-sharing provisions by a pharmacy.

Payment arrangements that do not squarely meet one of the exceptions are reviewed on a case-by-case basis to determine if the parties have the requisite criminal intent.³⁹ The Office of the Inspector General, within the U.S. Department of Health and Human Services, is proposing additional exceptions to the anti-kickback statute, including payment arrangements that are currently used by health care practitioners but are not specifically authorized under the statute.⁴⁰

III. Effect of Proposed Changes:

Section 1 amends s. 397.4073, F.S., requiring that certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators are subject to level 2 background screening as provided under s. 408.809, F.S., and Chapter 435, F.S. These positions already require a level 2 background screening under current law; the bill streamlines the background screening language in Chapter 397, F.S., to one section of statute rather than two for these positions.

The bill also requires DCF and AHCA to grant applications for exemption from employment disqualification for service providers that treat adolescents aged 13 or older whose background checks indicate crimes referenced in s. 397.4073(4)(b), F.S. Currently, DCF and AHCA have discretion in whether or not to grant such applications.

Section 2 amends s. 397.487, F.S., by removing language related to level 2 background screenings for certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators made obsolete by moving the background screening requirement to s. 397.4073, F.S.

Section 3 amends s. 397.4872, F.S., by removing language related to exemptions from disqualification made obsolete by the bill.

³⁷ *Id.*

³⁸ *Id.*

³⁹ U.S. Department of Health and Human Services, *HHS Office of Inspector General Fact Sheet: Notice of Proposed Rulemaking OIG-0936-AA10-P*, (Oct. 2019), available at https://oig.hhs.gov/authorities/docs/2019/CoordinatedCare_FactSheet_October2019.pdf (last visited January 22, 2020).

⁴⁰ *Id.*

Section 4 amends s. 397.4873, F.S., providing that anyone who willfully and knowingly facilitates patient brokering is guilty of a first-degree misdemeanor.

Section 5 amends s. 817.505, F.S., revising the patient brokering statute such that it does not apply to any discount, payment, waiver of payment, payment practice, or payment scheme that is expressly authorized by the federal anti-kickback statute.

The bill also makes such exception applicable to any payment scheme, regardless of whether it involves services paid in whole or in part by a federal health care program designated in the federal anti-kickback statute.

Section 6 amends s. 397.4871, F.S., by adding offenses listed under s. 408.809, F.S., to those currently referenced in s. 435.04(2), F.S., for recovery residence administrator certification. The offenses added by incorporating s. 408.809, F.S., include financial crimes such as Medicaid fraud, forgery, and patient brokering. The bill also amends statutory references for determining whether DCF can grant a background screening exemption for recovery residence administrators from s. 397.4872, F.S., to s. 397.4073, F.S. or s. 435.07, F.S.

Section 7 amends s. 435.07, F.S., by requiring DCF to exempt individuals disqualified during background screening for committing specific offenses. The crimes specified in the bill are:

- s. 796.07(2)(e), F.S. (Person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation)
- s. 810.02(4), F.S. (Burglary)
- s. 812.014(2)(c), F.S. (Grand theft)
- s. 817.563, F.S. (Sale of controlled substances)
- s. 831.01, F.S. (Forgery)
- s. 831.02, F.S. (Uttering forged instruments)
- s. 893.13, F.S. (Sale, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, controlled substances)
- s. 893.147, F.S. (Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia, specified machines, and materials)
- s. 777.04, F.S. (Attempt to commit a criminal offense, solicitation of another person to commit a criminal offense, or conspiracy to commit a criminal offense)

Section 8 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:

DCF does not anticipate an impact to private sector revenues as a result of this bill regarding the changes to background screening requirement consolidation. The private sector may realize benefits from a potential increase in revenues resulting from more allowable payment agreement options between health care providers.⁴¹

C. Government Sector Impact:

DCF anticipates that substance use treatment programs and recovery residences could realize some savings by being able to fill positions faster with the changes identified in the bill.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 397.4073, 397.487, 397.4872, 817.505, 397.4871, 435.07 of the Florida Statutes.

⁴¹ Department of Children and Families Agency Analysis of HB 649. On file with the Senate Committee on Children, Families, and Elder Affairs.

⁴² *Id.*

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on January 28, 2020:

- Provides that anyone who willfully and knowingly facilitates patient brokering is guilty of a first-degree misdemeanor.

- B. **Amendments:**

None.

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



360180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 113 and 114

insert:

Section 4. Present subsections (4), (5), and (6) of section 397.4873, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1) of that section is republished, to read:

397.4873 Referrals to or from recovery residences;



360180

11 prohibitions; penalties.-

12 (1) A service provider licensed under this part may not
13 make a referral of a prospective, current, or discharged patient
14 to, or accept a referral of such a patient from, a recovery
15 residence unless the recovery residence holds a valid
16 certificate of compliance as provided in s. 397.487 and is
17 actively managed by a certified recovery residence administrator
18 as provided in s. 397.4871.

19 (4) In addition to any other punishment provided by law,
20 any person who willfully and knowingly violates subsection (1)
21 commits a misdemeanor of the first degree, punishable as
22 provided in s. 775.082 or s. 775.083.

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 line 15

27 and insert:

28 recovery residences; amending s. 397.4873, F.S.;

29 providing criminal penalties for violations relating

30 to recovery residence patient referrals; amending s.

31 817.505, F.S.;

By Senator Harrell

25-00938A-20

20201120__

1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 397.4073, F.S.; specifying that certified recovery
4 residence administrators and certain persons
5 associated with certified recovery residences are
6 subject to certain background screenings; requiring,
7 rather than authorizing, the exemption from
8 disqualification from employment for certain substance
9 abuse service provider personnel; amending s. 397.487,
10 F.S.; deleting a provision relating to background
11 screenings for certain persons associated with
12 applicant recovery residences; amending s. 397.4872,
13 F.S.; deleting provisions relating to exemptions from
14 disqualification for certain persons associated with
15 recovery residences; amending s. 817.505, F.S.;
16 revising provisions relating to payment practices
17 exempt from prohibitions on patient brokering;
18 amending ss. 397.4871 and 435.07, F.S.; conforming
19 provisions to changes made by the act; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (a) of subsection (1) and paragraph
25 (b) of subsection (4) of section 397.4073, Florida Statutes, are
26 amended to read:

27 397.4073 Background checks of service provider personnel.—

28 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
29 EXCEPTIONS.—

25-00938A-20

20201120__

30 (a) For all individuals screened on or after July 1, 2020
31 ~~2019~~, background checks shall apply as follows:

32 1. All owners, directors, chief financial officers, and
33 clinical supervisors of service providers are subject to level 2
34 background screening as provided under s. 408.809 and chapter
35 435. Inmate substance abuse programs operated directly or under
36 contract with the Department of Corrections are exempt from this
37 requirement.

38 2. All service provider personnel who have direct contact
39 with children receiving services or with adults who are
40 developmentally disabled receiving services are subject to level
41 2 background screening as provided under s. 408.809 and chapter
42 435.

43 3. All peer specialists who have direct contact with
44 individuals receiving services are subject to level 2 background
45 screening as provided under s. 408.809 and chapter 435.

46 4. All certified recovery residence owners, directors,
47 chief financial officers, and certified recovery residence
48 administrators are subject to level 2 background screening as
49 provided under s. 408.809 and chapter 435.

50 (4) EXEMPTIONS FROM DISQUALIFICATION.—

51 (b) Since rehabilitated substance abuse impaired persons
52 are effective in the successful treatment and rehabilitation of
53 individuals with substance use disorders, for service providers
54 which treat adolescents 13 years of age and older, service
55 provider personnel whose background checks indicate crimes under
56 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
57 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related
58 criminal attempt, solicitation, or conspiracy under s. 777.04,

25-00938A-20

20201120__

59 shall ~~may~~ be exempted from disqualification from employment
60 pursuant to this paragraph.

61 Section 2. Subsection (6) of section 397.487, Florida
62 Statutes, is amended to read:

63 397.487 Voluntary certification of recovery residences.—

64 ~~(6) All owners, directors, and chief financial officers of~~
65 ~~an applicant recovery residence are subject to level 2~~
66 ~~background screening as provided under s. 408.809 and chapter~~
67 ~~435. A recovery residence is ineligible for certification, and a~~
68 ~~credentialing entity shall deny a recovery residence's~~
69 ~~application, if any owner, director, or chief financial officer~~
70 ~~has been found guilty of, or has entered a plea of guilty or~~
71 ~~nolo contendere to, regardless of adjudication, any offense~~
72 ~~listed in s. 408.809(4) or s. 435.04(2) unless the department~~
73 ~~has issued an exemption under s. 397.4073 or s. 397.4872. In~~
74 ~~accordance with s. 435.04, the department shall notify the~~
75 ~~credentialing agency of an owner's, director's, or chief~~
76 ~~financial officer's eligibility based on the results of his or~~
77 ~~her background screening.~~

78 Section 3. Section 397.4872, Florida Statutes, is amended
79 to read:

80 397.4872 ~~Exemption from disqualification;~~ Publication.—

81 ~~(1) Individual exemptions to staff disqualification or~~
82 ~~administrator ineligibility may be requested if a recovery~~
83 ~~residence deems the decision will benefit the program. Requests~~
84 ~~for exemptions must be submitted in writing to the department~~
85 ~~within 20 days after the denial by the credentialing entity and~~
86 ~~must include a justification for the exemption.~~

87 ~~(2) The department may exempt a person from ss. 397.487(6)~~

25-00938A-20

20201120__

88 and ~~397.4871(5)~~ if it has been at least 3 years since the person
89 has completed or been lawfully released from confinement,
90 supervision, or sanction for the disqualifying offense. An
91 exemption from the disqualifying offenses may not be given under
92 any circumstances for any person who is a:

93 ~~(a) Sexual predator pursuant to s. 775.21;~~

94 ~~(b) Career offender pursuant to s. 775.261; or~~

95 ~~(c) Sexual offender pursuant to s. 943.0435, unless the~~
96 ~~requirement to register as a sexual offender has been removed~~
97 ~~pursuant to s. 943.04354.~~

98 ~~(3)~~ By April 1, 2016, each credentialing entity shall
99 submit a list to the department of all recovery residences and
100 recovery residence administrators certified by the credentialing
101 entity that hold a valid certificate of compliance. Thereafter,
102 the credentialing entity must notify the department within 3
103 business days after a new recovery residence or recovery
104 residence administrator is certified or a recovery residence or
105 recovery residence administrator's certificate expires or is
106 terminated. The department shall publish on its website a list
107 of all recovery residences that hold a valid certificate of
108 compliance. The department shall also publish on its website a
109 list of all recovery residence administrators who hold a valid
110 certificate of compliance. A recovery residence or recovery
111 residence administrator shall be excluded from the list upon
112 written request to the department by the listed individual or
113 entity.

114 Section 4. Paragraph (a) of subsection (3) of section
115 817.505, Florida Statutes, is amended to read:

116 817.505 Patient brokering prohibited; exceptions;

25-00938A-20

20201120__

117 penalties.—

118 (3) This section shall not apply to the following payment
119 practices:

120 (a) Any discount, payment, waiver of payment, or payment
121 practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s.
122 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b)(3)~~ or regulations
123 promulgated ~~adopted~~ thereunder regardless of whether such
124 discount, payment, waiver of payment, or payment practice
125 involves items or services for which payment may be made in
126 whole or in part under federal health care programs as defined
127 in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July
128 1, 2020.

129 Section 5. Subsection (5) of section 397.4871, Florida
130 Statutes, is amended to read:

131 397.4871 Recovery residence administrator certification.—

132 (5) All applicants are subject to level 2 background
133 screening as provided under chapter 435. An applicant is
134 ineligible, and a credentialing entity shall deny the
135 application, if the applicant has been found guilty of, or has
136 entered a plea of guilty or nolo contendere to, regardless of
137 adjudication, any offense listed in s. 408.809 or s. 435.04(2)
138 unless the department has issued an exemption under s. 397.4073
139 or s. 435.07 ~~s. 397.4872~~. In accordance with s. 435.04, the
140 department shall notify the credentialing agency of the
141 applicant's eligibility based on the results of his or her
142 background screening.

143 Section 6. Subsection (2) of section 435.07, Florida
144 Statutes, is amended to read:

145 435.07 Exemptions from disqualification.—Unless otherwise

25-00938A-20

20201120__

146 provided by law, the provisions of this section apply to
147 exemptions from disqualification for disqualifying offenses
148 revealed pursuant to background screenings required under this
149 chapter, regardless of whether those disqualifying offenses are
150 listed in this chapter or other laws.

151 (2) Persons employed, or applicants for employment, by
152 treatment providers who treat adolescents 13 years of age and
153 older who are disqualified from employment solely because of
154 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
155 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any
156 related criminal attempt, solicitation, or conspiracy under s.
157 777.04, shall ~~may~~ be exempted from disqualification from
158 employment pursuant to this chapter without application of the
159 waiting period in subparagraph (1)(a)1.

160 Section 7. 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)

1-28-20

Meeting Date

SB 1120

Bill Number (if applicable)

Topic Substance Abuse Services

Name MARK FONTAINE

Job Title Executive Advisor

Address 2868 Mahan Drive

Street

Phone 878-2196

Tallahassee, FL

City

State

32308

Zip

Email mark@floridabha.org

Speaking: For Against Information

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

Representing FLORIDA BEHAVIORAL HEALTH ASSOC.
Member - Sober Homes TASK FORCE

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)

January 28, 2020
Meeting Date

1120
Bill Number (if applicable)

Topic Substance Abuse Services

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title Attorney

Address 315 South Calhoun, Suite 600
Street

Phone 224-7000

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 Bar, Health Law Section

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)

1/28/20
Meeting Date

SB 1120
Bill Number (if applicable)

Topic SUBSTANCE ABUSE SERVICES

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title CEO

Address 122 SOUTH CALHAN ST
Street

Phone 850 570 5747

INWASSEE FL 32301
City State Zip

Email NATALIE@FLMANAGINGENTITIES.COM

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB1120

Bill Number (if applicable)

Meeting Date

Topic SB 1120

Amendment Barcode (if applicable)

Name Nyoma Murray

Job Title Full time student

Address 2833 S Adams 25070
Street

Phone 407-502-9729

Tallahassee FL 32301
City State Zip

Email murray.nyoma@juno.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.

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)

1/28/2020

Meeting Date

SB 1120

Bill Number (if applicable)

Topic Substance Abuse Services

Amendment Barcode (if applicable)

Name Rebecca DelaRosa

Job Title Legislative Affairs Director

Address 301 N Olive Ave #701

Phone 888.284.7235

Street West Palm Beach, FL 33401

Email rdelaRosa@pbcgov.org

City State Zip

Speaking: [] For [] Against [] Information

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

Representing Palm Beach 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.

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



2020 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

<u>BILL INFORMATION</u>	
BILL NUMBER:	HB 649
BILL TITLE:	Substance Abuse Services
BILL SPONSOR:	Representative Caruso
EFFECTIVE DATE:	July 1, 2020

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families & Seniors Subcommittee
2) Civil Justice Subcommittee
3) Health & Human Services Committee
4)
5)

<u>CURRENT COMMITTEE</u>
Children, Families & Seniors Subcommittee

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	SB 1120
SPONSOR:	Senator Harrell

<u>Is this bill part of an agency package?</u>

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	12/10/2019
LEAD AGENCY ANALYST:	Christopher Weller
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	Ivory Avant
FISCAL ANALYST:	Paula Anthony

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

House Bill 649 condenses several background screening sections of Chapter 397, F.S., into one set of requirements. It also instructs the Department of Children and Families (Department) to automatically exempt individuals who are disqualified from employment in the substance use treatment or recovery residence industries for specific crimes referenced in s. 435.07, F.S. Lastly, the bill changes the types of inter-business financial transactions, which are considered patient brokering in s. 817.505, F.S.

The bill takes effect on July 1, 2020.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently, Chapter 397, F.S., contains several sections, which discuss background screening. Section 397.4073, F.S., focuses on background screening requirements for Department licensed clinical substance use programs, while s. 397.487, F.S. focuses on background screening requirements for recovery residences. Each section of Florida Statute requires the owner, director(s), and chief financial officer (CFO) to undergo a Level II background screening.

In addition, the Department currently has the discretion to exempt individuals disqualified from working in the substance use and recovery residence industries as a result of a Level II background screening.

2. EFFECT OF THE BILL:

Sections 1–3

These sections move the requirement for certified recovery residence owners, directors, CFOs, and administrators to receive a Level II background screening under s. 397.4073, F.S. This proposed change streamlines the background screening language in Chapter 397, F.S., to one section instead of two for these positions.

Section 1 of the bill also changes the Department’s discretion to exempt individuals disqualified during background screening for committing specific offenses from “may” exempt to “shall” exempt. The crimes specified in the bill are:

- s. 796.07(2)(e), F.S. (Person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation)
- s. 810.02(4), F.S. (Burglary)
- s. 812.014(2)(c), F.S. (Grand theft)
- s. 817.563, F.S. (Sale of controlled substances)
- s. 831.01, F.S. (Forgery)
- s. 831.02, F.S. (Uttering forged instruments)
- s. 893.13, F.S. (Sale, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, controlled substances)
- s. 893.147, F.S. (Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia, specified machines, and materials)
- s. 777.04, F.S. (Attempt to commit a criminal offense, solicitation of another person to commit a criminal offense, or conspiracy to commit a criminal offense)

Section 4

This section amends s. 817.505, F.S., by adjusting the state’s range of offenses it can consider “patient brokering.” The section modifies the language in s. 817.505(3), F.S., where it references types of payment practices authorized by 42 U.S.C. s. 1320a-7b (b) (3). The current federal language identifies 10 different types of health care payment transactions, which are not considered improper remuneration (e.g. kick-backs, bribes, or rebates). These transaction types are:

1. A discount or other reduction in price obtained by a provider of services or other entity under a Federal health care program if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a Federal health care program;
2. Any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services;
3. Any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under a Federal health care program if—
 - a. The person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such individual or entity under the contract, and
 - b. In the case of an entity that is a provider of services (as defined in section 1395x(u) of this title), the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity;
4. A waiver of any coinsurance under part B of subchapter XVIII of this chapter by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act [42 U.S.C. 201 et seq.];
5. Any payment practice specified by the Secretary in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 or in regulations under section 1395w-104(e)(6) 1 of this title;
6. Any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1395mm of this title or if the written agreement, through a risk-sharing arrangement, places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide;
7. The waiver or reduction by pharmacies (including pharmacies of the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations) of any cost-sharing imposed under part D of subchapter XVIII of this chapter, if the conditions described in clauses (i) through (iii) of section 1320a-7a(i)(6)(A) of this title are met with respect to the waiver or reduction (except that, in the case of such a waiver or reduction on behalf of a subsidy eligible individual (as defined in section 1395w-114(a)(3) of this title), section 1320a-7a(i)(6)(A) of this title shall be applied without regard to clauses (ii) and (iii) of that section);
8. Any remuneration between a federally qualified health center (or an entity controlled by such a health center) and an MA organization pursuant to a written agreement described in section 1395w-23(a)(4) of this title;
9. Any remuneration between a health center entity described under clause (i) or (ii) of section 1396d(l)(2)(B) of this title and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity; and
10. A discount in the price of an applicable drug (as defined in paragraph (2) of section 1395w-114a(g) of this title) of a manufacturer that is furnished to an applicable beneficiary (as defined in paragraph (1) of such section) under the Medicare coverage gap discount program under section 1395w-114a of this title.

The proposed changes in this section would modify the reference to the 10 types of acceptable payment methods to a statement which would say:

Any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. s. 1320a-7b(b) or regulations promulgated adopted thereunder regardless of whether such discount, payment, waiver of payment, or payment practice involves items or services for which payment may be made in whole or in part under federal healthcare programs as defined in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July 1, 2020.

The effect of this language change would expand the number of payment structures allowed under the patient brokering statute. The proposed change would allow any type of financial payment arrangement between organizations if it does not meet the criteria of 42 U.S.C. s. 1320a-7b(b) [illegal remunerations]. The section reads:

(1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

(2) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

If a future payment practice is determined to be improper at a federal level, then 42 U.S.C. s. 1320a-7b(b) would need to be amended to prohibit the payment practice.

Section 5

Despite the background screening requirement for recovery residence administrators being included in Section 1 of this bill, the requirement remains under s. 397.4871(5), F.S., as well. This section amends s. 397.4871(5), F.S., by adding offenses listed under s. 408.809, F.S., to the ones currently referenced in s. 435.04(2), F.S., for recovery residence administrator certification. The offenses added by incorporating s. 408.809, F.S., include financial crimes such as Medicaid fraud, forgery, and patient brokering.

Additionally, this section changes the statutory references for determining whether the Department can grant a background screening exemption for recovery residence administrators from s. 397.4872, F.S., to s. 397.4073, F.S. or s. 435.07, F.S. This change also works to further consolidate the exemption processes in Chapter 397, F.S.

Section 6

This section amends s. 435.07, F.S., by changing the Department's discretion to exempt individuals disqualified during background screening for committing specific offenses from "may" exempt to "shall" exempt. The crimes specified in the bill are:

- s. 796.07(2)(e), F.S. (Person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignment)
- s. 810.02(4), F.S. (Burglary)
- s. 812.014(2)(c), F.S. (Grand theft)
- s. 817.563, F.S. (Sale of controlled substances)
- s. 831.01, F.S. (Forgery)
- s. 831.02, F.S. (Uttering forged instruments)
- s. 893.13, F.S. (Sale, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, controlled substances)
- s. 893.147, F.S. (Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia, specified machines, and materials)
- s. 777.04, F.S. (Attempt to commit a criminal offense, solicitation of another person to commit a criminal offense, or conspiracy to commit a criminal offense)

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

If yes, explain:	N/A
What is the expected impact to the agency's core mission?	N/A
Rule(s) impacted (provide references to F.A.C., etc.):	None

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The Department's Office of Administrative Services finds that there are no expenditures generated by this bill.
Does the legislation increase local taxes or fees?	The Department's Office of Administrative Services finds that this bill does not increase local taxes or fees.
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?	The Department's Office of Administrative Services finds that this section is not applicable.

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department's Office of Administrative Services finds that there are no revenues generated by this bill.
Expenditures:	The Department's Office of Administrative Services finds that there are no expenditures generated by this bill.
Does the legislation contain a State Government appropriation?	The Department's Office of Administrative Services finds that this bill does not contain a State Government appropriation.
If yes, was this appropriated last year?	The Department's Office of Administrative Services finds that this section is not applicable.

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	The Department does not anticipate an impact to private sector revenues as a result of this bill regarding the changes to background screening requirement consolidation. The private sector may realize benefits from a potential increase in revenues resulting from more allowable payment agreement options between health care providers.
Expenditures:	Substance use treatment programs and recovery residences could realize some expenditure savings by being able to fill positions faster with the changes identified in this bill.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not increase taxes, fees, or fines.
Does the bill decrease taxes, fees or fines?	The Department's Office of Administrative Services finds that this bill does not decrease taxes, fees, or fines.
The Department's Office of Administrative Services finds that this section is not applicable.	The Department's Office of Administrative Services finds that this section is not applicable.
Bill Section Number:	The Department's Office of Administrative Services finds that this section is not applicable.

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	The Department's Office of Information Technology finds that this bill does not impact the agency's technology systems.
If yes, describe the anticipated impact to the agency including any fiscal impact.	The Department's Office of Information Technology finds that his section is not applicable.

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)?	No
If yes, describe the anticipated impact including any fiscal impact.	No

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	The Department's Office of the General Counsel has no issues, concerns, or comments on this bill.
--------------------------------------------------	---------------------------------------------------------------------------------------------------

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1218

INTRODUCER: Senator Diaz

SUBJECT: Anti-bullying and Anti-harassment in Schools

DATE: January 27, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1218 enhances student safety by extending requirements related to bullying and harassment policies in public schools to private schools participating in a state educational scholarship program (private scholarship schools). The bill also requires private scholarship schools to:

- Meet with a student and his or her parent or guardian prior to enrollment to review information about the private scholarship school; and
- Publish on the school’s website and provide in a written format information regarding the school, including the code of student conduct, ethical conduct policies, and bullying and harassment policies.

The bill has no fiscal impact on state revenues or expenditures and is not expected to have a significant fiscal impact on private schools.

The bill takes effect upon becoming law.

II. Present Situation:

Bullying and Harassment

In 2008,¹ the Florida Legislature enacted the Jeffrey Johnston Stand Up for All Students Act, which prohibits the bullying and harassment of any student or employee of a public K-12 educational institution.² The prohibition applies to bullying and harassment:³

- During any education program or activity conducted by a public K-12 educational institution;
- During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution;

¹ Chapter 2008-123, L.O.F., codified as s. 1006.147, F.S.

² Section 1006.147(2), F.S.

³ Section 1006.147(2), F.S.

- Through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of a public K-12 institution⁴; or
- Through the use of data or computer software that is accessed at a non-school-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the bullying substantially interferes with or limits the victim's ability to participate in or benefit from the services, activities, or opportunities offered by a school, or substantially disrupts the education process or orderly operation of a school.

Bullying includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve: teasing; social exclusion; threat; intimidation; stalking; physical violence; theft; sexual, religious, or racial harassment; public or private humiliation; or destruction of property.⁵

Cyberbullying means bullying through the use of technology or any electronic communication, including electronic mail, internet communications, instant messages, or facsimile communication.⁶ Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions of bullying.⁷ Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the conditions enumerated in the definition of bullying.⁸

Harassment means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:⁹

- Places a student or school employee in reasonable fear of harm to his or her person or damage or his or her property;
- Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- Has the effect of substantially disrupting the orderly operation of a school.

School District Policy

Each school district must adopt and review, at least every 3 years, a policy prohibiting the bullying and harassment of any student or employee.¹⁰ The school district must involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and

⁴ "Within the scope of a public K-12 educational institution" means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity. Section 1006.147(3)(d), F.S.

⁵ Section 1006.147(3)(a), F.S.

⁶ Section 1006.147(3)(b), F.S.

⁷ *Id.*

⁸ Section 1006.147(3)(d), F.S.

⁹ Section 1006.147(3)(c), F.S.

¹⁰ Section 1006.147(4), F.S.

local law enforcement agencies in the process of adopting and reviewing the policy.¹¹ The law outlines minimum requirements that the policy must include, such as:¹²

- A description of the type of behavior expected from each student and employee of a public K-12 educational institution, including a statement prohibiting and defining bullying and harassment.
- The consequences for a student or employee who commits an act of bullying or harassment or who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.
- A procedure for receiving reports of an alleged act of bullying or harassment and for the prompt investigation of such incident, including allowing a person to anonymously report such an act. The policy must not permit formal disciplinary action to be based solely on an anonymous report.¹³
- A procedure to immediately notify the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.
- A procedure to refer victims and perpetrators of bullying or harassment for counseling.
- A procedure for publicizing the policy, which must include publishing the policy in the code of student conduct and in all employee handbooks.

School Safety and Discipline Reporting

The School Environmental Safety Incident Reporting (SESIR) system assists schools, districts, and the Florida Department of Education (DOE) staff in assessing the extent and nature of problems in school safety.¹⁴ The SESIR system requires all public schools to report certain safety incidents, including incidents of bullying and harassment that occur on school grounds, on school transportation, and at off-campus, school-sponsored events.¹⁵

On or before January 1 of each year, the Commissioner of Education (commissioner) must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of bullying and harassment prohibitions in public schools.¹⁶ School districts reported a total of 5,377 verified incidents and 5,482 unsubstantiated incidents of bullying and harassment for the 2018-2019 academic year.¹⁷ 4,648 incidents resulted in some form of discipline against the responsible student.¹⁸

Private School Choice Programs

Various scholarship programs promote school choice and assist parents in the placement of their children in diverse educational settings, including private schools.¹⁹ For example, the Hope

¹¹ *Id.*

¹² *Id.* at (4)(a)-(n).

¹³ Section 1006.147(4)(f), F.S.

¹⁴ Florida Department of Education, *School Environmental Safety Incident Reporting (SESIR)*, <http://www.fldoe.org/safe-schools/sesir-discipline-data/> (last visited Jan. 23, 2020).

¹⁵ *Id.*

¹⁶ Section 1006.147(8), F.S.

¹⁷ Florida Department of Education, *Report on Implementation of Section 1006.147, Florida Statutes* (Jan. 1, 2020), at 10-13.

¹⁸ *Id.*

¹⁹ Sections 1002.385, 1002.39, 1002.394, 1002.395, and 1002.40, F.S.

Scholarship Program provides the parent of a public school student who was subjected to an incident of battery, harassment, hazing, bullying, kidnapping, physical attack, robbery, sexual offense, assault, threat, intimidation, or fighting at school, with the option to transfer the student to another public school or a scholarship to attend an eligible private school.²⁰ During the 2018-2019 academic year, 2,174 private schools participated in at least one state scholarship program.²¹

Private School Obligations

A private school participating in an educational scholarship program (private scholarship school) must meet certain statutory accountability requirements.²² For example, a private scholarship school must:

- Not discriminate on the basis of race, color, or national origin.
- Demonstrate fiscal soundness and accountability to the DOE.
- Meet applicable state and local health, safety, and welfare laws, codes, and rules.
- Employ or contract with teachers who hold baccalaureate or higher degrees, have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.
- Publish on the school's website, or provide in a written format, information for parents regarding the school, including, but not limited to, programs, services, and the qualifications of classroom teachers.
- Require state and national background screening for each employee and contracted personnel with direct student contact.
- Adopt policies establishing standards of ethical conduct for instructional personnel and school administrators.

Department of Education Responsibilities

The DOE is required to oversee private scholarship school compliance with statutory accountability requirements.²³ In this regard, the DOE must:

- Verify private scholarship school eligibility to participate in the various educational scholarship programs.
- Establish a toll-free hotline that provides parents and private schools with information on participation in the scholarship programs.
- Establish a process by which individuals may notify the DOE of any violation by a parent, private school, or school district of state laws relating to scholarship program participation.
- Conduct inquiries or make referrals to appropriate regulatory agencies upon a reasonable belief that an incident of noncompliance has occurred.
- Require annual, notarized, sworn compliance statements from private scholarship schools.
- Coordinate with entities conducting health inspections of private scholarship schools and obtain copies of the inspection reports.

²⁰ Section 1002.40(1), F.S.

²¹ Florida Department of Education, Florida School Choice, *Florida Private Schools Directory*, <http://www.floridaschoolchoice.org/information/privateschooldirectory/DownloadExcelFile.aspx> (follow the "All Schools" hyperlink; sort by scholarship participation), (last visited Jan. 23, 2020).

²² Section 1002.421, F.S.

²³ Section 1002.421(2)(a), F.S.

- Conduct site visits to private schools entering a scholarship program for the first time.
- Coordinate with the State Fire Marshal to obtain access to fire inspection reports for private scholarship schools.

The DOE is required to suspend the payment of funds to a private scholarship school that knowingly fails to comply with statutory requirements and prohibit the school from enrolling new scholarship students for one fiscal year and until the school complies. If a private school fails to comply with statutory requirements, the commissioner is authorized to determine that the private school is ineligible to participate in a scholarship program.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 1002.421, F.S., by enhancing student safety by extending requirements related to bullying and harassment policies in public schools to private schools participating in a state educational scholarship program (private scholarship schools). The bill also requires private scholarship schools to:

- Meet with a student and his or her parent or guardian prior to enrollment to review information about the private scholarship school; and
- Publish on the school's website and provide in a written format information regarding the school, including the code of student conduct, ethical conduct policies, and bullying and harassment policies.

The bill requires a private scholarship school to adopt policies that comply with the bullying and harassment definitions, responsibilities, protections, and reporting required of public schools. The bill also adds to the existing private scholarship school requirements by requiring that the private scholarship school must publish on the school's website and provide in a written format additional information including the school's code of student conduct, policies related to ethical conduct for school personnel, and policies related to bullying and harassment.

The bill requires a private scholarship school principal or the principal's designee to meet with a student and his or her parent or guardian before the student's enrollment in the private scholarship school to review information about the school. The information reviewed must include the school's academic programs and services, customized educational programs, code of student conduct, attendance policies, bullying and harassment policies, and ethical conduct policies.

The bill requires the Department of Education (DOE) to include data on bullying and harassment in private scholarship schools in the DOE's annual reports on bullying and harassment and private school accountability required pursuant to existing law.

Extending requirements related to bullying and harassment policies to private scholarship schools pursuant to this bill may enhance student safety and reduce incidents of bullying and harassment in private scholarship schools. Requiring private scholarship schools to provide additional information and meet with a student and his or her parent or guardian prior to

²⁴ Section 1002.421, F.S.

enrollment may assist students and parents in making informed decisions regarding school choice.

Section 2 provides that the bill takes effect upon becoming 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private schools participating in a state educational scholarship program (private scholarship schools) may experience incidental costs associated with the additional requirements of the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

1002.421

This bill substantially amends s. 1002.421, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Diaz

36-00873-20

20201218__

1 A bill to be entitled
2 An act relating to anti-bullying and anti-harassment
3 in schools; amending s. 1002.421, F.S.; expanding the
4 information that private schools participating in an
5 educational scholarship program are required to
6 publish and provide to parents; requiring such private
7 schools to adopt bullying and harassment policies;
8 requiring such schools to report bullying and
9 harassment incidents to the Department of Education;
10 requiring the department to include reported incidents
11 in annual accountability reports; requiring private
12 school principals or their designees to meet and share
13 specified information with students and parents prior
14 to student enrollment in the school; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Paragraph (j) of subsection (1) of section
20 1002.421, Florida Statutes, is amended, and paragraphs (r) and
21 (s) are added to that subsection, to read:

22 1002.421 State school choice scholarship program
23 accountability and oversight.—

24 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
25 school participating in an educational scholarship program
26 established pursuant to this chapter must be a private school as
27 defined in s. 1002.01(2) in this state, be registered, and be in
28 compliance with all requirements of this section in addition to
29 private school requirements outlined in s. 1002.42, specific

36-00873-20

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30 requirements identified within respective scholarship program
31 laws, and other provisions of Florida law that apply to private
32 schools, and must:

33 (j) Publish on the school's website and, ~~or~~ provide in a
34 written format, information for parents regarding the school,
35 including, but not limited to, programs, services, ~~and~~ the
36 qualifications of classroom teachers, the code of student
37 conduct, the ethical conduct policies required by paragraph (n),
38 and the bullying and harassment policies required by paragraph
39 (r).

40 (r) Notwithstanding the school's status as a private
41 school, adopt policies that comply with the bullying and
42 harassment definitions, responsibilities, and protections
43 required pursuant to s. 1006.147. The school shall comply with
44 the incident reporting requirements of s. 1006.147(4) (k)
45 according to procedures specified by the department. Such
46 reporting must be made annually by the department in both the
47 report required pursuant to s. 1006.147(8) and the annual
48 private school accountability report required under subsection
49 (2).

50 (s) Require the school principal or the principal's
51 designee to meet with any student and his or her parent or
52 guardian before the student's enrollment to review information
53 about the school, including, but not limited to, the school's
54 academic programs and services, customized educational programs,
55 code of student conduct, attendance policies, bullying and
56 harassment policies, and ethical conduct policies.

57
58 The department shall suspend the payment of funds to a private

36-00873-20

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59 school that knowingly fails to comply with this subsection, and
60 shall prohibit the school from enrolling new scholarship
61 students, for 1 fiscal year and until the school complies. If a
62 private school fails to meet the requirements of this subsection
63 or has consecutive years of material exceptions listed in the
64 report required under paragraph (q), the commissioner may
65 determine that the private school is ineligible to participate
66 in a scholarship program.

67 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/28/20
Meeting Date

1218
Bill Number (if applicable)

Topic Anti-Bullying + Anti-Harassment

Amendment Barcode (if applicable)

Name Dr. Danielle Thomas

Job Title Legislation Chair

Address 1747 Orlando Central Pkwy
Orlando FL 32809
Street City State Zip

Phone 4078557604

Email legislation@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

APPEARANCE RECORD

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

1/28/20 Meeting Date

SB 1218 Bill Number (if applicable)

Topic Anti-bullying + Anti-harassment Amendment Barcode (if applicable)

Name Mary Lynn Cullen

Job Title Legislative Liaison

Address 1674 University Pkwy Street

Phone 941-928-0278

Sarasota FL 34243 City State Zip

Email aichildren@aol.com

Speaking: [X] For [] Against [] Information

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

Representing Advocacy Institute For Children

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)

1/28/20

Meeting Date

SB 1218

Bill Number (if applicable)

Topic Anti-bullying and harassment

Amendment Barcode (if applicable)

Name James Herzog

Job Title Associate Director for Education

Address 201 West Park Ave

Phone 850 205 6823

Street

Tallahassee FL 32301

Email jherzog@flaccb.org

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.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1482

INTRODUCER: Children, Families, and Elder Affairs and Senator Bean

SUBJECT: Domestic Violence Services

DATE: January 29, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1482 bill makes a number of changes to Florida law relating to the domestic violence program and the provision of domestic violence services statewide. Specifically, the bill:

- Removes the requirement for the Florida Department of Children (DCF or department) to contract with the Florida Coalition Against Domestic Violence (FCADV or coalition) for the delivery and management of domestic violence services statewide.
- Retains the ability of the department to contract with the coalition in the future.
- Shifts the responsibilities and duties currently required of the coalition to the department including, but not limited, to certifying domestic violence centers and implementing, administering and evaluating all domestic violence services provided by certified domestic violence centers.

The bill has an indeterminate fiscal impact on the department and has an effective date of July 1, 2020.

II. Present Situation:

Domestic Violence

Current law defines the term “domestic violence” as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or

household member by another family or household member.¹ The term “family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.²

The National Coalition Against Domestic Violence recognizes a broader definition that includes the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, threats, and emotional abuse. While the frequency and severity of domestic violence can vary dramatically, the one constant component of domestic violence is one partner’s consistent efforts to maintain power and control over the other.³

In Florida, domestic violence is tracked specifically for a number of offenses.⁴ While Florida’s population has increased 43.4% since 1998, the number of reported domestic violence offenses has been on a steady decline from 133,345 reported in 1998 to 104,914 being reported in 2018.⁵

Domestic Violence Program in Florida

Currently, the department is responsible for operating the domestic violence program and, in collaboration with the coalition, coordinating and administering statewide activities related to the prevention of domestic violence.⁶ Those responsibilities include certifying and reviewing monitoring reports for certified domestic violence centers.

Florida Coalition Against Domestic Violence

In 1977 fourteen shelters in Florida formed a network of battered women's advocates known as the Refuge Information Network. Several years later, this same organization was incorporated as the Florida Coalition Against Domestic Violence. The coalition was founded on principles of cooperation and unity among shelters. Today, FCADV serves as the professional association for Florida's 42 domestic violence centers. The mission of the Florida Coalition Against Domestic Violence is to work towards ending violence through public awareness, policy development, and support for Florida's domestic violence centers.⁷ FCADV operates Florida's toll-free domestic

¹ Section 741.28, F.S.

² *Id.*

³ The National Coalition Against Domestic Violence, *Learn More*, available at: <https://ncadv.org/learn-more> (Last visited January 22, 2020).

⁴ Those offenses include Murder, Manslaughter, Rape (includes attempted rape), Forcible Sodomy, Forcible Fondling, Aggravated Assault, Aggravated Stalking, Simple Assault, Threat/Intimidation, and Simple Stalking.

⁵ Florida Department of Law Enforcement, Crime Trends – Domestic Violence, available at: <http://www.fdle.state.fl.us/FSAC/Crime-Trends/Domestic-Violence> (Last visited January 22, 2020).

⁶ Section 39.903, F.S.

⁷ Florida Coalition Against Domestic Violence, *About FCADV*, available at: <https://www.fcadv.org/about/about-fcadv> (Last visited January 22, 2020).

violence hotline linking callers to the nearest domestic violence center and provides translation assistance when needed.

All Florida certified domestic violence centers are required to provide the following core services: emergency shelter, 24-Hour Hotline, advocacy, children's program, community education, crisis counseling, service management, professional training, safety planning, information and referral. In addition to these core services the centers provide the following; court/legal advocacy, outreach, primary prevention programming, support groups and assist with the relocation assistance application. Each center provides a number of specialized services based on the local community needs.^{8,9} While several of Florida's domestic violence centers have kennels and partnerships with local vets, FCADV embodies a goal to help generate funds to supplement these efforts and ensure all survivors have the ability to flee a violent home with their animal companions.¹⁰

The coalition is responsible for overseeing the funding of forty-two domestic violence shelters across the state and receives most of its funding from the department, which operates as the main oversight body for the organization.

Contractual Agreement

Currently, under s. 39.903(7), F.S., DCF must contract with the FCADV for the management of the delivery of services for the state's domestic violence program.¹¹ In 2004, the Legislature directed the department to contract with a statewide association for the domestic violence program to help with the delivery of domestic violence services. As a result the department contracted with the coalition. In 2012, the Legislature required the department to contract specifically with the coalition for the management of the delivery of services for the state's domestic violence program.¹²

The department and the coalition work in collaboration to administer the state's domestic violence program. While the department retains overall authority to certify domestic violence centers, the coalition is responsible for monitoring and evaluating services of the program. Under the contract, coalition responsibilities include, but are not limited to, the administration of contracts and grants, implementation of special projects, provision of training and technical assistance to certified domestic violence centers and allied professionals, prevention, research and evaluation, and educational programs for professionals and the public. The coalition is also required to monitor funding for domestic violence services to ensure the money is spent properly.¹³

⁸ Florida Coalition Against Domestic Violence, *Local Center Services*, available at: <https://www.fcadv.org/local-center-services> (Last visited January 22, 2020).

⁹ Section 39.905, F.S.

¹⁰ Florida Coalition Against Domestic Violence, *Darby Against Domestic Violence*, available at: <https://www.fcadv.org/darby> (Last visited January 22, 2020).

¹¹ Section 39.903, F.S.

¹² Ch. 2012-147, L.O.F.

¹³ Section 39.9035, F.S.

The FCADV receives funding from the federal and state government, as well through private funds. The 2019-20 General Appropriations Act appropriated \$46.7 million to the FCADV from the following sources:

- General Revenue Fund: \$11.1 million
- Domestic Violence Trust Fund: \$7.9 million
- Federal Grants Trust Fund: \$19.8 million¹⁴
- Welfare Transition Trust Fund: \$7.8 million

The funding is for implementation of programs and the management and delivery of services of the state's domestic violence program including implementation of statutory directives contained in chapter 39, Florida Statutes, implementation of special projects, coordination of a strong families and domestic violence campaign, implementation of the child welfare and domestic violence co-location projects, conducting training and providing technical assistance to certified domestic violence centers and allied professionals, and administration of contracts designated under this appropriation.¹⁵

According to the coalition's Form 990 filed with the IRS, their 2016 tax return indicates that 99.7 percent of their revenue comes from public funding.

The Department of Children and Families

Despite being the main oversight body for the coalition, the department has reported a number of difficulties in the working relationship with the coalition:

Executive Compensation

The department has reported that media reports have led to recent federal and state investigations of the coalition's funding and expenditures. In 2018, Florida media outlets published reports alleging that the coalition's executive director was receiving an exorbitant salary while domestic violence shelters went understaffed and under-resourced. In response to these reports, the Family Violence Prevention and Services Act Program in the Family & Youth Services Bureau of the federal Administration for Children and Families (ACF) contacted the coalition expressing concern about the executive director's reported compensation of \$761,560 and requesting specified documentation of the compensation.¹⁶

The department also reports that according to letters from ACF, unless it was satisfied that the executive director's salary complied with federal limits (\$189,600), ACF would take corrective action, including withholding payment and possible referral to the United States Department of Health and Human Services Inspector General. In a letter dated December 4, 2018, the coalition provided ACF with an attestation letter from James Moore, CPAs, which stated that the executive director's base salary charged to the Family Violence Prevention and Services Act

¹⁴ Some portion of the appropriation from the Federal Grants Trust Fund is transferred to the Department of Health to contract with the Florida Council Against Sexual Violence to implement portions of the Violence Against Women Act STOP Formula Grant.

¹⁵ SB 2500, 2019, available at: <https://www.flsenate.gov/Session/Bill/2019/2500/BillText/er/PDF> (Last visited January 21, 2020).

¹⁶ Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1482, January 14, 2020.

grants for the period of October 1, 2017 to September 30, 2018, was \$137,562; however, no additional documentation was provided to support the salary.¹⁷

The coalition received a letter dated June 4, 2020, from the federal ACF that stated:

The FVPSA Program requested documentation to show FCADV was in compliance with Executive Level II compensation in the same letter dated November 20, 2018. FCADV provided an independent accountant's report on December 3, 2018. The FVPSA Program has reviewed the independent accountant's report provided that verifies FVPSA funding allocated for the salary of the Executive Director is \$137,562 and within the limits of Executive Level II compensation under the Consolidated Appropriations Act of 2018 which is \$189,600.

Further, FCADV submission of the independent accountant's report on December 3, 2018 and the FVPSA Program's 2019 review of this report closes out our compensation inquiry. The FVPSA Program is taking no further action at this time; however, we request that FCADV makes the information from the independent accountant's report available during the next single audit.

We thank you for your responsiveness to our inquiry and for your cooperation as we confirmed that the FCADV Executive compensation level was in compliance the Consolidated Appropriations Act of 2018. We also thank you for your efforts to provide comprehensive services to survivors of domestic violence in the State of Florida.¹⁸

The Executive Committee of the FCADV Board of Directors serves as the Compensation Committee for establishing the salary and benefits package for the President/CEO of the coalition. The Competition Committee conducts a market analysis for comparable President/CEO positions to determine salary and benefit package with each employment contract renewal.¹⁹ The coalition has provided the department with the amount of the former President and CEO's salary paid for with state-appropriated funds under the coalition's contract with the department for fiscal years 2016-17 and 2018-19 in the amounts of \$59,350 and \$73,279, respectively.

Background Screenings of Personnel

The department has been unable to come to an agreement with the coalition to add provisions to the contract that require coalition employees to be subject to DCF's background screening process; however, FCDAV will not agree to those provisions.

The coalition has responded that the department's background screening requirements may not always be appropriate for their employees. For example, some of the best employees working in domestic violence shelters may be survivors of domestic violence and often times those employees have committed crimes in order to meet the demands of their abuser and stay safe.

¹⁷ *Id.*

¹⁸ Written correspondence from the Administration for Children and Families, Administration on Children, Youth and Families, to the Florida Coalition Against Domestic Violence, June 4, 2020.

¹⁹ Florida Coalition Against Domestic Violence, Board of Directors Policies, *Compensation and Benefits*, Policy No. A-3, October 5, 2009.

Those crimes would disqualify those survivors from employment regardless of the circumstances.

Current law provides background screening exceptions for other areas of employment in the human services arena that may seem to be an appropriate alternative for domestic violence services providers. For example, recognizing that in areas of substance abuse services rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of individuals with substance use disorders, the law provides for exemptions from disqualification from employment for specified crimes.²⁰

Provision of Records

The department and the coalition have also failed to come to an agreement related to the provision of records by the coalition to the department.

The department has reported that the coalition has repeatedly failed to provide all records held by the coalition, particularly those related to executive compensation. There were at least four written requests, from August 27, 2018 through to November 7, 2019. The department's Office of the Inspector General (OIG) made three written requests on August 27, 2018, January 31, 2019, and September 11, 2019. The department's Office of the General Counsel (OGC) made a written request in follow up to the OIG requests on November 7, 2019. The OIG met with coalition representatives on January 7, 2020. In the OIG's estimation the coalition responses to each letter and the meeting were incomplete. In response, the coalition has explained their earlier answers were sufficient and the coalition had supplied all the information it had available to it as to matters not purely private and therefore not subject to audit by the OIG. The coalition's responses did not assert statutory restrictions nor protections of confidential material.²¹

The department received two written responses from outside counsel to the coalition. In a letter dated September 27, 2019, it was noted:²²

- FCADV is a private, non-profit corporation with operations and activities that are separate and apart from FCADV's contract with the department and that do not involve department funding. FCADV is not a state agency or other governmental agency.
- FCADV has always complied with its obligations under its contract with the department and will continue to do so in the future.
- On August 27, 2018 the department first notified FCADV of a consulting engagement at the request of then Secretary Carroll related to administrative costs and executive compensation to determine the proportion of department funding expended by FCADV on administrative costs and executive compensation and information provided by FCADV to the department regarding that funding.
- In a telephone conference with the department's then Acting General Counsel John Jackson and Assistant General Counsel Jeffrey Richardson on August 31, 2018, it was explained that the August 27, 2018 letter requested records unrelated to FCADV's contract with the

²⁰ Section 397.4073(4), F.S.

²¹ Email communication from the Florida Department of Children and Families, January 21, 2020.

²² Written correspondence to the Florida Department of Children and Families from Holland and Knight, outside counsel to the Florida Coalition Against Domestic Violence, September 27, 2019.

department and beyond the stated scope of the consulting engagement. It was proposed that the coalition respond to the August 27, 2018 letter by producing only those records requested that are public records relating to FCADV's contract with the department. Mr. Richardson confirmed by e-mail that the coalition should proceed with responding to the August 27, 2018 letter as was discussed. The coalition did so by making records available to the department on September 5, 2018.

- The department's Contract Oversight Unit ("COU") routinely monitors FCADV for compliance with its contractual requirements with the department. The COU monitored FCADV relating to the contract every year beginning with fiscal year 2013-14 through fiscal year 2016-17 with no findings.

In a follow-up letter dated November 22, 2019, it was also noted:²³

- In addition to the monitoring by the department's COU, the department's Office of Internal Audit (OIA) conducted an audit of the department's contractual agreement with the coalition focusing primarily on expenditures and monitoring activities between July 1, 2016 and December 31, 2016, and in 2009 conducted an assurance project to determine whether the coalition used American Recovery and Reinvestment Act of 2009 funds for authorized purposes – all with no findings.
- As reflected by the language agreed to by the department and the coalition in Contract Nos. LN967 and LJ990, it is relevant whether or not records are the coalition's private records or records relating to the coalition's contract with the department. The contracts do not require disclosure of records unrelated to the coalition's contracts with the department regardless of whether such records may involve other government ("tax-payer") funds or matters that the department thinks are of "public concern." Moreover, the duties and responsibility of an agency inspector general involve the programs, actions and activities carried out or financed by the state agency, not all matters that may be paid for with tax-payer funds or that are of "public concern," and certainly not private matters paid for with private funds.

III. Effect of Proposed Changes:

Section 1 amends s. 39.902, F.S., relating to definitions, to remove the definition of the term "coalition."

Section 2 amends s. 39.903, F.S., relating to duties and functions of the department regarding domestic violence, to allow the department to contract with one or more entities for the provision of domestic violence related services if the department determines that it would be in the best interest of the state to do so.

Section 3 repeals s. 39.9035, F.S., relating to duties and functions of the Florida Coalition Against Domestic Violence regarding domestic violence.

Section 4 amends s. 39.904, F.S., relating to a report to the Legislature on the status of domestic violence cases, to require the department rather than the coalition to submit the annual report to the Legislature on the status of domestic violence statewide.

²³ Written correspondence to the Florida Department of Children and Families from Holland and Knight, outside counsel to the Florida Coalition Against Domestic Violence, November 22, 2019.

Section 5 amends s. 39.905, F.S., relating to domestic violence centers, to remove references to the coalition, and requiring domestic violence centers to submit information to and receive certification directly from the department.

Section 6 amends s. 39.9055, F.S., relating to certified domestic violence centers and the capital improvement grant program, to which provides funding to certified domestic violence centers for projects to construct, acquire, repair, improve, or upgrade systems, facilities, or equipment, to remove the coalition from the collaboration process to determine criteria for awarding the funding.

Section 7 amends s. 39.8296, relating to the Guardian Ad Litem Office, to remove the coalition from the training curriculum committee.

Section 8 amends s. 381.006, F.S., relating to environmental health, to remove the coalition from monitoring food service inspections for certified domestic violence centers.

Section 9 amends s. 381.0072, F.S., relating to food service protection, to conform to changes made by section 8 of the act.

Section 10 amends s. 383.402, F.S., relating to child abuse death reviews, to remove specific reference to the coalition as a member to the State Child Abuse Death Review Committee appointed by the Surgeon General.

Section 11 amends s. 402.40, F.S., relating to child welfare training and certification, to remove the coalition from the collaborative effort to develop core competencies and specializations for child welfare professional training.

Section 12 amends s. 741.316, F.S., relating to domestic violence fatality review teams, to reassign the review teams to the department rather than to the coalition.

Section 13 amends s. 753.03, F.S., relating to standards for supervised visitation and supervised exchange programs, to remove the coalition from the advisory board of the Clearinghouse on Supervised Visitation.

Section 14 amends s. 943.1701, F.S., relating to uniform statewide policies and procedures for the Criminal Justice Standards and Training Commission, to remove the coalition from advising the commission on matters relating to injunctions for protection against domestic violence.

Section 15 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare, to remove the coalition from entities the Florida Institute for Child Welfare is required to work with.

Section 16 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 has reported that the fiscal impact to the agency is indeterminate. This is due to the fact that no decisions have been finalized as to whether the domestic violence program's responsibilities would be fulfilled by the department, through contract, or both.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

By simply going through the statutes and removing all references to the coalition and either replacing the coalition with the department or naming no replacement, the department may

²⁴ Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1482, January 14, 2020.

be depriving entities that provide input and service to a number of areas of the health and human service arena of necessary expertise from the domestic violence community.

VIII. Statutes Affected:

This bill substantially amends ss. 39.902, 39.903, 39.904, 39.905, 39.9055, 39.8296, 381.006, 381.0072, 383.402, 402.40, 741.316, 753.03, 943.1701, and 1004.615, of the Florida Statutes.

This bill repeals s. 39.9035, of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on January 28, 2020:

- Removes the provision related to including “victims of domestic violence” within the definition of “care” under s. 943.0542(1)(a), F.S. to allow access to national background checks for those employees/volunteers working with domestic violence victims.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2020	.	
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	.	

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

Senate Amendment (with title amendment)

Delete lines 427 - 444.

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

And the title is amended as follows:

Delete line 16

and insert:

402.40, 741.316, 753.03, 943.1701, and

By Senator Bean

4-01272-20

20201482__

1 A bill to be entitled
2 An act relating to domestic violence services;
3 amending s. 39.902, F.S.; deleting the definition of
4 the term "coalition"; amending s. 39.903, F.S.;
5 revising the duties of the Department of Children and
6 Families in relation to the domestic violence program;
7 repealing s. 39.9035, F.S., relating to the duties and
8 functions of the Florida Coalition Against Domestic
9 Violence with respect to domestic violence; amending
10 s. 39.904, F.S.; requiring the department to provide a
11 specified report; amending s. 39.905, F.S.; revising
12 the requirements of domestic violence centers;
13 amending s. 39.9055, F.S.; removing the coalition from
14 the capital improvement grant program process;
15 amending ss. 39.8296, 381.006, 381.0072, 383.402,
16 402.40, 741.316, 753.03, 943.0542, 943.1701, and
17 1004.615, F.S.; conforming provisions to changes made
18 by the act; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (1) of section 39.902, Florida
23 Statutes, is amended to read:

24 39.902 Definitions.—As used in this part, the term:
25 ~~(1) "Coalition" means the Florida Coalition Against~~
26 ~~Domestic Violence.~~

27 Section 2. Subsections (1), (2), (7), and (8) of section
28 39.903, Florida Statutes, are amended to read:

29 39.903 Duties and functions of the department with respect

4-01272-20

20201482__

30 to domestic violence.—The department shall:

31 (1) Operate the domestic violence program and, ~~in~~
32 ~~collaboration with the coalition,~~ shall coordinate and
33 administer statewide activities related to the prevention of
34 domestic violence.

35 (2) Receive and approve or reject applications for initial
36 certification of domestic violence centers, and. ~~The department~~
37 ~~shall~~ annually renew the certification thereafter ~~upon receipt~~
38 ~~of a favorable monitoring report by the coalition.~~

39 (7) Contract with an entity or entities ~~the coalition~~ for
40 the delivery and management of services for the state's domestic
41 violence program if the department determines that doing so is
42 in the best interest of the state. ~~Services under this contract~~
43 ~~include, but are not limited to, the administration of contracts~~
44 ~~and grants.~~

45 (8) Consider applications from certified domestic violence
46 centers for capital improvement grants and award those grants in
47 accordance with ~~pursuant to~~ s. 39.9055.

48 Section 3. Section 39.9035, Florida Statutes, is repealed.

49 Section 4. Section 39.904, Florida Statutes, is amended to
50 read:

51 39.904 Report to the Legislature on the status of domestic
52 violence cases.—On or before January 1 of each year, the
53 department ~~coalition~~ shall furnish to the President of the
54 Senate and the Speaker of the House of Representatives a report
55 on the status of domestic violence in this state, which must
56 include, but need not be limited to, the following:

57 (1) The incidence of domestic violence in this state.

58 (2) An identification of the areas of the state where

4-01272-20

20201482__

59 domestic violence is of significant proportions, indicating the
60 number of cases of domestic violence officially reported, as
61 well as an assessment of the degree of unreported cases of
62 domestic violence.

63 (3) An identification and description of the types of
64 programs in the state which assist victims of domestic violence
65 or persons who commit domestic violence, including information
66 on funding for the programs.

67 (4) The number of persons who receive services from local
68 certified domestic violence programs that receive funding
69 through the department ~~coalition~~.

70 (5) The incidence of domestic violence homicides in the
71 state, including information and data collected from state and
72 local domestic violence fatality review teams.

73 Section 5. Paragraphs (f) and (g) of subsection (1),
74 subsections (2) and (4), paragraph (a) of subsection (6), and
75 subsections (7) and (8) of section 39.905, Florida Statutes, are
76 amended to read:

77 39.905 Domestic violence centers.—

78 (1) Domestic violence centers certified under this part
79 must:

80 (f) Comply with rules adopted under ~~pursuant to~~ this part.

81 (g) File with the department ~~coalition~~ a list of the names
82 of the domestic violence advocates who are employed or who
83 volunteer at the domestic violence center who may claim a
84 privilege under s. 90.5036 to refuse to disclose a confidential
85 communication between a victim of domestic violence and the
86 advocate regarding the domestic violence inflicted upon the
87 victim. The list must include the title of the position held by

4-01272-20

20201482__

88 the advocate whose name is listed and a description of the
89 duties of that position. A domestic violence center must file
90 amendments to this list as necessary.

91 (2) If the department finds that there is failure by a
92 center to comply with the requirements established, or rules
93 adopted, under this part ~~or with the rules adopted pursuant~~
94 ~~thereto~~, the department may deny, suspend, or revoke the
95 certification of the center.

96 (4) The domestic violence centers shall establish
97 procedures to facilitate ~~pursuant to which~~ persons subject to
98 domestic violence to ~~may~~ seek services from these centers
99 voluntarily.

100 (6) In order to receive state funds, a center must:

101 (a) Obtain certification under ~~pursuant to~~ this part.
102 However, the issuance of a certificate does not obligate the
103 department coalition ~~coalition~~ to provide funding.

104 (7) (a) All funds collected and appropriated to the domestic
105 violence program for certified domestic violence centers shall
106 be distributed annually according to an allocation formula
107 approved by the department. In developing the formula, the
108 factors of population, rural characteristics, geographical area,
109 and the incidence of domestic violence must ~~shall~~ be considered.

110 (b) A contract between the department coalition ~~coalition~~ and a
111 certified domestic violence center shall contain provisions
112 ensuring the availability and geographic accessibility of
113 services throughout the service area. For this purpose, a center
114 may distribute funds through subcontracts or to center
115 satellites, if such arrangements and any subcontracts are
116 approved by the department coalition ~~coalition~~.

4-01272-20

20201482__

117 ~~(8) If any of the required services are exempted from~~
118 ~~certification by the department under this section, the center~~
119 ~~may not receive funding from the coalition for those services.~~

120 Section 6. Section 39.9055, Florida Statutes, is amended to
121 read:

122 39.9055 Certified domestic violence centers; capital
123 improvement grant program.—There is established a certified
124 domestic violence center capital improvement grant program.

125 (1) A certified domestic violence center as defined in s.
126 39.905 may apply to the department ~~of Children and Families~~ for
127 a capital improvement grant. The grant application must provide
128 information that includes:

129 (a) A statement specifying the capital improvement that the
130 certified domestic violence center proposes to make with the
131 grant funds.

132 (b) The proposed strategy for making the capital
133 improvement.

134 (c) The organizational structure that will carry out the
135 capital improvement.

136 (d) Evidence that the certified domestic violence center
137 has difficulty in obtaining funding or that funds available for
138 the proposed improvement are inadequate.

139 (e) Evidence that the funds will assist in meeting the
140 needs of victims of domestic violence and their children in the
141 certified domestic violence center service area.

142 (f) Evidence of a satisfactory recordkeeping system to
143 account for fund expenditures.

144 (g) Evidence of ability to generate local match.

145 (2) Certified domestic violence centers as defined in s.

4-01272-20

20201482__

146 39.905 may receive funding subject to legislative appropriation,
147 upon application to the department ~~of Children and Families~~, for
148 projects to construct, acquire, repair, improve, or upgrade
149 systems, facilities, or equipment, subject to availability of
150 funds. An award of funds under this section must be made in
151 accordance with a needs assessment developed by the ~~Florida~~
152 ~~Coalition Against Domestic Violence~~ and the department ~~of~~
153 ~~Children and Families~~. The department annually shall perform
154 this needs assessment and shall rank in order of need those
155 centers that are requesting funds for capital improvement.

156 (3) The department ~~of Children and Families~~ shall, ~~in~~
157 ~~collaboration with the Florida Coalition Against Domestic~~
158 ~~Violence~~, establish criteria for awarding the capital
159 improvement funds that must be used exclusively for support and
160 assistance with the capital improvement needs of the certified
161 domestic violence centers, as defined in s. 39.905.

162 (4) The department ~~of Children and Families~~ shall ensure
163 that the funds awarded under this section are used solely for
164 the purposes specified in this section. The department will also
165 ensure that the grant process maintains the confidentiality of
166 the location of the certified domestic violence centers, as
167 required under ~~pursuant to~~ s. 39.908. The total amount of grant
168 moneys awarded under this section may not exceed the amount
169 appropriated for this program.

170 Section 7. Paragraph (b) of subsection (2) of section
171 39.8296, Florida Statutes, is amended to read:

172 39.8296 Statewide Guardian Ad Litem Office; legislative
173 findings and intent; creation; appointment of executive
174 director; duties of office.-

4-01272-20

20201482__

175 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a
176 Statewide Guardian Ad Litem Office within the Justice
177 Administrative Commission. The Justice Administrative Commission
178 shall provide administrative support and service to the office
179 to the extent requested by the executive director within the
180 available resources of the commission. The Statewide Guardian Ad
181 Litem Office shall not be subject to control, supervision, or
182 direction by the Justice Administrative Commission in the
183 performance of its duties, but the employees of the office shall
184 be governed by the classification plan and salary and benefits
185 plan approved by the Justice Administrative Commission.

186 (b) The Statewide Guardian Ad Litem Office shall, within
187 available resources, have oversight responsibilities for and
188 provide technical assistance to all guardian ad litem and
189 attorney ad litem programs located within the judicial circuits.

190 1. The office shall identify the resources required to
191 implement methods of collecting, reporting, and tracking
192 reliable and consistent case data.

193 2. The office shall review the current guardian ad litem
194 programs in Florida and other states.

195 3. The office, in consultation with local guardian ad litem
196 offices, shall develop statewide performance measures and
197 standards.

198 4. The office shall develop a guardian ad litem training
199 program. The office shall establish a curriculum committee to
200 develop the training program specified in this subparagraph. The
201 curriculum committee shall include, but not be limited to,
202 dependency judges, directors of circuit guardian ad litem
203 programs, active certified guardians ad litem, a mental health

4-01272-20

20201482__

204 professional who specializes in the treatment of children, a
205 member of a child advocacy group, a representative of a domestic
206 violence advocacy group ~~the Florida Coalition Against Domestic~~
207 ~~Violence~~, and a social worker experienced in working with
208 victims and perpetrators of child abuse.

209 5. The office shall review the various methods of funding
210 guardian ad litem programs, shall maximize the use of those
211 funding sources to the extent possible, and shall review the
212 kinds of services being provided by circuit guardian ad litem
213 programs.

214 6. The office shall determine the feasibility or
215 desirability of new concepts of organization, administration,
216 financing, or service delivery designed to preserve the civil
217 and constitutional rights and fulfill other needs of dependent
218 children.

219 7. In an effort to promote normalcy and establish trust
220 between a court-appointed volunteer guardian ad litem and a
221 child alleged to be abused, abandoned, or neglected under this
222 chapter, a guardian ad litem may transport a child. However, a
223 guardian ad litem volunteer may not be required or directed by
224 the program or a court to transport a child.

225 8. The office shall submit to the Governor, the President
226 of the Senate, the Speaker of the House of Representatives, and
227 the Chief Justice of the Supreme Court an interim report
228 describing the progress of the office in meeting the goals as
229 described in this section. The office shall submit to the
230 Governor, the President of the Senate, the Speaker of the House
231 of Representatives, and the Chief Justice of the Supreme Court a
232 proposed plan including alternatives for meeting the state's

4-01272-20

20201482__

233 guardian ad litem and attorney ad litem needs. This plan may
234 include recommendations for less than the entire state, may
235 include a phase-in system, and shall include estimates of the
236 cost of each of the alternatives. Each year the office shall
237 provide a status report and provide further recommendations to
238 address the need for guardian ad litem services and related
239 issues.

240 Section 8. Subsection (18) of section 381.006, Florida
241 Statutes, is amended to read:

242 381.006 Environmental health.—The department shall conduct
243 an environmental health program as part of fulfilling the
244 state's public health mission. The purpose of this program is to
245 detect and prevent disease caused by natural and manmade factors
246 in the environment. The environmental health program shall
247 include, but not be limited to:

248 (18) A food service inspection function for domestic
249 violence centers that are certified and monitored by the
250 Department of Children and Families ~~and monitored by the Florida~~
251 ~~Coalition Against Domestic Violence~~ under part XII of chapter 39
252 and group care homes as described in subsection (16), which
253 shall be conducted annually and be limited to the requirements
254 in department rule applicable to community-based residential
255 facilities with five or fewer residents.

256
257 The department may adopt rules to carry out the provisions of
258 this section.

259 Section 9. Paragraph (c) of subsection (2) of section
260 381.0072, Florida Statutes, is amended to read:

261 381.0072 Food service protection.—

4-01272-20

20201482__

262 (2) DEFINITIONS.—As used in this section, the term:
263 (c) "Food service establishment" means detention
264 facilities, public or private schools, migrant labor camps,
265 assisted living facilities, facilities participating in the
266 United States Department of Agriculture Afterschool Meal Program
267 that are located at a facility or site that is not inspected by
268 another state agency for compliance with sanitation standards,
269 adult family-care homes, adult day care centers, short-term
270 residential treatment centers, residential treatment facilities,
271 homes for special services, transitional living facilities,
272 crisis stabilization units, hospices, prescribed pediatric
273 extended care centers, intermediate care facilities for persons
274 with developmental disabilities, boarding schools, civic or
275 fraternal organizations, bars and lounges, vending machines that
276 dispense potentially hazardous foods at facilities expressly
277 named in this paragraph, and facilities used as temporary food
278 events or mobile food units at any facility expressly named in
279 this paragraph, where food is prepared and intended for
280 individual portion service, including the site at which
281 individual portions are provided, regardless of whether
282 consumption is on or off the premises and regardless of whether
283 there is a charge for the food. The term includes a culinary
284 education program where food is prepared and intended for
285 individual portion service, regardless of whether there is a
286 charge for the food or whether the program is inspected by
287 another state agency for compliance with sanitation standards.
288 The term does not include any entity not expressly named in this
289 paragraph; nor does the term include a domestic violence center
290 certified and monitored by the Department of Children and

4-01272-20

20201482__

291 Families ~~and monitored by the Florida Coalition Against Domestic~~
292 ~~Violence~~ under part XII of chapter 39 if the center does not
293 prepare and serve food to its residents and does not advertise
294 food or drink for public consumption.

295 Section 10. Subsection (2) of section 383.402, Florida
296 Statutes, is amended to read:

297 383.402 Child abuse death review; State Child Abuse Death
298 Review Committee; local child abuse death review committees.—

299 (2) STATE CHILD ABUSE DEATH REVIEW COMMITTEE.—

300 (a) *Membership*.—

301 1. The State Child Abuse Death Review Committee is
302 established within the Department of Health and shall consist of
303 a representative of the Department of Health, appointed by the
304 State Surgeon General, who shall serve as the state committee
305 coordinator. The head of each of the following agencies or
306 organizations shall also appoint a representative to the state
307 committee:

308 a. The Department of Legal Affairs.

309 b. The Department of Children and Families.

310 c. The Department of Law Enforcement.

311 d. The Department of Education.

312 e. The Florida Prosecuting Attorneys Association, Inc.

313 f. The Florida Medical Examiners Commission, whose
314 representative must be a forensic pathologist.

315 2. In addition, the State Surgeon General shall appoint the
316 following members to the state committee, based on
317 recommendations from the Department of Health and the agencies
318 listed in subparagraph 1., and ensuring that the committee
319 represents the regional, gender, and ethnic diversity of the

4-01272-20

20201482__

- 320 state to the greatest extent possible:
- 321 a. The Department of Health Statewide Child Protection Team
- 322 Medical Director.
- 323 b. A public health nurse.
- 324 c. A mental health professional who treats children or
- 325 adolescents.
- 326 d. An employee of the Department of Children and Families
- 327 who supervises family services counselors and who has at least 5
- 328 years of experience in child protective investigations.
- 329 e. The medical director of a Child Protection Team.
- 330 f. A member of a child advocacy organization.
- 331 g. A social worker who has experience in working with
- 332 victims and perpetrators of child abuse.
- 333 h. A person trained as a paraprofessional in patient
- 334 resources who is employed in a child abuse prevention program.
- 335 i. A law enforcement officer who has at least 5 years of
- 336 experience in children's issues.
- 337 j. A representative of a domestic violence advocacy group
- 338 ~~the Florida Coalition Against Domestic Violence.~~
- 339 k. A representative from a private provider of programs on
- 340 preventing child abuse and neglect.
- 341 1. A substance abuse treatment professional.
- 342 3. The members of the state committee shall be appointed to
- 343 staggered terms not to exceed 2 years each, as determined by the
- 344 State Surgeon General. Members may be appointed to no more than
- 345 three consecutive terms. The state committee shall elect a
- 346 chairperson from among its members to serve for a 2-year term,
- 347 and the chairperson may appoint ad hoc committees as necessary
- 348 to carry out the duties of the committee.

4-01272-20

20201482__

349 4. Members of the state committee shall serve without
350 compensation but may receive reimbursement for per diem and
351 travel expenses incurred in the performance of their duties as
352 provided in s. 112.061 and to the extent that funds are
353 available.

354 (b) *Duties.*—The State Child Abuse Death Review Committee
355 shall:

356 1. Develop a system for collecting data from local
357 committees on deaths that are reported to the central abuse
358 hotline. The system must include a protocol for the uniform
359 collection of data statewide, which must, at a minimum, use the
360 National Child Death Review Case Reporting System administered
361 by the National Center for the Review and Prevention of Child
362 Deaths.

363 2. Provide training to cooperating agencies, individuals,
364 and local child abuse death review committees on the use of the
365 child abuse death data system.

366 3. Provide training to local child abuse death review
367 committee members on the dynamics and impact of domestic
368 violence, substance abuse, or mental health disorders when there
369 is a co-occurrence of child abuse. Training must be provided by
370 the Department of Children and Families ~~Florida Coalition~~
371 ~~Against Domestic Violence~~, the Florida Alcohol and Drug Abuse
372 Association, and the Florida Council for Community Mental Health
373 in each entity's respective area of expertise.

374 4. Develop statewide uniform guidelines, standards, and
375 protocols, including a protocol for standardized data collection
376 and reporting, for local child abuse death review committees and
377 provide training and technical assistance to local committees.

4-01272-20

20201482__

378 5. Develop statewide uniform guidelines for reviewing
379 deaths that are the result of child abuse, including guidelines
380 to be used by law enforcement agencies, prosecutors, medical
381 examiners, health care practitioners, health care facilities,
382 and social service agencies.

383 6. Study the adequacy of laws, rules, training, and
384 services to determine what changes are needed to decrease the
385 incidence of child abuse deaths and develop strategies and
386 recruit partners to implement these changes.

387 7. Provide consultation on individual cases to local
388 committees upon request.

389 8. Educate the public regarding the provisions of chapter
390 99-168, Laws of Florida, the incidence and causes of child abuse
391 death, and ways by which such deaths may be prevented.

392 9. Promote continuing education for professionals who
393 investigate, treat, and prevent child abuse or neglect.

394 10. Recommend, when appropriate, the review of the death
395 certificate of a child who died as a result of abuse or neglect.

396 Section 11. Paragraph (b) of subsection (5) of section
397 402.40, Florida Statutes, is amended to read:

398 402.40 Child welfare training and certification.-

399 (5) CORE COMPETENCIES AND SPECIALIZATIONS.-

400 (b) The identification of these core competencies and
401 development of preservice curricula shall be a collaborative
402 effort that includes professionals who have expertise in child
403 welfare services, department-approved third-party credentialing
404 entities, and providers that will be affected by the curriculum,
405 including, but not limited to, representatives from the
406 community-based care lead agencies, ~~the Florida Coalition~~

4-01272-20

20201482__

407 ~~Against Domestic Violence,~~ the Florida Alcohol and Drug Abuse
408 Association, the Florida Council for Community Mental Health,
409 sheriffs' offices conducting child protection investigations,
410 and child welfare legal services providers.

411 Section 12. Subsection (5) of section 741.316, Florida
412 Statutes, is amended to read:

413 741.316 Domestic violence fatality review teams;
414 definition; membership; duties.—

415 (5) The domestic violence fatality review teams are
416 assigned to the Department of Children and Families ~~Florida~~
417 ~~Coalition Against Domestic Violence~~ for administrative purposes.

418 Section 13. Paragraph (d) of subsection (2) of section
419 753.03, Florida Statutes, is amended to read:

420 753.03 Standards for supervised visitation and supervised
421 exchange programs.—

422 (2) The clearinghouse shall use an advisory board to assist
423 in developing the standards. The advisory board must include:

424 ~~(d) A representative of the Florida Coalition Against~~
425 ~~Domestic Violence, appointed by the executive director of the~~
426 ~~Florida Coalition Against Domestic Violence.~~

427 Section 14. Paragraph (a) of subsection (1) and subsection
428 (5) of section 943.0542, Florida Statutes, are amended to read:

429 943.0542 Access to criminal history information provided by
430 the department to qualified entities.—

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

432 (a) "Care" means the provision of care, treatment,
433 education, training, instruction, supervision, or recreation to
434 children, the elderly, victims of domestic violence, or
435 individuals with disabilities.

4-01272-20

20201482__

436 (5) The determination whether the criminal history record
437 shows that the employee or volunteer has been convicted of or is
438 under pending indictment for any crime that bears upon the
439 fitness of the employee or volunteer to have responsibility for
440 the safety and well-being of children, the elderly, victims of
441 domestic violence, or disabled persons shall solely be made by
442 the qualified entity. This section does not require the
443 department to make such a determination on behalf of any
444 qualified entity.

445 Section 15. Section 943.1701, Florida Statutes, is amended
446 to read:

447 943.1701 Uniform statewide policies and procedures; duty of
448 the commission.—The commission, with the advice and cooperation
449 of the Department of Children and Families ~~Florida Coalition~~
450 ~~Against Domestic Violence~~, the Florida Sheriffs Association, the
451 Florida Police Chiefs Association, and other agencies that
452 verify, serve, and enforce injunctions for protection against
453 domestic violence, shall develop by rule uniform statewide
454 policies and procedures to be incorporated into required courses
455 of basic law enforcement training and continuing education.
456 These statewide policies and procedures shall include:

457 (1) The duties and responsibilities of law enforcement in
458 response to domestic violence calls, enforcement of injunctions,
459 and data collection.

460 (2) The legal duties imposed on law enforcement officers to
461 make arrests and offer protection and assistance, including
462 guidelines for making felony and misdemeanor arrests.

463 (3) Techniques for handling incidents of domestic violence
464 that minimize the likelihood of injury to the officer and that

4-01272-20

20201482__

465 promote safety of the victim.

466 (4) The dynamics of domestic violence and the magnitude of
467 the problem.

468 (5) The legal rights of, and remedies available to, victims
469 of domestic violence.

470 (6) Documentation, report writing, and evidence collection.

471 (7) Tenancy issues and domestic violence.

472 (8) The impact of law enforcement intervention in
473 preventing future violence.

474 (9) Special needs of children at the scene of domestic
475 violence and the subsequent impact on their lives.

476 (10) The services and facilities available to victims and
477 batterers.

478 (11) The use and application of sections of the Florida
479 Statutes as they relate to domestic violence situations.

480 (12) Verification, enforcement, and service of injunctions
481 for protection when the suspect is present and when the suspect
482 has fled.

483 (13) Emergency assistance to victims and how to assist
484 victims in pursuing criminal justice options.

485 (14) Working with uncooperative victims, when the officer
486 becomes the complainant.

487 Section 16. Subsection (3) of section 1004.615, Florida
488 Statutes, is amended to read:

489 1004.615 Florida Institute for Child Welfare.—

490 (3) The institute shall work with the department, sheriffs
491 providing child protective investigative services, community-
492 based care lead agencies, community-based care provider
493 organizations, the court system, the Department of Juvenile

4-01272-20

20201482__

494 Justice, ~~the Florida Coalition Against Domestic Violence,~~ and
495 other partners who contribute to and participate in providing
496 child protection and child welfare services.

497 Section 17. 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)

01-28-2020

Meeting Date

SB 1482

Bill Number (if applicable)

Topic Domestic Violence Services

Name Michael Wickersheim

Job Title Legislative Affairs Director

Address 1317 Winewood

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FL

State

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Zip

Phone (850) 488-9410

Email michael.wickersheim@myflfamilies.com

Speaking: For Against Information

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

Representing Florida Department of Children and Families

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

28 JAN 20
Meeting Date

SB 1482
Bill Number (if applicable)

Topic Domestic Violence

Amendment Barcode (if applicable)

Name Scott Howell

Job Title VP for External Affairs

Address 425 Office Plaza Dr.
Street

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Tallahassee FL 32301
City State Zip

Email howell-scott@fcadv.org

Speaking: For Against Information

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

Representing Florida Coalition Against Domestic Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1548
 INTRODUCER: Senator Perry
 SUBJECT: Child Welfare
 DATE: January 27, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1548 makes a number of changes to current law applicable to children in out-of-home care. Specifically, the bill:

- Creates an emergency modification of placement process that uses a probable cause standard to ensure child safety when a child is either abandoned by or must be immediately removed from a relative, nonrelative, or licensed foster home followed by a review process that uses the current standard of child’s best interest established by a preponderance of the evidence.
- Resolves a conflict in Chapter 39 concerning the timeframe for filing and serving a case plan.
- Clarifies the process for terminating court jurisdiction and department supervision in a dependency court action by relocating provisions concerning supervision and jurisdiction that are located throughout Chapter 39, F.S., into a newly created s. 39.630, F.S.
- Clarifies the paternity establishment and disestablishment process by modifying provisions concerning paternity that are located throughout Chapter 39.
- Creates a new s. 39.8025, F.S., to provide a lawful process to immediately protect children whose parents are deceased by committing them to the custody of the department and making them eligible for adoption.
- Clarifies that the department is not required to provide reasonable efforts to preserve and reunify the family if a court has found that the parent is registered as a sexual predator.
- Provides standing for an unsuccessful applicant to adopt a child who is permanently committed to the department to have the opportunity to prove that the department has unreasonably withheld its consent to the applicant. These amendments eliminate the need for an administrative appeal process for unsuccessful applicants and eliminates multiple competing adoption petitions by the approved and unsuccessful applicants.
- Requires a petition to adopt a child who is permanently committed to the department to demonstrate that the department has consented to the adoption or that the dependency court has entered an order waiving the department’s consent.

- Provides that a dependent child's placement with a prospective adoptive parent after a Chapter 39 intervention in a dependency proceeding can only occur after the placement is subject to a preliminary home study to establish the suitability of the home.
- Creates a new s. 742.0211, F.S., to address paternity proceedings concerning dependent children.

In addition the bill does the following:

- Requires the Florida Court Educational Council to establish certain standards, consistent with the purposes of Chapter 39, F.S., for instruction of circuit court judges in dependency cases.
- Eliminates the requirement for the department to submit an annual report to the Governor and Legislature on false reporting of abuse allegations made to the Florida Abuse Hotline, as well as the Independent Living Services Report and the Independent Living Services Advisory Council's Report.
- Provides the department authority to adopt rules for the establishment of processes and procedures for qualified evaluators and implement Medicaid behavioral health utilization management programs for statewide in-patient psychiatric (SIPP) facilities with a contracted vendor.
- Provides authority for the department to appoint all Qualified Evaluators who conduct suitability assessments for children in out-of-home care.

The bill is expected to have a positive fiscal impact on the state and has an effective date of October 1, 2020.

II. Present Situation:

Judicial Education

The Florida Court Education Council was established in 1978 and charged with providing oversight of the development and maintenance of a comprehensive educational program for Florida judges and certain court support personnel. The Council's responsibilities include making budgetary, programmatic, and policy recommendations to the Supreme Court regarding continuing education for Florida judges and certain court professionals.

All judges new to the bench are required to complete the Florida Judicial College program during their first year of judicial service following selection to the bench. Taught by faculty chosen from among the state's most experienced trial and appellate court judges, the College's curriculum includes:

- A comprehensive orientation program in January, including an in-depth trial skills workshop, a mock trial experience and other classes.
- Intensive substantive law courses in March, incorporating education for both new trial judges and those who are switching divisions.
- A separate program designed especially for new appellate judges.
- A mentor program providing new trial court judges regular one-to-one guidance from experienced judges.¹

¹ The Florida Courts, *Information for New Judges*, available at: <https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges> (Last visited December 26, 2019).

All Florida county, circuit, and appellate judges and Florida supreme court justices are required to comply with the following judicial education requirements:

- Each judge and justice shall complete a minimum of 30 credit hours of approved judicial education programs every 3 years.
- Each judge or justice must complete 4 hours of training in the area of judicial ethics. Approved courses in fairness and diversity also can be used to fulfill the judicial ethics requirement.
- In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that judge's first year of judicial service following selection to that level of court.
- Every new appellate court judge or justice must, within 2 years following selection to that level of court, complete an approved appellate-judge program. Every new appellate judge who has never been a trial judge or who has never attended Phase I of the Florida Judicial College as a magistrate must also attend Phase I of the Florida Judicial College in that judge's first year of judicial service following the judge's appointment.²

To help judges satisfy this educational requirement, Florida Judiciary Education currently presents a variety of educational programs for new judges, experienced judges, and some court staff. About 900 hours of instruction are offered each year through live presentations and distance learning formats. This education helps judges and staff to enhance their legal knowledge, administrative skills and ethical standards.

In addition, extensive information is available to judges handling dependency cases in the Dependency Benchbook. The benchbook is a compilation of promising and science-informed practices as well as a legal resource guide. It is a comprehensive tool for judges, providing information regarding legal and non-legal considerations in dependency cases. Topics covered include the importance of a secure attachment with a primary caregiver, the advantages of stable placements and the effects of trauma on child development.³

Paternity

The failure to establish a father for a child as early in the case as possible leads to delay in permanency when the father appears months after disposition because a new case plan must be established. This often extends the goal date by at least six months. The failure to establish the father of the child early also limits the scope of available relative placements for the child, which is contrary to the legislative intent in s. 39.4015(1), F.S., acknowledging that research has shown that relative placements lead to better results for children. If an individual is a “parent” in a dependency action, the individual is entitled to due process and notice before any judicial action may be taken.

² Fla. R. Jud. Admin. 2.320 As amended through August 29, 2019, available at: <https://casetext.com/rule/florida-court-rules/florida-rules-of-judicial-administration/part-iii-judicial-officers/rule-2320-continuing-judicial-education> (Last visited December 26, 2019).

³ The Florida Courts, *Dependency Benchbook*, available at <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Dependency/Dependency-Benchbook> (Last visited December 27, 2019).

Chapter 39 defines “parent” to mean a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). The term “parent” also means legal father who defined as a man who is married to the mother at the time of conception or birth of their child unless paternity has been otherwise determined by the court. If the mother was not married to a man at the time of birth or conception of the child, the term means a man named on the birth certificate of the child pursuant to s. 382.013(2), F.S., a man determined by a court order to be the father of the child, or a man determined to be the father of the child by the Department of Revenue as provided in s. 409.256, F.S. If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless specified conditions are met.

When the identity and location of the legal father is unknown, ss. 39.402(8)(c)(4), 39.503(1), 39.803(1), F.S., require the court to inquire under oath of those present at the shelter, dependency, or termination of parental rights hearing whether they have any of the following information:

- Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.
- Whether the mother was cohabiting with a male at the probable time of conception of the child.
- Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.
- Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.
- Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the child has resided or resides.
- Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2), F.S.
- Whether a man has been determined by a court order to be the father of the child.
- Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256, F.S.

There currently is no requirement in those statutes that the court must enter an order establishing paternity when a legal father has been identified. Without the entry of an order establishing paternity, the legal father is under no obligation to begin services or provide child support. Also, if the child is or were to be placed with the legal father’s relatives, that placement is treated as a nonrelative placement until the order establishing paternity is entered.

Current law requires the department and the court to take action including providing notice of hearings where the court’s inquiry identifies any person as a parent or a prospective parent and conducting a diligent search if that person’s location is unknown. Conducting a diligent search for a prospective parent where there is a legal father can result in unnecessary delay because, even if the prospective parent were to be located, there is no assurance that individual will seek to disestablish the legal father’s rights or that he could meet the standing threshold of manifesting a substantial and continuing concern for the welfare of his child in order to be permitted to pursue a paternity action. The court could achieve disposition pursuant to s. 39.521,

F.S., earlier if a diligent search was not required to be conducted to locate a prospective father where there is a legally-established father.

If there is no legal father, then a diligent search for a prospective parent is appropriate to establish paternity and potentially increase the pool of relative placements for the child. Section 39.503(8), F.S., establishes that if the inquiry and diligent search performed at the dependency stage identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent, who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in any termination of parental rights proceeding for the child, shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood.

Current law contains additional provisions related to determination of parentage in chapter 742. Section 742.011, F.S., permits any woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child may bring proceedings in the circuit court, in chancery, to determine the paternity of the child when paternity has not been established by law or otherwise. Section 742.021, F.S., provides for the filing of a complaint charging paternity in the circuit court where the plaintiff resides or where the defendant resides. Section 742.031, F.S., contemplates that the court will conduct a hearing on the complaint and that, if the court finds that the alleged father is the father of the child, it shall so order. Section 742.18, F.S., provides for a process under which a male may disestablish paternity or terminate a child support obligation when the male is not the biological father of the child.

Current law does not provide any guidance on the standards a court should use in a Chapter 39 proceeding to disestablish a legal father's rights when a Chapter 742 action has been filed concerning a dependent child. Instead, courts get their guidance on resolving a Chapter 742 disestablishment claim from case law. In Simmonds v. Perkins, 247 So. 3d 397 (Fla. 2018), the Florida Supreme Court established the test to determine whether a biological father has standing to bring a paternity action when a child is born of an intact marriage. The Court found that if a biological father manifests a substantial and continuing concern for the welfare of his child, he will not be precluded from bringing a paternity action even if the mother was married at the time of conception or birth. Thereafter, the biological father must show there is a clear and compelling reason based primarily on the child's best interests to overcome the presumption of legitimacy. Dep't of Health & Rehab. Servs. v. Privette, 617 So. 2d 305, 308 (Fla. 1993).

Case Closure

Current law does not have a case closure statute that provides when a court can terminate the department's supervision or the court's jurisdiction. Instead, the only statute in Chapter 39, F.S., to describe when these events can occur is s. 39.521, F.S., which addresses disposition. Section 39.521(1)(c)3., F.S., provides that protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child

and include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

While many statutes in Chapter 39 concern a child remaining in or returning to the home or being placed in some other permanency placement, those statutes are silent on how and when supervision and jurisdiction should be terminated.

Permanent Commitment of Orphaned Children

Presently, the department can adjudicate a child dependent if both parents are deceased, but there is no legal mechanism to permanently commit the child to the department for subsequent adoption.

The court in F.L.M. v. Department of Children and Families, 912 So. 2d 1264 (Fla. 4th DCA 2005), held that when the parents or guardians have died, they have not abandoned the child because the definition of abandonment contemplates the failure to provide a minor child with support and supervision while being able and the parents who died are no longer able to do so. Instead, the court held that an orphaned child without a legal custodian can be properly adjudicated dependent based upon then s. 39.01(14)(e), F.S., which is currently numbered as s. 39.01(15)(e), F.S., in that the child has no parent or legal custodian capable of providing supervision and care. As such, the department relies upon s. 39.01(15)(e), F.S., to adjudicate orphaned children dependent.

Section 39.811(2), F.S., permits a court to commit a child to the custody of the department for the purpose of adoption if the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence. Section 39.806(1), F.S., outlines the available grounds for termination of parental rights. Those grounds include: a written surrender voluntarily executed by the parent, abandonment, failure by the parent to substantially comply with a case plan, and egregious conduct on the part of the parent, among other grounds. All of the grounds available under s. 39.806(1), F.S., require that the parent engage in some kind of behavior that puts a child at risk. Because a deceased parent can no longer engage in any behavior, the department cannot seek the termination of a deceased parent's rights. Moreover, even if there was a legal ground to seek the termination of a deceased parent's rights, there may be benefits that the child is receiving such as social security benefits or an inheritance as a result of the parent's death that the department would not want to halt by seeking a termination of the deceased parent's rights. Because the department cannot seek termination of parental rights when both parents are deceased, courts are permanently committing children to the department's custody without meeting the requirements of s. 39.811(2), F.S. The dependency system is in need of a statute that permits an orphaned child to be permanently committed to the department for subsequent adoption without terminating the deceased parent's rights so as to allow the child to continue to receive death benefits.

Reasonable Efforts for Registered Sexual Predators

Currently, s. 39.806(1)(n), F.S., provides that a ground for termination of parental rights may be established when the parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21, F.S.

Section 39.806(2), F.S., provides that the department is not required to provide reasonable efforts to preserve and reunify families if a court of competent jurisdiction has determined that any of the events described in ss. 39.806(1)(b)-(d) or (1)(f)-(m), F.S., have occurred. These grounds are referred to as the expedited termination of parental rights grounds because the department does not need to obtain an adjudication of dependency and offer the parents a case plan for reunification before seeking termination of the parents' rights. These grounds include where the parent has committed egregious conduct, aggravated child abuse, and aggravated sexual battery. Because s. 39.806(1)(n), F.S., is not listed in s. 39.806(2), F.S., the department must provide a parent who is a convicted and registered sexual predator a case plan for reunification prior to seeking termination of that parent's rights pursuant to this particular ground for termination.

Department's Selection of Adoptive Placement

Currently, the department's ability to place a child in its custody for adoption and the court's review of the placement is controlled by s. 39.812, F.S. The statute provides the department may place a child in a home and the department's consent alone shall be sufficient. The dependency court retains jurisdiction over any child placed in the custody of the department until the child is adopted pursuant to ss. 39.811(9), 39.812(4), and 39.813, F.S. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, s. 39.811(9), F.S., provides that for good cause shown by the Guardian ad Litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Where a child is available for adoption, the department through its contractors will receive applications to adopt the child. Some applicants are not selected because their adoption home study is denied. When there are two or more families with approved home studies, the department's rules route these conflicting applications through the adoption applicant review committee (AARC) for resolution. The decision of the AARC is then reviewed and the department issues its consent to one applicant while communicating its denial to the other applicants through certified letter. These letters are considered final agency action. Unsuccessful applicants have a "point of entry" to seek review of department action through the administrative hearing process under Chapter 120, F.S. These hearings are heard by designated hearing officers within the department. The assignment of adoption disputes to the Chapter 120, F.S., process did not originate with nor was it inspired by legislative directive. Instead, this process arose due to the opinion in Department of Children & Family Services v. I.B. and D.B., 891 So. 2d 1168 (Fla. 1st DCA 2005). However, this process is inconsistent with the Legislature's clear intent of permanency and resolution of all disputes through the Chapter 39, F.S., process.

Florida law also permits individuals, who the department has not approved to adopt a child, to initiate a new Chapter 63, F.S., legal action by filing a petition for adoption. Upon filing the

petition, the petitioner must demonstrate pursuant to s. 63.062(7), F.S., that the department unreasonably withheld its consent to be permitted to adopt the child. Because Chapter 63, F.S., permits anyone who meets the requirements of s. 63.042(2), F.S., to adopt and any petitioner may argue the department's consent to the adoption should be waived because it was unreasonably withheld, multiple parties may file a petition to adopt the same child. Indeed, there can be at least three legal proceedings simultaneously addressing the adoption of the child:

- The Chapter 39, F.S., dependency proceeding.
- The Chapter 63, F.S., adoption proceeding filed by the family who has the department's consent.
- The Chapter 63, F.S., adoption proceeding filed by the applicant who asserts the department unreasonably withheld its consent.

Multiple competing adoption petitions require additional court hearings to resolve the conflict and leads to a delay of the child's adoption. These court proceedings often occur concurrently with the administrative hearing process, which can lead to disparate results.

Relative Home Studies in Chapter 63 Intervention Proceedings

For children in the custody of the department, s. 63.082(6)(a), F.S., provides that if a parent executes a consent for placement of a minor with an adoption entity or qualified adoptive parents, but parental rights have not yet been terminated, the adoption consent is valid, binding, and enforceable by the court. After the parent executes the consent, s. 63.082(6)(b), F.S., permits the adoption entity to intervene in the dependency case as a party in interest and requires the adoption entity to provide the court with a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. Section 63.082(6)(b), F.S., further provides that the home study provided by the adoption entity shall be sufficient unless the court has concerns regarding the qualifications of the home study provider or concerns that the home study may not be adequate to determine the best interests of the child.

Although s. 63.082(6), F.S., provides no exception for the completion of a preliminary home study before the court may transfer custody of the child to the prospective adoptive parents, parties have been able to intervene and accomplish a modification of placement without presenting the court with a home study by relying upon s. 63.092(3), F.S. This section provides that a preliminary home study in a nondependency proceeding is not required when the petitioner for adoption is a stepparent or a relative. Section 63.032(16), F.S., defines a "relative" to mean a person related by blood to the person being adopted within the third degree of consanguinity. As a result of this interpretation of the law, a "relative" who did not pass a department home study because of safety concerns in the home or disqualifying background offenses is permitted to intervene in a dependency action to obtain placement of the child. In one recent case, the relative failed 5 different department home studies, yet the trial court held that she did not need to complete a home study to intervene in the proceeding pursuant to s. 63.082(6), F.S. The department has no ability to ensure the safety of the child in these instances because the adoption entity upon the modification of placement takes over supervision of the child pursuant to s. 63.082(6)(f), F.S.

Licensing Requirements – Institutional Investigations

There are situations where a person is named in some capacity in a report and that, after an investigation of institutional abuse, neglect, or abandonment is closed, the person is not identified as a caregiver responsible for the alleged abuse, neglect, or abandonment. Chapter 39 currently provides that the information contained in the report may not be used in any way to adversely affect the interests of that person. However, Chapter 39 also provides that if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Section 39.302(7)(a), F.S., establishes the fact that a person named in some capacity in a report may not be used in any way to adversely affect the interests of that person after an investigation of institutional abuse, neglect, or abandonment is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report. However, if a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review the reports and determine if information contained is relevant to determine if said person's license should be renewed or revoked.

Qualified Evaluator

Currently, the Agency for Health Care Administration (AHCA) has statutory authority to adopt rules for the registration of qualified evaluators, to establish procedures for selecting the evaluators to conduct the reviews, and to establish a reasonable cost-efficient fee schedule for qualified evaluators. AHCA is required to contract with a vendor (in this case the department) who would then be responsible for maintaining the QEN. In 2016, the Legislature moved the positions and funding to the department for it to exercise its responsibility of maintaining the QEN, but s. 39.407, F.S., still references AHCA as having authority over the QEN.

Child Care

To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child. To that end, the Child Care Regulation Program is responsible for regulating programs that provide services that meet the statutory definition of "child care." This is accomplished through the inspection of licensed child care programs to ensure the consistent statewide application of child care standards established in statute and rule, and the registration of child care providers not subject to inspection. The department regulates licensed child care facilities, licensed family day care homes, licensed large family child care homes, and licensed mildly ill facilities in 62 of the 67 counties in Florida.

"Child care" is defined as "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care." If a child care program meets this statutory definition of "child care," it is subject to regulation by the department/local licensing agencies, unless

specifically excluded or exempted from regulation by statute. Every program determined to be subject to licensing must meet the applicable licensing standards established by ss. 402.301-402.319, F. S., and rules.

- The current definition in s. 402.302, F.S., allows the family day care operation to occur in any occupied residence, thus allowing for operators to utilize additional residences to operate the family day care home.
- Current language in s. 402.305, F.S., allows for child care personnel to complete “training” in cardiopulmonary resuscitation. Training in this statute has always been interpreted and implemented as certification. Certification ensures that child care personnel have actually demonstrated an ability to implement cardiopulmonary resuscitation training. This section of statute is the primary issue at stake in a pending challenge on the rule development process.
- Currently, providers are not required to notify the department when they begin offering transportation services.
- Child care providers are required to provide parents with information at different times throughout the year as required in ss. 402.305, 402.313, and 403.3131, F.S. The dates for provision of different kinds of information is staggered.

III. Effect of Proposed Changes:

Section 1 amends s. 25.385, F.S., relating to standards for instruction of circuit and county court judges in handling domestic violence cases, to require the Florida Court Educational Council to establish standards for instruction of circuit court judges who have responsibility for dependency cases. The standards for instruction must be consistent with and reinforce the purposes of Chapter 39, F.S., particularly the purpose of ensuring that a permanent placement is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year. The instruction must be provided on a periodic and timely basis and by specified entities.

Section 2 amends s. 39.01, F.S., relating to definitions to amend the definition of the term “parent” to remove an alleged or prospective parent from the definition unless parental status is applied for the purpose of determining whether the child has been abandoned.

Section 3 amends s. 39.205, F.S., relating to penalties for false reporting of child abuse, abandonment and neglect, to remove the requirement of an annual report to the Legislature on the number of reports referred.

Section 4 amends s. 39.302, F.S., relating to protective investigations of institutional investigations, to require the department to review any and all reports within a 5-year period, if a person is a licensee of the department and is named in any capacity within the report.

Section 5 amends s. 39.402, F.S., relating to shelter placement, to require the court to enter an order establishing the paternity of the child if the inquiry under s. 39.402(8)(c)4., F.S., identifies a person as a legal father, as defined in s. 39.01, F.S. It also provides that once an order establishing paternity has been entered, the court shall not take any further action to disestablish this paternity in the absence of an action filed pursuant to Chapter 742, F.S. The statute explains that if an action is filed pursuant to Chapter 742 for a dependent child, the action must comply with newly created s. 742.0211, F.S.

Section 6 amends s. 39.407, F.S., relating to medical, psychiatric, and psychological examinations, to make a technical change to agree with the law that was changed in 2016 to move responsibility for the appointment of Qualified Evaluators to the department from AHCA.

Section 7 amends s. 39.503, F.S., relating to identity or location of an unknown parent, to address instances in which there is a legal father. Specifically, this section:

- Provides if an inquiry identifies any person as a parent or a prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person, except that notice shall not be required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01(40), F.S., for the child.
- Provides that if the inquiry identifies a person as a legal father, as defined in s. 39.01, F.S., the court shall enter an order establishing the paternity of the child. This subsection further provides that once an order establishing paternity has been entered, the court shall not take any further action to disestablish this paternity in the absence of an action filed pursuant to Chapter 742, F.S.
- Provides that the petitioner is relieved from further search in addition to being relieved of further notice when an inquiry does not identify a parent or a prospective parent.
- Provides that a diligent search shall not be required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01(40), F.S., for the child.
- Provides that if the inquiry and diligent search identifies and locates a parent, the individual shall be considered a parent for all purposes under this chapter and the court shall require notice of all hearings to be provided to that person.
- Provides that if the inquiry and diligent search identifies and locates a prospective parent and there is no legal father, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. Also provides that no person shall have standing to file a sworn affidavit of parenthood or otherwise establish parenthood except through adoption after entry of a judgment terminating the parental rights of the legal father of the child. If the known parent contests the recognition of the prospective parent as a parent, the court having jurisdiction over the dependency matter shall conduct paternity proceedings under Chapter 742, F.S.
- Provides if the diligent search under the subsection fails to identify and locate a parent or a prospective parent who was identified during the inquiry, the court shall so find and may proceed without further notice and the petitioner is relieved of further search.

Section 8 creates s. 39.5035, F.S., relating to deceased parents, to provide a process for the permanent commitment of a child to the department for the purpose of adoption when both parents are deceased. Specifically, this section:

- Provides that, where both parents of a child are deceased and the child does not have a legal custodian through a probate or guardianship proceeding, an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true, may initiate a proceeding seeking an adjudication of dependency and permanent commitment of the child to the custody of the department.
- Provides that, when a child has been placed in shelter status by order of the court and not yet adjudicated, a petition for adjudication and permanent commitment must be filed within 21 days after the shelter hearing. In all other cases, the petition must be filed within a reasonable

time after the date the child was referred to protective investigation or after the petitioner becomes aware of the facts supporting the petition.

- Provides that, when a petition for adjudication and permanent commitment or a petition for permanent commitment has been filed, the clerk of court shall set the case before the court for an adjudicatory hearing to be held as soon as possible, but no later than 30 days after the petition is filed.
- Provides notice of the date, time, and place of the adjudicatory hearing for the petition for adjudication and permanent commitment or the petition for permanent commitment and requires a copy of the petition be served upon specified individuals
- Provides that adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition for adjudication and permanent commitment or a petition for permanent commitment, the court shall consider whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased, and that the child does not have a legal custodian through a probate or guardianship proceeding. The presentation of a certified copy of the death certificate for each parent shall constitute evidence of the parents' deaths and no further evidence is required to establish that element.
- Provides when the adjudicatory hearing is on a petition for adjudication and permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court shall enter a written order.
- Provides when the adjudicatory hearing is on a petition for permanent commitment, within 30 days after conclusion of the adjudicatory hearing, the court shall enter a written order.

Section 9 amends s. 39.521, F.S., relating to disposition hearings, to eliminate the description of how long protective supervision can continue and under what circumstances the court can terminate protective supervision. Instead, protective supervision will now be fully addressed in newly created s. 39.63, F.S.

Section 10 amends s. 39.522, F.S., relating to postdisposition change of custody, to create an emergency modification of placement that will enable the department and the judiciary to take immediate action to protect children at risk of abuse, abandonment, or neglect who have already been subject to disposition. Specifically, the section:

- Clarifies that the statute applies to a modification of placement if a child must be removed from the parent's custody while the department is supervising the placement of the child after the child is returned to the parent.
- Provides that at any time, an authorized agent of the department or a law enforcement officer may remove a child from a court-ordered placement and take the child into custody if the child's current caregiver requests immediate removal of the child from the home or if the circumstances meet the criteria of probable cause. It also provides requirements and sets timelines for motions and petitions to be filed, considerations for the court before issuing an order, requirements for a home study if a placement is changed, and cause for the court to conduct an evidentiary hearing. The standard for changing custody of the child shall be whether a preponderance of the evidence establishes that a change is in the best interest of the child. When applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home residence as a factor when determining the best interests of the child.

Section 11 amends s. 39.6011, F.S., relating to case plan development, to require the department to file the case plan with the court and serve a copy on the parties:

- Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care. All such case plans must be approved by the court.
- Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted pursuant to this paragraph, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur within 30 days after the disposition hearing to review and approve the case plan.

Section 12 creates s. 39.63, F.S., relating to case closure, to provide that unless the circumstances relating to young adults in extended foster care apply, the court must close the judicial case for all proceedings under this chapter by terminating protective supervision and its jurisdiction as provided in this section. Specifically, the section provides the circumstances under which the court shall close the judicial case by terminating protective supervision and its jurisdiction in a Chapter 39, F.S., proceeding. This statute clarifies for the court and the parties the requirements that must be met to ensure child safety before jurisdiction and supervision is terminated at any stage of the case.

Section 13 amends s. 39.801, F.S., relating to procedures and jurisdiction related to termination of parental right procedures, to clarify that personal service of a termination of parental rights petition is required only on a prospective parent who has been both identified and located.

Section 14 amends s. 39.803, F.S., relating to identity or location of a parent unknown after filing a termination of parental rights petition, to conform to changes that were made to s. 39.503, F.S. This section further clarifies that the court needs to conduct an inquiry to determine the identity or location of a parent where an inquiry has not previously been performed under s. 39.503, F.S.

Section 15 amends s. 39.806, F.S., relating to grounds for termination of parental rights, to provide that reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in ss. 39.806(1)(b)-(d) and (1)(f)-(n), F.S., have occurred. Consequently, the department will no longer need to make reasonable efforts if a parent has been convicted of an offense that requires the parent to register as a sexual predator.

Section 16 amends s. 39.811, F.S., relating to powers of disposition and orders of disposition, to provide the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted after termination of parental rights or permanent commitment pursuant to newly created s. 39.8025, F.S. It also provides that the department's decision to deny an application to adopt a specific child who is under the court's jurisdiction is reviewable only through the process established in s. 39.812(4), F.S., and is not subject to the provisions of Chapter 120, F.S.

Section 17 amends s. 38.812, F.S., relating to postdisposition relief and petition for adoption, to

provide that the department may place a child in the department's custody with an agency as defined in s. 63.032, F.S., with a child-caring agency registered under s. 409.176, F.S., or in a family home for prospective subsequent adoption without the need for a court order unless as otherwise provided in this section. It also authorizes the department, without the need for a court order, to allow prospective adoptive parents to visit with the child to determine whether adoptive placement would be appropriate. It also provides procedures if the department has denied an individual's application to adopt a child.

Section 18 amends s. 63.062, F.S., relating to persons required to consent to adoption, to provide that when a minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or the court order finding the department unreasonably withheld its consent must be attached to the petition to adopt.

Section 19 amends s. 63.082, F.S., relating to execution of consent to adopt, to provide that a preliminary home study is required for all prospective parents regardless of whether that individual is a stepparent or a relative, and that the exemption in s. 63.092(3), F.S., does not apply when a minor child is under the supervision of the department or otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, a dependency petition, or a petition for termination of parental rights pursuant to Chapter 39, F.S.

Section 20 amends s.402.302, relating to definitions, to specify that family day care home operations must occur in the operator's primary residence and that the capacity is limited to children present in the home during operations.

Section 21 amends s. 402.305, F.S., relating to licensing standards, to clarify that at least one child care facility staff person must receive a certification for completion of a cardiopulmonary resuscitation course.

Sections 402.305(9)(b) and (c), F.S., are amended to align the dates for providers on when information is to be shared with parents or guardians.

Section 402.305(10), F.S., is amended to specify that, prior to providing transportation services, a child care facility, family day care home or large family child care home is required to notify the department for approval to begin the service to ensure that all standards have been verified as compliant. Currently, providers are not required to notify the department when they begin offering transportation services. The amendment further specifies that family or large family child care homes are not responsible for children being transported by a parent or guardian.

Section 22 amends s. 402.313, F.S., relating to family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

Section 23 amends s. 402.331, F.S., relating to large family day care homes, to align the dates for providers on when information is to be shared with parents or guardians.

Section 24 amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to eliminate the requirement to submit an annual report.

Section 25 creates s. 742.0211, F.S., relating to proceedings applicable to dependent children, to establish a process for paternity proceedings concerning a dependent child. Specifically, it:

- Provides that, in addition to satisfying the other requirements of this chapter, any paternity proceeding filed under Chapter 742 concerning a dependent child must comply with the requirements of this section.
- Provides that, notwithstanding s. 742.021(1), F.S., a paternity proceeding filed under Chapter 742 concerning a dependent child may be filed in the circuit court of the county that is exercising jurisdiction over the Chapter 39 proceeding even if the plaintiff or the defendant do not reside in the county.
- Provides that the court having jurisdiction over the dependency matter may conduct proceedings under this chapter either as part of the Chapter 39 proceeding or as a separate action under Chapter 742.
- Provides that no person shall have standing to file a paternity complaint under this chapter regarding a dependent child after entry in the Chapter 39 proceeding of a judgment terminating the parental rights of the legal father, as defined in s. 39.01(40), F.S., for the dependent child.
- Addresses paternity proceedings concerning a dependent child who already has an established legal father under Chapter 39, F.S.
- Mandates that the court shall enter a written order on the paternity complaint within 30 days after conclusion of the hearing held pursuant to s. 742.031, F.S.
- Provides that if the court enters an order finding the alleged father is the father of the dependent child, that individual will be considered a parent as defined in s. 39.01(56), F.S., for all purposes of the Chapter 39 proceeding.

Section 26 provides 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 identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Pinellas, Hillsborough, and Sarasota counties would be required to adopt standards that address the minimum standards in the changes to Chapter 402, F.S.

The department has reported that there is a potential cost savings of \$1.1 million if the changes in sections 16, 17, and 18 of the bill are implemented.⁴

VI. Technical Deficiencies:

Lines 1266 and 1299 in the bill change “shall be,” to “is” or “are.” Both lines should either retain current law or be changed to “must be.”

VII. Related Issues:

It is unclear how the changes proposed in section 39.503, regarding the department’s current obligation to search for prospective parents will be reconciled with other provisions in the statute (for example section 39.502) and parents’ constitutional rights.

Additionally, the provisions regarding determinations of paternity under Chapter 742 appear to establish new standards and legal burdens for determinations of paternity. Questions have arisen as to whether the procedure proposed can be implemented from a practical perspective given the standards established and the timeframes imposed.

VIII. Statutes Affected:

This bill substantially amends ss. 25.385, 39.01, 39.205, 39.302, 39.402, 39.407, 39.503, 39.521, 39.522, 39.6011, 39.801, 39.803, 39.806, 39.811, 39.812, 63.062, 63.082, 402.302, 402.305, 402.313, 402.3131, and 409.1451 of the Florida Statutes.

This bill creates ss. 39.5035, 39.63, and 742.0211 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.

⁴ The Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1548, November 25, 2019.

B. Amendments:

None.

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



229818

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 25.385, Florida Statutes, is amended to
read:

25.385 Standards for instruction of circuit and county
court judges ~~in handling domestic violence cases.~~

(1) The Florida Court Educational Council shall establish
standards for instruction of circuit and county court judges who



229818

11 have responsibility for domestic violence cases, and the council
12 shall provide such instruction on a periodic and timely basis.

13 ~~(2)~~ As used in this section:

14 (a) The term "domestic violence" has the meaning set forth
15 in s. 741.28.

16 (b) "Family or household member" has the meaning set forth
17 in s. 741.28.

18 (2) The Florida Court Educational Council shall establish
19 standards for instruction of circuit court judges who have
20 responsibility for dependency cases. The standards for
21 instruction must be consistent with and reinforce the purposes
22 of chapter 39, with emphasis on ensuring that a permanent
23 placement is achieved as soon as possible and that a child
24 should not remain in foster care for longer than 1 year. This
25 instruction must be provided on a periodic and timely basis and
26 may be provided by or in consultation with current or retired
27 judges, the Department of Children and Families, or the
28 Statewide Guardian Ad Litem Office established in s. 39.8296.

29 Section 2. Subsection (7) of section 39.205, Florida
30 Statutes, is amended to read:

31 39.205 Penalties relating to reporting of child abuse,
32 abandonment, or neglect.—

33 (7) The department shall establish procedures for
34 determining whether a false report of child abuse, abandonment,
35 or neglect has been made and for submitting all identifying
36 information relating to such a report to the appropriate law
37 enforcement agency and ~~shall report annually to the Legislature~~
38 ~~the number of reports referred.~~

39 Section 3. Subsection (7) of section 39.302, Florida



229818

40 Statutes, is amended to read:

41 39.302 Protective investigations of institutional child
42 abuse, abandonment, or neglect.—

43 (7) When an investigation of institutional abuse, neglect,
44 or abandonment is closed and a person is not identified as a
45 caregiver responsible for the abuse, neglect, or abandonment
46 alleged in the report, the fact that the person is named in some
47 capacity in the report may not be used in any way to adversely
48 affect the interests of that person. This prohibition applies to
49 any use of the information in employment screening, licensing,
50 child placement, adoption, or any other decisions by a private
51 adoption agency or a state agency or its contracted providers.

52 (a) However, if such a person is a licensee of the
53 department and is named in any capacity in a report ~~three or~~
54 ~~more reports~~ within a 5-year period, the department must ~~may~~
55 review the report ~~those reports~~ and determine whether the
56 information contained in the report ~~reports~~ is relevant for
57 purposes of determining whether the person's license should be
58 renewed or revoked. If the information is relevant to the
59 decision to renew or revoke the license, the department may rely
60 on the information contained in the report in making that
61 decision.

62 (b) Likewise, if a person is employed as a caregiver in a
63 residential group home licensed pursuant to s. 409.175 and is
64 named in any capacity in a report ~~three or more reports~~ within a
65 5-year period, the department must ~~may~~ review the report ~~all~~
66 ~~reports~~ for the purposes of the employment screening as defined
67 in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(e)~~.

68 Section 4. Subsection (6) of section 39.407, Florida



229818

69 Statutes, is amended to read:

70 39.407 Medical, psychiatric, and psychological examination
71 and treatment of child; physical, mental, or substance abuse
72 examination of person with or requesting child custody.—

73 (6) Children who are in the legal custody of the department
74 may be placed by the department, without prior approval of the
75 court, in a residential treatment center licensed under s.
76 394.875 or a hospital licensed under chapter 395 for residential
77 mental health treatment only as provided in ~~pursuant to~~ this
78 section or may be placed by the court in accordance with an
79 order of involuntary examination or involuntary placement
80 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
81 placed in a residential treatment program under this subsection
82 must have a guardian ad litem appointed.

83 (a) As used in this subsection, the term:

84 1. "Residential treatment" means placement for observation,
85 diagnosis, or treatment of an emotional disturbance in a
86 residential treatment center licensed under s. 394.875 or a
87 hospital licensed under chapter 395.

88 2. "Least restrictive alternative" means the treatment and
89 conditions of treatment that, separately and in combination, are
90 no more intrusive or restrictive of freedom than reasonably
91 necessary to achieve a substantial therapeutic benefit or to
92 protect the child or adolescent or others from physical injury.

93 3. "Suitable for residential treatment" or "suitability"
94 means a determination concerning a child or adolescent with an
95 emotional disturbance as defined in s. 394.492(5) or a serious
96 emotional disturbance as defined in s. 394.492(6) that each of
97 the following criteria is met:



229818

98 a. The child requires residential treatment.

99 b. The child is in need of a residential treatment program
100 and is expected to benefit from mental health treatment.

101 c. An appropriate, less restrictive alternative to
102 residential treatment is unavailable.

103 (b) Whenever the department believes that a child in its
104 legal custody is emotionally disturbed and may need residential
105 treatment, an examination and suitability assessment must be
106 conducted by a qualified evaluator who is appointed by the
107 department ~~Agency for Health Care Administration~~. This
108 suitability assessment must be completed before the placement of
109 the child in a residential treatment center for emotionally
110 disturbed children and adolescents or a hospital. The qualified
111 evaluator must be a psychiatrist or a psychologist licensed in
112 Florida who has at least 3 years of experience in the diagnosis
113 and treatment of serious emotional disturbances in children and
114 adolescents and who has no actual or perceived conflict of
115 interest with any inpatient facility or residential treatment
116 center or program.

117 (c) Before a child is admitted under this subsection, the
118 child shall be assessed for suitability for residential
119 treatment by a qualified evaluator who has conducted a personal
120 examination and assessment of the child and has made written
121 findings that:

122 1. The child appears to have an emotional disturbance
123 serious enough to require residential treatment and is
124 reasonably likely to benefit from the treatment.

125 2. The child has been provided with a clinically
126 appropriate explanation of the nature and purpose of the



229818

127 treatment.

128 3. All available modalities of treatment less restrictive
129 than residential treatment have been considered, and a less
130 restrictive alternative that would offer comparable benefits to
131 the child is unavailable.

132
133 A copy of the written findings of the evaluation and suitability
134 assessment must be provided to the department, to the guardian
135 ad litem, and, if the child is a member of a Medicaid managed
136 care plan, to the plan that is financially responsible for the
137 child's care in residential treatment, all of whom must be
138 provided with the opportunity to discuss the findings with the
139 evaluator.

140 (d) Immediately upon placing a child in a residential
141 treatment program under this section, the department must notify
142 the guardian ad litem and the court having jurisdiction over the
143 child and must provide the guardian ad litem and the court with
144 a copy of the assessment by the qualified evaluator.

145 (e) Within 10 days after the admission of a child to a
146 residential treatment program, the director of the residential
147 treatment program or the director's designee must ensure that an
148 individualized plan of treatment has been prepared by the
149 program and has been explained to the child, to the department,
150 and to the guardian ad litem, and submitted to the department.
151 The child must be involved in the preparation of the plan to the
152 maximum feasible extent consistent with his or her ability to
153 understand and participate, and the guardian ad litem and the
154 child's foster parents must be involved to the maximum extent
155 consistent with the child's treatment needs. The plan must



229818

156 include a preliminary plan for residential treatment and
157 aftercare upon completion of residential treatment. The plan
158 must include specific behavioral and emotional goals against
159 which the success of the residential treatment may be measured.
160 A copy of the plan must be provided to the child, to the
161 guardian ad litem, and to the department.

162 (f) Within 30 days after admission, the residential
163 treatment program must review the appropriateness and
164 suitability of the child's placement in the program. The
165 residential treatment program must determine whether the child
166 is receiving benefit toward the treatment goals and whether the
167 child could be treated in a less restrictive treatment program.
168 The residential treatment program shall prepare a written report
169 of its findings and submit the report to the guardian ad litem
170 and to the department. The department must submit the report to
171 the court. The report must include a discharge plan for the
172 child. The residential treatment program must continue to
173 evaluate the child's treatment progress every 30 days thereafter
174 and must include its findings in a written report submitted to
175 the department. The department may not reimburse a facility
176 until the facility has submitted every written report that is
177 due.

178 (g)1. The department must submit, at the beginning of each
179 month, to the court having jurisdiction over the child, a
180 written report regarding the child's progress toward achieving
181 the goals specified in the individualized plan of treatment.

182 2. The court must conduct a hearing to review the status of
183 the child's residential treatment plan no later than 60 days
184 after the child's admission to the residential treatment



229818

185 program. An independent review of the child's progress toward
186 achieving the goals and objectives of the treatment plan must be
187 completed by a qualified evaluator and submitted to the court
188 before its 60-day review.

189 3. For any child in residential treatment at the time a
190 judicial review is held pursuant to s. 39.701, the child's
191 continued placement in residential treatment must be a subject
192 of the judicial review.

193 4. If at any time the court determines that the child is
194 not suitable for continued residential treatment, the court
195 shall order the department to place the child in the least
196 restrictive setting that is best suited to meet his or her
197 needs.

198 (h) After the initial 60-day review, the court must conduct
199 a review of the child's residential treatment plan every 90
200 days.

201 (i) The department must adopt rules for implementing
202 timeframes for the completion of suitability assessments by
203 qualified evaluators and a procedure that includes timeframes
204 for completing the 60-day independent review by the qualified
205 evaluators of the child's progress toward achieving the goals
206 and objectives of the treatment plan which review must be
207 submitted to the court. The Agency for Health Care
208 Administration must adopt rules for the registration of
209 qualified evaluators, the procedure for selecting the evaluators
210 to conduct the reviews required under this section, and a
211 reasonable, cost-efficient fee schedule for qualified
212 evaluators.

213 Section 5. Section 39.5035, Florida Statutes, is created to



229818

214 read:

215 39.5035 Deceased parents; special procedures.-

216 (1) (a) 1. If both parents of a child are deceased and a
217 legal custodian has not been appointed for the child through a
218 probate or guardianship proceeding, then an attorney for the
219 department or any other person, who has knowledge of the facts
220 whether alleged or is informed of the alleged facts and believes
221 them to be true, may initiate a proceeding by filing a petition
222 for adjudication and permanent commitment.

223 2. If a child has been placed in shelter status by order of
224 the court but has not yet been adjudicated, a petition for
225 adjudication and permanent commitment must be filed within 21
226 days after the shelter hearing. In all other cases, the petition
227 must be filed within a reasonable time after the date the child
228 was referred to protective investigation or after the petitioner
229 first becomes aware of the facts that support the petition for
230 adjudication and permanent commitment.

231 (b) If both parents or the last living parent dies after a
232 child has already been adjudicated dependent, an attorney for
233 the department or any other person who has knowledge of the
234 facts alleged or is informed of the alleged facts and believes
235 them to be true may file a petition for permanent commitment.

236 (2) The petition:

237 (a) Must be in writing, identify the alleged deceased
238 parents, and provide facts that establish that both parents of
239 the child are deceased and that a legal custodian has not been
240 appointed for the child through a probate or guardianship
241 proceeding.

242 (b) Must be signed by the petitioner under oath stating the



229818

243 petitioner's good faith in filing the petition.

244 (3) When a petition for adjudication and permanent
245 commitment or a petition for permanent commitment has been
246 filed, the clerk of court shall set the case before the court
247 for an adjudicatory hearing. The adjudicatory hearing must be
248 held as soon as practicable after the petition is filed, but no
249 later than 30 days after the filing date.

250 (4) Notice of the date, time, and place of the adjudicatory
251 hearing and a copy of the petition must be served on the
252 following persons:

253 (a) Any person who has physical custody of the child.

254 (b) A living relative of each parent of the child, unless a
255 living relative cannot be found after a diligent search and
256 inquiry.

257 (c) The guardian ad litem for the child or the
258 representative of the guardian ad litem program, if the program
259 has been appointed.

260 (5) Adjudicatory hearings shall be conducted by the judge
261 without a jury, applying the rules of evidence in use in civil
262 cases and adjourning the hearings from time to time as
263 necessary. At the hearing, the judge must determine whether the
264 petitioner has established by clear and convincing evidence that
265 both parents of the child are deceased and that a legal
266 custodian has not been appointed for the child through a probate
267 or guardianship proceeding. A certified copy of the death
268 certificate for each parent is sufficient evidence of proof of
269 the parents' deaths.

270 (6) Within 30 days after an adjudicatory hearing on a
271 petition for adjudication and permanent commitment:



229818

272 (a) If the court finds that the petitioner has met the
273 clear and convincing standard, the court shall enter a written
274 order adjudicating the child dependent and permanently
275 committing the child to the custody of the department for the
276 purpose of adoption. A disposition hearing shall be scheduled no
277 later than 30 days after the entry of the order, in which the
278 department shall provide a case plan that identifies the
279 permanency goal for the child to the court. Reasonable efforts
280 must be made to place the child in a timely manner in accordance
281 with the permanency plan and to complete all steps necessary to
282 finalize the permanent placement of the child. Thereafter, until
283 the adoption of the child is finalized or the child reaches the
284 age of 18 years, whichever occurs first, the court shall hold
285 hearings every 6 months to review the progress being made toward
286 permanency for the child.

287 (b) If the court finds that clear and convincing evidence
288 does not establish that both parents of a child are deceased and
289 that a legal custodian has not been appointed for the child
290 through a probate or guardianship proceeding, but that a
291 preponderance of the evidence establishes that the child does
292 not have a parent or legal custodian capable of providing
293 supervision or care, the court shall enter a written order
294 adjudicating the child dependent. A disposition hearing shall be
295 scheduled no later than 30 days after the entry of the order as
296 provided in s. 39.521.

297 (c) If the court finds that clear and convincing evidence
298 does not establish that both parents of a child are deceased and
299 that a legal custodian has not been appointed for the child
300 through a probate or guardianship proceeding and that a



229818

301 preponderance of the evidence does not establish that the child
302 does not have a parent or legal custodian capable of providing
303 supervision or care, the court shall enter a written order so
304 finding and dismissing the petition.

305 (7) Within 30 days after an adjudicatory hearing on a
306 petition for permanent commitment:

307 (a) If the court finds that the petitioner has met the
308 clear and convincing standard, the court shall enter a written
309 order permanently committing the child to the custody of the
310 department for purposes of adoption. A disposition hearing shall
311 be scheduled no later than 30 days after the entry of the order,
312 in which the department shall provide an amended case plan that
313 identifies the permanency goal for the child to the court.
314 Reasonable efforts must be made to place the child in a timely
315 manner in accordance with the permanency plan and to complete
316 all steps necessary to finalize the permanent placement of the
317 child. Thereafter, until the adoption of the child is finalized
318 or the child reaches the age of 18 years, whichever occurs
319 first, the court shall hold hearings every 6 months to review
320 the progress being made toward permanency for the child.

321 (b) If the court finds that clear and convincing evidence
322 does not establish that both parents of a child are deceased and
323 that a legal custodian has not been appointed for the child
324 through a probate or guardianship proceeding, the court shall
325 enter a written order denying the petition. The order has no
326 effect on the child's prior adjudication. The order does not bar
327 the petitioner from filing a subsequent petition for permanent
328 commitment based on newly discovered evidence that establishes
329 that both parents of a child are deceased and that a legal



229818

330 custodian has not been appointed for the child through a probate
331 or guardianship proceeding.

332 Section 6. Paragraph (c) of subsection (1) and subsections
333 (3) and (7) of section 39.521, Florida Statutes, are amended to
334 read:

335 39.521 Disposition hearings; powers of disposition.—

336 (1) A disposition hearing shall be conducted by the court,
337 if the court finds that the facts alleged in the petition for
338 dependency were proven in the adjudicatory hearing, or if the
339 parents or legal custodians have consented to the finding of
340 dependency or admitted the allegations in the petition, have
341 failed to appear for the arraignment hearing after proper
342 notice, or have not been located despite a diligent search
343 having been conducted.

344 (c) When any child is adjudicated by a court to be
345 dependent, the court having jurisdiction of the child has the
346 power by order to:

347 1. Require the parent and, when appropriate, the legal
348 guardian or the child to participate in treatment and services
349 identified as necessary. The court may require the person who
350 has custody or who is requesting custody of the child to submit
351 to a mental health or substance abuse disorder assessment or
352 evaluation. The order may be made only upon good cause shown and
353 pursuant to notice and procedural requirements provided under
354 the Florida Rules of Juvenile Procedure. The mental health
355 assessment or evaluation must be administered by a qualified
356 professional as defined in s. 39.01, and the substance abuse
357 assessment or evaluation must be administered by a qualified
358 professional as defined in s. 397.311. The court may also



359 require such person to participate in and comply with treatment
360 and services identified as necessary, including, when
361 appropriate and available, participation in and compliance with
362 a mental health court program established under chapter 394 or a
363 treatment-based drug court program established under s. 397.334.
364 Adjudication of a child as dependent based upon evidence of harm
365 as defined in s. 39.01(35)(g) demonstrates good cause, and the
366 court shall require the parent whose actions caused the harm to
367 submit to a substance abuse disorder assessment or evaluation
368 and to participate and comply with treatment and services
369 identified in the assessment or evaluation as being necessary.
370 In addition to supervision by the department, the court,
371 including the mental health court program or the treatment-based
372 drug court program, may oversee the progress and compliance with
373 treatment by a person who has custody or is requesting custody
374 of the child. The court may impose appropriate available
375 sanctions for noncompliance upon a person who has custody or is
376 requesting custody of the child or make a finding of
377 noncompliance for consideration in determining whether an
378 alternative placement of the child is in the child's best
379 interests. Any order entered under this subparagraph may be made
380 only upon good cause shown. This subparagraph does not authorize
381 placement of a child with a person seeking custody of the child,
382 other than the child's parent or legal custodian, who requires
383 mental health or substance abuse disorder treatment.

384 2. Require, if the court deems necessary, the parties to
385 participate in dependency mediation.

386 3. Require placement of the child either under the
387 protective supervision of an authorized agent of the department



229818

388 in the home of one or both of the child's parents or in the home
389 of a relative of the child or another adult approved by the
390 court, or in the custody of the department. ~~Protective~~
391 ~~supervision continues until the court terminates it or until the~~
392 ~~child reaches the age of 18, whichever date is first. Protective~~
393 ~~supervision shall be terminated by the court whenever the court~~
394 ~~determines that permanency has been achieved for the child,~~
395 ~~whether with a parent, another relative, or a legal custodian,~~
396 ~~and that protective supervision is no longer needed. The~~
397 ~~termination of supervision may be with or without retaining~~
398 ~~jurisdiction, at the court's discretion, and shall in either~~
399 ~~case be considered a permanency option for the child. The order~~
400 ~~terminating supervision by the department must set forth the~~
401 ~~powers of the custodian of the child and include the powers~~
402 ~~ordinarily granted to a guardian of the person of a minor unless~~
403 ~~otherwise specified. Upon the court's termination of supervision~~
404 ~~by the department, further judicial reviews are not required if~~
405 ~~permanency has been established for the child.~~

406 4. Determine whether the child has a strong attachment to
407 the prospective permanent guardian and whether such guardian has
408 a strong commitment to permanently caring for the child.

409 (3) When any child is adjudicated by a court to be
410 dependent, the court shall determine the appropriate placement
411 for the child as follows:

412 (a) If the court determines that the child can safely
413 remain in the home with the parent with whom the child was
414 residing at the time the events or conditions arose that brought
415 the child within the jurisdiction of the court and that
416 remaining in this home is in the best interest of the child,



229818

417 then the court shall order conditions under which the child may
418 remain or return to the home and that this placement be under
419 the protective supervision of the department for not less than 6
420 months.

421 (b) If there is a parent with whom the child was not
422 residing at the time the events or conditions arose that brought
423 the child within the jurisdiction of the court who desires to
424 assume custody of the child, the court shall place the child
425 with that parent upon completion of a home study, unless the
426 court finds that such placement would endanger the safety, well-
427 being, or physical, mental, or emotional health of the child.
428 Any party with knowledge of the facts may present to the court
429 evidence regarding whether the placement will endanger the
430 safety, well-being, or physical, mental, or emotional health of
431 the child. If the court places the child with such parent, it
432 may do either of the following:

433 1. Order that the parent assume sole custodial
434 responsibilities for the child. The court may also provide for
435 reasonable visitation by the noncustodial parent. The court may
436 then terminate its jurisdiction over the child.

437 2. Order that the parent assume custody subject to the
438 jurisdiction of the circuit court hearing dependency matters.
439 The court may order that reunification services be provided to
440 the parent from whom the child has been removed, that services
441 be provided solely to the parent who is assuming physical
442 custody in order to allow that parent to retain later custody
443 without court jurisdiction, or that services be provided to both
444 parents, in which case the court shall determine at every review
445 hearing which parent, if either, shall have custody of the



229818

446 child. The standard for changing custody of the child from one
447 parent to another or to a relative or another adult approved by
448 the court shall be the best interest of the child.

449 (c) If no fit parent is willing or available to assume care
450 and custody of the child, place the child in the temporary legal
451 custody of an adult relative, the adoptive parent of the child's
452 sibling, or another adult approved by the court who is willing
453 to care for the child, under the protective supervision of the
454 department. The department must supervise this placement until
455 the child reaches permanency status in this home, and in no case
456 for a period of less than 6 months. Permanency in a relative
457 placement shall be by adoption, long-term custody, or
458 guardianship.

459 (d) If the child cannot be safely placed in a nonlicensed
460 placement, the court shall commit the child to the temporary
461 legal custody of the department. Such commitment invests in the
462 department all rights and responsibilities of a legal custodian.
463 The department may ~~shall~~ not return any child to the physical
464 care and custody of the person from whom the child was removed,
465 except for court-approved visitation periods, without the
466 approval of the court. Any order for visitation or other contact
467 must conform to the provisions of s. 39.0139. The term of such
468 commitment continues until terminated by the court or until the
469 child reaches the age of 18. After the child is committed to the
470 temporary legal custody of the department, all further
471 proceedings under this section are governed by this chapter.

472
473 ~~Protective supervision continues until the court terminates it~~
474 ~~or until the child reaches the age of 18, whichever date is~~



229818

475 ~~first. Protective supervision shall be terminated by the court~~
476 ~~whenever the court determines that permanency has been achieved~~
477 ~~for the child, whether with a parent, another relative, or a~~
478 ~~legal custodian, and that protective supervision is no longer~~
479 ~~needed. The termination of supervision may be with or without~~
480 ~~retaining jurisdiction, at the court's discretion, and shall in~~
481 ~~either case be considered a permanency option for the child. The~~
482 ~~order terminating supervision by the department shall set forth~~
483 ~~the powers of the custodian of the child and shall include the~~
484 ~~powers ordinarily granted to a guardian of the person of a minor~~
485 ~~unless otherwise specified. Upon the court's termination of~~
486 ~~supervision by the department, no further judicial reviews are~~
487 ~~required, so long as permanency has been established for the~~
488 ~~child.~~

489 ~~(7) The court may enter an order ending its jurisdiction~~
490 ~~over a child when a child has been returned to the parents,~~
491 ~~provided the court shall not terminate its jurisdiction or the~~
492 ~~department's supervision over the child until 6 months after the~~
493 ~~child's return. The department shall supervise the placement of~~
494 ~~the child after reunification for at least 6 months with each~~
495 ~~parent or legal custodian from whom the child was removed. The~~
496 ~~court shall determine whether its jurisdiction should be~~
497 ~~continued or terminated in such a case based on a report of the~~
498 ~~department or agency or the child's guardian ad litem, and any~~
499 ~~other relevant factors; if its jurisdiction is to be terminated,~~
500 ~~the court shall enter an order to that effect.~~

501 Section 7. Section 39.522, Florida Statutes, is amended to
502 read:

503 39.522 Postdisposition change of custody.—The court may



229818

504 change the temporary legal custody or the conditions of
505 protective supervision at a postdisposition hearing, without the
506 necessity of another adjudicatory hearing. If a child has been
507 returned to the parent and is under protective supervision by
508 the department and the child is later removed again from the
509 parent's custody, any modifications of placement shall be done
510 under this section.

511 (1) At any time, an authorized agent of the department or a
512 law enforcement officer may remove a child from a court-ordered
513 placement and take the child into custody if the child's current
514 caregiver requests immediate removal of the child from the home
515 or if there is probable cause as required in s. 39.401(1)(b).
516 The department shall file a motion to modify placement within 1
517 business day after the child is taken into custody. Unless all
518 parties agree to the change of placement, the court must set a
519 hearing within 24 hours after the filing of the motion. At the
520 hearing, the court shall determine whether the department has
521 established probable cause to support the immediate removal of
522 the child from his or her current placement. The court may base
523 its determination on a sworn petition, testimony, or an
524 affidavit and may hear all relevant and material evidence,
525 including oral or written reports, to the extent of its
526 probative value even though it would not be competent evidence
527 at an adjudicatory hearing. If the court finds that probable
528 cause is not established to support the removal of the child
529 from the placement, the court shall order that the child be
530 returned to his or her current placement. If the caregiver
531 admits to a need for a change of placement or probable cause is
532 established to support the removal, the court shall enter an



229818

533 order changing the placement of the child. If the child is not
534 placed in foster care, then the new placement for the child must
535 meet the home study criteria in chapter 39. If the child's
536 placement is modified based on a probable cause finding, the
537 court must conduct a subsequent evidentiary hearing, unless
538 waived by all parties, on the motion to determine whether the
539 department has established by a preponderance of the evidence
540 that maintaining the new placement of the child is in the best
541 interest of the child. The court shall consider the continuity
542 of the child's placement in the same out-of-home residence as a
543 factor when determining the best interests of the child.

544 (2)~~(1)~~ At any time before a child is residing in the
545 permanent placement approved at the permanency hearing, a child
546 who has been placed in the child's own home under the protective
547 supervision of an authorized agent of the department, in the
548 home of a relative, in the home of a legal custodian, or in some
549 other place may be brought before the court by the department or
550 by any other party ~~interested person~~, upon the filing of a
551 petition ~~motion~~ alleging a need for a change in the conditions
552 of protective supervision or the placement. If the parents or
553 other legal custodians deny the need for a change, the court
554 shall hear all parties in person or by counsel, or both. Upon
555 the admission of a need for a change or after such hearing, the
556 court shall enter an order changing the placement, modifying the
557 conditions of protective supervision, or continuing the
558 conditions of protective supervision as ordered. The standard
559 for changing custody of the child is determined by a
560 preponderance of the evidence that establishes that a change is
561 in ~~shall be~~ the best interest of the child. When applying this



229818

562 standard, the court shall consider the continuity of the child's
563 placement in the same out-of-home residence as a factor when
564 determining the best interests of the child. If the child is not
565 placed in foster care, then the new placement for the child must
566 meet the home study criteria and court approval under ~~pursuant~~
567 ~~to~~ this chapter.

568 (3)~~(2)~~ In cases where the issue before the court is whether
569 a child should be reunited with a parent, the court shall review
570 the conditions for return and determine whether the
571 circumstances that caused the out-of-home placement and issues
572 subsequently identified have been remedied to the extent that
573 the return of the child to the home with an in-home safety plan
574 prepared or approved by the department will not be detrimental
575 to the child's safety, well-being, and physical, mental, and
576 emotional health.

577 (4)~~(3)~~ In cases where the issue before the court is whether
578 a child who is placed in the custody of a parent should be
579 reunited with the other parent upon a finding that the
580 circumstances that caused the out-of-home placement and issues
581 subsequently identified have been remedied to the extent that
582 the return of the child to the home of the other parent with an
583 in-home safety plan prepared or approved by the department will
584 not be detrimental to the child, the standard shall be that the
585 safety, well-being, and physical, mental, and emotional health
586 of the child would not be endangered by reunification and that
587 reunification would be in the best interest of the child.

588 Section 8. Subsection (8) of section 39.6011, Florida
589 Statutes, is amended to read:

590 39.6011 Case plan development.—



229818

591 (8) The case plan must be filed with the court and copies
592 provided to all parties, including the child if appropriate:
593 ~~not less than 3 business days before the disposition hearing.~~

594 (a) Not less than 72 hours before the disposition hearing,
595 if the disposition hearing occurs on or after the 60th day after
596 the date the child was placed in out-of-home care; or

597 (b) Not less than 72 hours before the case plan acceptance
598 hearing, if the disposition hearing occurs before the 60th day
599 after the date the child was placed in out-of-home care and a
600 case plan has not been submitted under this subsection, or if
601 the court does not approve the case plan at the disposition
602 hearing.

603 Section 9. Paragraph (a) of subsection (3) of section
604 39.801, Florida Statutes, is amended to read:

605 39.801 Procedures and jurisdiction; notice; service of
606 process.—

607 (3) Before the court may terminate parental rights, in
608 addition to the other requirements set forth in this part, the
609 following requirements must be met:

610 (a) Notice of the date, time, and place of the advisory
611 hearing for the petition to terminate parental rights and a copy
612 of the petition must be personally served upon the following
613 persons, specifically notifying them that a petition has been
614 filed:

615 1. The parents of the child.

616 2. The legal custodians of the child.

617 3. If the parents who would be entitled to notice are dead
618 or unknown, a living relative of the child, unless upon diligent
619 search and inquiry no such relative can be found.



229818

620 4. Any person who has physical custody of the child.
621 5. Any grandparent entitled to priority for adoption under
622 s. 63.0425.
623 6. Any prospective parent who has been identified and
624 located under s. 39.503 or s. 39.803, unless a court order has
625 been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or
626 (9) which indicates no further notice is required. Except as
627 otherwise provided in this section, if there is not a legal
628 father, notice of the petition for termination of parental
629 rights must be provided to any known prospective father who is
630 identified under oath before the court or who is identified and
631 located by a diligent search of the Florida Putative Father
632 Registry. Service of the notice of the petition for termination
633 of parental rights is not required if the prospective father
634 executes an affidavit of nonpaternity or a consent to
635 termination of his parental rights which is accepted by the
636 court after notice and opportunity to be heard by all parties to
637 address the best interests of the child in accepting such
638 affidavit.
639 7. The guardian ad litem for the child or the
640 representative of the guardian ad litem program, if the program
641 has been appointed.
642
643 The document containing the notice to respond or appear must
644 contain, in type at least as large as the type in the balance of
645 the document, the following or substantially similar language:
646 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
647 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
648 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND



229818

649 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
650 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
651 NOTICE.”

652 Section 10. Paragraph (e) of subsection (1) and subsection
653 (2) of section 39.806, Florida Statutes, are amended to read:

654 39.806 Grounds for termination of parental rights.—

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

657 (e) When a child has been adjudicated dependent, a case
658 plan has been filed with the court, and:

659 1. The child continues to be abused, neglected, or
660 abandoned by the parent or parents. The failure of the parent or
661 parents to substantially comply with the case plan for a period
662 of 12 months after an adjudication of the child as a dependent
663 child or the child’s placement into shelter care, whichever
664 occurs first, constitutes evidence of continuing abuse, neglect,
665 or abandonment unless the failure to substantially comply with
666 the case plan was due to the parent’s lack of financial
667 resources or to the failure of the department to make reasonable
668 efforts to reunify the parent and child. The 12-month period
669 begins to run only after the child’s placement into shelter care
670 or the entry of a disposition order placing the custody of the
671 child with the department or a person other than the parent and
672 the court’s approval of a case plan having the goal of
673 reunification with the parent, whichever occurs first; ~~or~~

674 2. The parent or parents have materially breached the case
675 plan by their action or inaction. Time is of the essence for
676 permanency of children in the dependency system. In order to
677 prove the parent or parents have materially breached the case



229818

678 plan, the court must find by clear and convincing evidence that
679 the parent or parents are unlikely or unable to substantially
680 comply with the case plan before time to comply with the case
681 plan expires; or-

682 3. The child has been in care for any 12 of the last 22
683 months and the parents have not substantially complied with the
684 case plan so as to permit reunification under s. 39.522(3) ~~s.~~
685 ~~39.522(2)~~ unless the failure to substantially comply with the
686 case plan was due to the parent's lack of financial resources or
687 to the failure of the department to make reasonable efforts to
688 reunify the parent and child.

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

693 Section 11. Subsection (9) of section 39.811, Florida
694 Statutes, is amended to read:

695 39.811 Powers of disposition; order of disposition.-

696 (9) After termination of parental rights or a written order
697 of permanent commitment entered under s. 39.5035, the court
698 shall retain jurisdiction over any child for whom custody is
699 given to a social service agency until the child is adopted. The
700 court shall review the status of the child's placement and the
701 progress being made toward permanent adoptive placement. As part
702 of this continuing jurisdiction, for good cause shown by the
703 guardian ad litem for the child, the court may review the
704 appropriateness of the adoptive placement of the child. The
705 department's decision to deny an application to adopt a child
706 who is under the court's jurisdiction is reviewable only through



229818

707 a motion to file a chapter 63 petition as provided in s.
708 39.812(4), and is not subject to chapter 120.

709 Section 12. Subsections (1), (4), and (5) of section
710 39.812, Florida Statutes, are amended to read:

711 39.812 Postdisposition relief; petition for adoption.—

712 (1) If the department is given custody of a child for
713 subsequent adoption in accordance with this chapter, the
714 department may place the child with an agency as defined in s.
715 63.032, with a child-caring agency registered under s. 409.176,
716 or in a family home for prospective subsequent adoption without
717 the need for a court order unless otherwise required under this
718 section. The department may allow prospective adoptive parents
719 to visit with a child in the department's custody without a
720 court order to determine whether the adoptive placement would be
721 appropriate. The department may thereafter become a party to any
722 proceeding for the legal adoption of the child and appear in any
723 court where the adoption proceeding is pending and consent to
724 the adoption, and that consent alone shall in all cases be
725 sufficient.

726 (4) The court shall retain jurisdiction over any child
727 placed in the custody of the department until the case is closed
728 as provided in s. 39.63 ~~the child is adopted~~. After custody of a
729 child for subsequent adoption has been given to the department,
730 the court has jurisdiction for the purpose of reviewing the
731 status of the child and the progress being made toward permanent
732 adoptive placement. As part of this continuing jurisdiction, for
733 good cause shown by the guardian ad litem for the child, the
734 court may review the appropriateness of the adoptive placement
735 of the child.



229818

736 (a) If the department has denied a person's application to
737 adopt a child, the denied applicant may file a motion with the
738 court within 30 days after the issuance of the written
739 notification of denial to allow him or her to file a chapter 63
740 petition to adopt a child without the department's consent. The
741 denied applicant must allege in its motion that the department
742 unreasonably withheld its consent to the adoption. The court, as
743 part of its continuing jurisdiction, may review and rule on the
744 motion.

745 1. The denied applicant only has standing in the chapter 39
746 proceeding to file the motion in paragraph (a) and to present
747 evidence in support of the motion at a hearing, which must be
748 held within 30 days after the filing of the motion.

749 2. At the hearing on the motion, the court may only
750 consider whether the department's review of the application was
751 consistent with its policies and made in an expeditious manner.
752 The standard of review by the court is whether the department's
753 denial of the application is an abuse of discretion. The court
754 may not compare the denied applicant against another applicant
755 to determine which placement is in the best interests of the
756 child.

757 3. If the denied applicant establishes by a preponderance
758 of the evidence that the department unreasonably withheld its
759 consent, the court shall enter an order authorizing the denied
760 applicant to file a petition to adopt the child under chapter 63
761 without the department's consent.

762 4. If the denied applicant does not prove by a
763 preponderance of the evidence that the department unreasonably
764 withheld its consent, the court shall enter an order so finding



229818

765 and dismiss the motion.

766 5. The standing of the denied applicant in the chapter 39
767 proceeding is terminated upon entry of the court's order.

768 (b) When a licensed foster parent or court-ordered
769 custodian has applied to adopt a child who has resided with the
770 foster parent or custodian for at least 6 months and who has
771 previously been permanently committed to the legal custody of
772 the department and the department does not grant the application
773 to adopt, the department may not, in the absence of a prior
774 court order authorizing it to do so, remove the child from the
775 foster home or custodian, except when:

776 1.~~(a)~~ There is probable cause to believe that the child is
777 at imminent risk of abuse or neglect;

778 2.~~(b)~~ Thirty days have expired following written notice to
779 the foster parent or custodian of the denial of the application
780 to adopt, within which period no formal challenge of the
781 department's decision has been filed; ~~or~~

782 3.~~(c)~~ The foster parent or custodian agrees to the child's
783 removal; or.

784 4. The department has selected another prospective adoptive
785 parent to adopt the child and either the foster parent or
786 custodian has not filed a motion with the court to allow him or
787 her to file a chapter 63 petition to adopt a child without the
788 department's consent, as provided under paragraph (a), or the
789 court has denied such a motion.

790 (5) The petition for adoption must be filed in the division
791 of the circuit court which entered the judgment terminating
792 parental rights, unless a motion for change of venue is granted
793 under pursuant to s. 47.122. A copy of the consent executed by



229818

794 the department must be attached to the petition, unless such
795 consent is waived under subsection (4) pursuant to s. 63.062(7).

796 The petition must be accompanied by a statement, signed by the
797 prospective adoptive parents, acknowledging receipt of all
798 information required to be disclosed under s. 63.085 and a form
799 provided by the department which details the social and medical
800 history of the child and each parent and includes the social
801 security number and date of birth for each parent, if such
802 information is available or readily obtainable. The prospective
803 adoptive parents may not file a petition for adoption until the
804 judgment terminating parental rights becomes final. An adoption
805 proceeding under this subsection is governed by chapter 63.

806 Section 13. Subsection (7) of section 63.062, Florida
807 Statutes, is amended to read:

808 63.062 Persons required to consent to adoption; affidavit
809 of nonpaternity; waiver of venue.—

810 (7) If parental rights to the minor have previously been
811 terminated, the adoption entity with which the minor has been
812 placed for subsequent adoption may provide consent to the
813 adoption. In such case, no other consent is required. If the
814 minor has been permanently committed to the department for
815 subsequent adoption, the department must consent to the adoption
816 or, in the alternative, the court order entered under s.
817 39.812(4) finding that the department ~~The consent of the~~
818 ~~department shall be waived upon a determination by the court~~
819 ~~that such consent is being~~ unreasonably withheld its consent
820 must be attached to the petition to adopt, and if the petitioner
821 must file ~~has filed with the court~~ a favorable preliminary
822 adoptive home study as required under s. 63.092.



229818

823 Section 14. Paragraph (b) of subsection (6) of section
824 63.082, Florida Statutes, is amended to read:

825 63.082 Execution of consent to adoption or affidavit of
826 nonpaternity; family social and medical history; revocation of
827 consent.—

828 (6)

829 (b) Upon execution of the consent of the parent, the
830 adoption entity must ~~shall~~ be permitted to intervene in the
831 dependency case as a party in interest and must provide the
832 court that acquired jurisdiction over the minor, pursuant to the
833 shelter order or dependency petition filed by the department, a
834 copy of the preliminary home study of the prospective adoptive
835 parents and any other evidence of the suitability of the
836 placement. The preliminary home study must be maintained with
837 strictest confidentiality within the dependency court file and
838 the department's file. A preliminary home study must be provided
839 to the court in all cases in which an adoption entity has
840 intervened under ~~pursuant to~~ this section. The exemption in s.
841 63.092(3) from the home study for a stepparent or relative does
842 not apply if a minor is under the supervision of the department
843 or is otherwise subject to the jurisdiction of the dependency
844 court as a result of the filing of a shelter petition,
845 dependency petition, or termination of parental rights petition
846 under chapter 39. Unless the court has concerns regarding the
847 qualifications of the home study provider, or concerns that the
848 home study may not be adequate to determine the best interests
849 of the child, the home study provided by the adoption entity is
850 ~~shall be deemed to be~~ sufficient and no additional home study
851 needs to be performed by the department.



229818

852 Section 15. Subsections (8) and (9) of section 402.302,
853 Florida Statutes, are amended to read:

854 402.302 Definitions.—As used in this chapter, the term:

855 (8) "Family day care home" means an occupied primary
856 residence leased or owned by the operator in which child care is
857 regularly provided for children from at least two unrelated
858 families and which receives a payment, fee, or grant for any of
859 the children receiving care, whether or not operated for profit.
860 Household children under 13 years of age, when on the premises
861 of the family day care home or on a field trip with children
862 enrolled in child care, are ~~shall be~~ included in the overall
863 capacity of the licensed home. A family day care home is ~~shall~~
864 ~~be~~ allowed to provide care for one of the following groups of
865 children, which shall include household children under 13 years
866 of age:

867 (a) A maximum of four children from birth to 12 months of
868 age.

869 (b) A maximum of three children from birth to 12 months of
870 age, and other children, for a maximum total of six children.

871 (c) A maximum of six preschool children if all are older
872 than 12 months of age.

873 (d) A maximum of 10 children if no more than 5 are
874 preschool age and, of those 5, no more than 2 are under 12
875 months of age.

876 (9) "Household children" means children who are related by
877 blood, marriage, or legal adoption to, or who are the legal
878 wards of, the family day care home operator, the large family
879 child care home operator, or an adult household member who
880 permanently or temporarily resides in the home. Supervision of



229818

881 the operator's household children shall be left to the
882 discretion of the operator unless those children receive
883 subsidized child care through the school readiness program under
884 ~~pursuant to~~ s. 1002.92 to be in the home.

885 Section 16. Paragraph (a) of subsection (7), paragraphs (b)
886 and (c) of subsection (9), and subsection (10) of section
887 402.305, Florida Statutes, are amended to read:

888 402.305 Licensing standards; child care facilities.—

889 (7) SANITATION AND SAFETY.—

890 (a) Minimum standards shall include requirements for
891 sanitary and safety conditions, first aid treatment, emergency
892 procedures, and pediatric cardiopulmonary resuscitation. The
893 minimum standards shall require that at least one staff person
894 trained and certified in cardiopulmonary resuscitation, as
895 evidenced by current documentation of course completion, must be
896 present at all times that children are present.

897 (9) ADMISSIONS AND RECORDKEEPING.—

898 (b) At the time of initial enrollment and annually
899 thereafter ~~During the months of August and September of each~~
900 ~~year~~, each child care facility shall provide parents of children
901 enrolled in the facility detailed information regarding the
902 causes, symptoms, and transmission of the influenza virus in an
903 effort to educate those parents regarding the importance of
904 immunizing their children against influenza as recommended by
905 the Advisory Committee on Immunization Practices of the Centers
906 for Disease Control and Prevention.

907 (c) At the time of initial enrollment and annually
908 thereafter ~~During the months of April and September of each~~
909 ~~year~~, at a minimum, each facility shall provide parents of



229818

910 children enrolled in the facility information regarding the
911 potential for a distracted adult to fail to drop off a child at
912 the facility and instead leave the child in the adult's vehicle
913 upon arrival at the adult's destination. The child care facility
914 shall also give parents information about resources with
915 suggestions to avoid this occurrence. The department shall
916 develop a flyer or brochure with this information that shall be
917 posted to the department's website, which child care facilities
918 may choose to reproduce and provide to parents to satisfy the
919 requirements of this paragraph.

920 (10) TRANSPORTATION SAFETY.—

921 (a) Minimum standards for child care facilities, family day
922 care homes, and large family child care homes shall include all
923 of the following:

924 1. Requirements for child restraints or seat belts in
925 vehicles used by ~~child care~~ facilities and ~~large family child~~
926 ~~care~~ homes to transport children.

927 2. Requirements for annual inspections of such ~~the~~
928 vehicles.

929 3. Limitations on the number of children which may be
930 transported in such ~~the~~ vehicles, ~~procedures to avoid leaving~~
931 ~~children in vehicles when transported by the facility, and~~
932 ~~accountability for children transported by the child care~~
933 ~~facility.~~

934 (b) Before providing transportation services or reinstating
935 transportation services after a lapse or discontinuation of
936 longer than 30 days, a child care facility, family day care
937 home, or large family child care home must be approved by the
938 department to transport children. Approval by the department is



229818

939 based on the provider's demonstration of compliance with all
940 current rules and standards for transportation.

941 (c) A child care facility, family day care home, or large
942 family child care home is not responsible for the safe transport
943 of children when they are being transported by a parent or
944 guardian.

945 Section 17. Subsections (14) and (15) of section 402.313,
946 Florida Statutes, are amended to read:

947 402.313 Family day care homes.—

948 (14) At the time of initial enrollment and annually
949 thereafter ~~During the months of August and September of each~~
950 ~~year~~, each family day care home shall provide parents of
951 children enrolled in the home detailed information regarding the
952 causes, symptoms, and transmission of the influenza virus in an
953 effort to educate those parents regarding the importance of
954 immunizing their children against influenza as recommended by
955 the Advisory Committee on Immunization Practices of the Centers
956 for Disease Control and Prevention.

957 (15) At the time of initial enrollment and annually
958 thereafter ~~During the months of April and September of each~~
959 ~~year~~, at a minimum, each family day care home shall provide
960 parents of children attending the family day care home
961 information regarding the potential for a distracted adult to
962 fail to drop off a child at the family day care home and instead
963 leave the child in the adult's vehicle upon arrival at the
964 adult's destination. The family day care home shall also give
965 parents information about resources with suggestions to avoid
966 this occurrence. The department shall develop a flyer or
967 brochure with this information that shall be posted to the



229818

968 department's website, which family day care homes may choose to
969 reproduce and provide to parents to satisfy the requirements of
970 this subsection.

971 Section 18. Subsections (8), (9), and (10) of section
972 402.3131, Florida Statutes, are amended to read:

973 402.3131 Large family child care homes.—

974 (8) Before ~~Prior to~~ being licensed by the department, large
975 family child care homes must be approved by the state or local
976 fire marshal in accordance with standards established for child
977 care facilities.

978 (9) At the time of initial enrollment and annually
979 thereafter ~~During the months of August and September of each~~
980 ~~year~~, each large family child care home shall provide parents of
981 children enrolled in the home detailed information regarding the
982 causes, symptoms, and transmission of the influenza virus in an
983 effort to educate those parents regarding the importance of
984 immunizing their children against influenza as recommended by
985 the Advisory Committee on Immunization Practices of the Centers
986 for Disease Control and Prevention.

987 (10) At the time of initial enrollment and annually
988 thereafter ~~During the months of April and September of each~~
989 ~~year~~, at a minimum, each large family child care home shall
990 provide parents of children attending the large family child
991 care home information regarding the potential for a distracted
992 adult to fail to drop off a child at the large family child care
993 home and instead leave the child in the adult's vehicle upon
994 arrival at the adult's destination. The large family child care
995 home shall also give parents information about resources with
996 suggestions to avoid this occurrence. The department shall



229818

997 develop a flyer or brochure with this information that shall be
998 posted to the department's website, which large family child
999 care homes may choose to reproduce and provide to parents to
1000 satisfy the requirements of this subsection.

1001 Section 19. Subsection (6) and paragraphs (b) and (e) of
1002 subsection (7) of section 409.1451, Florida Statutes, are
1003 amended to read:

1004 409.1451 The Road-to-Independence Program.—

1005 (6) ACCOUNTABILITY.—The department shall develop outcome
1006 measures for the program and other performance measures in order
1007 to maintain oversight of the program. ~~No later than January 31~~
1008 ~~of each year, the department shall prepare a report on the~~
1009 ~~outcome measures and the department's oversight activities and~~
1010 ~~submit the report to the President of the Senate, the Speaker of~~
1011 ~~the House of Representatives, and the committees with~~
1012 ~~jurisdiction over issues relating to children and families in~~
1013 ~~the Senate and the House of Representatives. The report must~~
1014 ~~include:~~

1015 ~~(a) An analysis of performance on the outcome measures~~
1016 ~~developed under this section reported for each community-based~~
1017 ~~care lead agency and compared with the performance of the~~
1018 ~~department on the same measures.~~

1019 ~~(b) A description of the department's oversight of the~~
1020 ~~program, including, by lead agency, any programmatic or fiscal~~
1021 ~~deficiencies found, corrective actions required, and current~~
1022 ~~status of compliance.~~

1023 ~~(c) Any rules adopted or proposed under this section since~~
1024 ~~the last report. For the purposes of the first report, any rules~~
1025 ~~adopted or proposed under this section must be included.~~



229818

1026 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
1027 secretary shall establish the Independent Living Services
1028 Advisory Council for the purpose of reviewing and making
1029 recommendations concerning the implementation and operation of
1030 the provisions of s. 39.6251 and the Road-to-Independence
1031 Program. The advisory council shall function as specified in
1032 this subsection until the Legislature determines that the
1033 advisory council can no longer provide a valuable contribution
1034 to the department's efforts to achieve the goals of the services
1035 designed to enable a young adult to live independently.

1036 ~~(b) The advisory council shall report to the secretary on~~
1037 ~~the status of the implementation of the Road-to-Independence~~
1038 ~~Program, efforts to publicize the availability of the Road to-~~
1039 ~~Independence Program, the success of the services, problems~~
1040 ~~identified, recommendations for department or legislative~~
1041 ~~action, and the department's implementation of the~~
1042 ~~recommendations contained in the Independent Living Services~~
1043 ~~Integration Workgroup Report submitted to the appropriate~~
1044 ~~substantive committees of the Legislature by December 31, 2013.~~
1045 ~~The department shall submit a report by December 31 of each year~~
1046 ~~to the Governor, the President of the Senate, and the Speaker of~~
1047 ~~the House of Representatives which includes a summary of the~~
1048 ~~factors reported on by the council and identifies the~~
1049 ~~recommendations of the advisory council and either describes the~~
1050 ~~department's actions to implement the recommendations or~~
1051 ~~provides the department's rationale for not implementing the~~
1052 ~~recommendations.~~

1053 ~~(c) The advisory council report required under paragraph~~
1054 ~~(b) must include an analysis of the system of independent living~~



229818

1055 ~~transition services for young adults who reach 18 years of age~~
1056 ~~while in foster care before completing high school or its~~
1057 ~~equivalent and recommendations for department or legislative~~
1058 ~~action. The council shall assess and report on the most~~
1059 ~~effective method of assisting these young adults to complete~~
1060 ~~high school or its equivalent by examining the practices of~~
1061 ~~other states.~~

1062 Section 20. This act shall take effect October 1, 2020.

1063
1064 ===== T I T L E A M E N D M E N T =====

1065 And the title is amended as follows:

1066 Delete everything before the enacting clause
1067 and insert:

1068 A bill to be entitled
1069 An act relating to child welfare; amending s. 25.385,
1070 F.S.; requiring the Florida Court Educational Council
1071 to establish certain standards for instruction of
1072 specified circuit court judges; amending s. 39.205,
1073 F.S.; deleting a requirement for the Department of
1074 Children and Families to report certain information to
1075 the Legislature; amending s. 39.302, F.S.; requiring
1076 the department to review certain reports under certain
1077 circumstances; amending s. 39.407, F.S.; transferring
1078 certain duties to the department from the Agency for
1079 Health Care Administration; creating s. 39.5035, F.S.;
1080 providing court procedures and requirements relating
1081 to deceased parents of a dependent child; providing
1082 requirements for petitions for adjudication and
1083 permanent commitment for certain children; amending s.



229818

1084 39.521, F.S.; deleting provisions relating to
1085 protective supervision; deleting provisions relating
1086 to the court's authority to enter an order ending its
1087 jurisdiction over a child under certain circumstances;
1088 amending s. 39.522, F.S.; providing requirements for a
1089 modification of placement of a child under the
1090 supervision of the department; amending s. 39.6011,
1091 F.S.; providing timeframes in which case plans must be
1092 filed with the court and be provided to specified
1093 parties; amending s. 39.801, F.S.; conforming
1094 provisions to changes made by the act; amending s.
1095 39.806, F.S.; conforming cross-references; amending s.
1096 39.811, F.S.; expanding conditions under which a court
1097 retains jurisdiction; providing when certain decisions
1098 relating to adoption are reviewable; amending s.
1099 39.812, F.S.; authorizing the department to take
1100 certain actions without a court order; authorizing
1101 certain persons to file a petition to adopt a child
1102 without the department's consent; providing standing
1103 requirements; providing a standard of proof; providing
1104 responsibilities of the court in such cases; amending
1105 s. 63.062, F.S.; requiring the department to consent
1106 to certain adoptions; providing exceptions; amending
1107 s. 63.082, F.S.; providing construction; amending s.
1108 402.302, F.S.; revising definitions; amending s.
1109 402.305, F.S.; requiring a certain number of staff
1110 persons at child care facilities to be certified in
1111 certain safety techniques; requiring child care
1112 facilities to provide certain information to parents



229818

1113 at the time of initial enrollment and annually
1114 thereafter; revising minimum standards for child care
1115 facilities, family day care homes, and large family
1116 child care homes relating to transportation; requiring
1117 child care facilities, family day care homes, and
1118 large family child care homes to be approved by the
1119 department to transport children in certain
1120 situations; amending s. 402.313, F.S.; requiring
1121 family day care homes to provide certain information
1122 to parents at the time of enrollment and annually
1123 thereafter; amending s. 402.3131, F.S.; requiring
1124 large family child care homes to provide certain
1125 information to parents at the time of enrollment and
1126 annually thereafter; amending s. 409.1451, F.S.;
1127 deleting a reporting requirement of the department and
1128 the Independent Living Services Advisory Council;
1129 providing an effective date.

By Senator Perry

8-01040A-20

20201548__

1 A bill to be entitled
2 An act relating to child welfare; amending s. 25.385,
3 F.S.; requiring the Florida Court Educational Council
4 to establish certain standards for instruction of
5 specified circuit court judges; amending s. 39.01,
6 F.S.; revising the definition of the term "parent";
7 amending s. 39.205, F.S.; deleting a requirement for
8 the Department of Children and Families to report
9 certain information to the Legislature; amending s.
10 39.302, F.S.; requiring the department to review
11 certain reports under certain circumstances; amending
12 s. 39.402, F.S.; providing requirements for the court
13 when establishing paternity at a shelter hearing;
14 amending s. 39.407, F.S.; transferring certain duties
15 to the department from the Agency for Health Care
16 Administration; amending s. 39.503, F.S.; revising
17 procedures and requirements relating to the unknown
18 identity or location of a parent of a dependent child;
19 providing that a person does not have standing under
20 certain circumstances; creating s. 39.5035, F.S.;
21 providing court procedures and requirements relating
22 to deceased parents of a dependent child; providing
23 requirements for petitions for adjudication and
24 permanent commitment for certain children; amending s.
25 39.521, F.S.; deleting provisions relating to
26 protective supervision; deleting provisions relating
27 to the court's authority to enter an order ending its
28 jurisdiction over a child under certain circumstances;
29 amending s. 39.522, F.S.; providing requirements for a

8-01040A-20

20201548__

30 modification of placement of a child under the
31 supervision of the department; amending s. 39.6011,
32 F.S.; providing timeframes in which case plans must be
33 filed with the court and be provided to specified
34 parties; creating s. 39.63, F.S.; providing procedures
35 and requirements for closing a case under chapter 39;
36 amending s. 39.801, F.S.; conforming provisions to
37 changes made by the act; amending s. 39.803, F.S.;
38 revising procedures and requirements relating to the
39 unknown identity or location of a parent of a
40 dependent child; providing that a person does not have
41 standing under certain circumstances; amending s.
42 39.806, F.S.; conforming cross-references; amending s.
43 39.811, F.S.; expanding conditions under which a court
44 retains jurisdiction; providing when certain decisions
45 relating to adoption are reviewable; amending s.
46 39.812, F.S.; authorizing the department to take
47 certain actions without a court order; authorizing
48 certain persons to file a petition to adopt a child
49 without the department's consent; providing standing
50 requirements; providing a standard of proof; providing
51 responsibilities of the court in such cases; amending
52 s. 63.062, F.S.; requiring the department to consent
53 to certain adoptions; providing exceptions; amending
54 s. 63.082, F.S.; providing construction; amending s.
55 402.302, F.S.; revising definitions; amending s.
56 402.305, F.S.; requiring a certain number of staff
57 persons at child care facilities to be certified in
58 certain safety techniques; requiring child care

8-01040A-20

20201548__

59 facilities to provide certain information to parents
60 at the time of initial enrollment and annually
61 thereafter; revising minimum standards for child care
62 facilities, family day care homes, and large family
63 child care homes relating to transportation; requiring
64 child care facilities, family day care homes, and
65 large family child care homes to be approved by the
66 department to transport children in certain
67 situations; amending s. 402.313, F.S.; requiring
68 family day care homes to provide certain information
69 to parents at the time of enrollment and annually
70 thereafter; amending s. 402.3131, F.S.; requiring
71 large family child care homes to provide certain
72 information to parents at the time of enrollment and
73 annually thereafter; amending s. 409.1451, F.S.;
74 deleting a reporting requirement of the department and
75 the Independent Living Services Advisory Council;
76 creating s. 742.0211, F.S.; defining the term
77 "dependent child"; providing requirements and
78 procedures for the determination of paternity when a
79 child is dependent; providing the burden of proof for
80 certain paternity complaints; providing applicability;
81 providing an effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Section 25.385, Florida Statutes, is amended to
86 read:
87 25.385 Standards for instruction of circuit and county

8-01040A-20

20201548__

88 court judges ~~in handling domestic violence cases.~~

89 (1) The Florida Court Educational Council shall establish
90 standards for instruction of circuit and county court judges who
91 have responsibility for domestic violence cases, and the council
92 shall provide such instruction on a periodic and timely basis.

93 ~~(2)~~ As used in this section:

94 (a) The term "domestic violence" has the meaning set forth
95 in s. 741.28.

96 (b) "Family or household member" has the meaning set forth
97 in s. 741.28.

98 (2) The Florida Court Educational Council shall establish
99 standards for instruction of circuit court judges who have
100 responsibility for dependency cases. The standards for
101 instruction must be consistent with and reinforce the purposes
102 of chapter 39, with emphasis on ensuring that a permanent
103 placement is achieved as soon as possible and that a child
104 should not remain in foster care for longer than 1 year. This
105 instruction must be provided on a periodic and timely basis and
106 may be provided by or in consultation with current or retired
107 judges, the Department of Children and Families, or the
108 Statewide Guardian Ad Litem Office established in s. 39.8296.

109 Section 2. Subsection (56) of section 39.01, Florida
110 Statutes, is amended to read:

111 39.01 Definitions.—When used in this chapter, unless the
112 context otherwise requires:

113 (56) "Parent" means a woman who gives birth to a child and
114 a man whose consent to the adoption of the child would be
115 required under s. 63.062(1). The term "parent" also means legal
116 father as defined in this section. If a child has been legally

8-01040A-20

20201548__

117 adopted, the term "parent" means the adoptive mother or father
118 of the child. For purposes of this chapter only, when the phrase
119 "parent or legal custodian" is used, it refers to rights or
120 responsibilities of the parent and, only if there is no living
121 parent with intact parental rights, to the rights or
122 responsibilities of the legal custodian who has assumed the role
123 of the parent. The term does not include an individual whose
124 parental relationship to the child has been legally terminated,
125 or an alleged or prospective parent, unless:

126 ~~(a) The parental status falls within the terms of s.~~
127 ~~39.503(1) or s. 63.062(1); or~~

128 ~~(b)~~ parental status is applied for the purpose of
129 determining whether the child has been abandoned.

130 Section 3. Subsection (7) of section 39.205, Florida
131 Statutes, is amended to read:

132 39.205 Penalties relating to reporting of child abuse,
133 abandonment, or neglect.—

134 (7) The department shall establish procedures for
135 determining whether a false report of child abuse, abandonment,
136 or neglect has been made and for submitting all identifying
137 information relating to such a report to the appropriate law
138 enforcement agency ~~and shall report annually to the Legislature~~
139 ~~the number of reports referred.~~

140 Section 4. Subsection (7) of section 39.302, Florida
141 Statutes, is amended to read:

142 39.302 Protective investigations of institutional child
143 abuse, abandonment, or neglect.—

144 (7) When an investigation of institutional abuse, neglect,
145 or abandonment is closed and a person is not identified as a

8-01040A-20

20201548__

146 caregiver responsible for the abuse, neglect, or abandonment
147 alleged in the report, the fact that the person is named in some
148 capacity in the report may not be used in any way to adversely
149 affect the interests of that person. This prohibition applies to
150 any use of the information in employment screening, licensing,
151 child placement, adoption, or any other decisions by a private
152 adoption agency or a state agency or its contracted providers.

153 (a) However, if such a person is a licensee of the
154 department and is named in any capacity in a report ~~three or~~
155 ~~more reports~~ within a 5-year period, the department must ~~may~~
156 review the report ~~those reports~~ and determine whether the
157 information contained in the report ~~reports~~ is relevant for
158 purposes of determining whether the person's license should be
159 renewed or revoked. If the information is relevant to the
160 decision to renew or revoke the license, the department may rely
161 on the information contained in the report in making that
162 decision.

163 (b) Likewise, if a person is employed as a caregiver in a
164 residential group home licensed pursuant to s. 409.175 and is
165 named in any capacity in a report ~~three or more reports~~ within a
166 5-year period, the department must ~~may~~ review the report ~~all~~
167 ~~reports~~ for the purposes of the employment screening as defined
168 in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

169 Section 5. Paragraph (c) of subsection (8) of section
170 39.402, Florida Statutes, is amended to read:

171 39.402 Placement in a shelter.—

172 (8)

173 (c) At the shelter hearing, the court shall:

174 1. Appoint a guardian ad litem to represent the best

8-01040A-20

20201548__

175 interest of the child, unless the court finds that such
176 representation is unnecessary.†

177 2. Inform the parents or legal custodians of their right to
178 counsel to represent them at the shelter hearing and at each
179 subsequent hearing or proceeding, and the right of the parents
180 to appointed counsel, pursuant to the procedures set forth in s.
181 39.013.†

182 3. Give the parents or legal custodians an opportunity to
183 be heard and to present evidence.† ~~and~~

184 4. Inquire of those present at the shelter hearing as to
185 the identity and location of the legal father. In determining
186 who the legal father of the child may be, the court shall
187 inquire under oath of those present at the shelter hearing
188 whether they have any of the following information:

189 a. Whether the mother of the child was married at the
190 probable time of conception of the child or at the time of birth
191 of the child.

192 b. Whether the mother was cohabiting with a male at the
193 probable time of conception of the child.

194 c. Whether the mother has received payments or promises of
195 support with respect to the child or because of her pregnancy
196 from a man who claims to be the father.

197 d. Whether the mother has named any man as the father on
198 the birth certificate of the child or in connection with
199 applying for or receiving public assistance.

200 e. Whether any man has acknowledged or claimed paternity of
201 the child in a jurisdiction in which the mother resided at the
202 time of or since conception of the child or in which the child
203 has resided or resides.

8-01040A-20

20201548__

204 f. Whether a man is named on the birth certificate of the
205 child under ~~pursuant to~~ s. 382.013(2).

206 g. Whether a man has been determined by a court order to be
207 the father of the child.

208 h. Whether a man has been determined to be the father of
209 the child by the Department of Revenue as provided in s.
210 409.256.

211 5. If the inquiry under subparagraph 4. identifies a person
212 as a legal father, as defined in s. 39.01, enter an order
213 establishing the paternity of the child. Once an order
214 establishing paternity has been entered, the court may not take
215 any action to disestablish paternity in the absence of an action
216 filed under chapter 742. An action filed under chapter 742
217 concerning a child who is the subject in a dependence proceeding
218 must comply with s. 742.0211.

219 Section 6. Subsection (6) of section 39.407, Florida
220 Statutes, is amended to read:

221 39.407 Medical, psychiatric, and psychological examination
222 and treatment of child; physical, mental, or substance abuse
223 examination of person with or requesting child custody.—

224 (6) Children who are in the legal custody of the department
225 may be placed by the department, without prior approval of the
226 court, in a residential treatment center licensed under s.
227 394.875 or a hospital licensed under chapter 395 for residential
228 mental health treatment only as provided in ~~pursuant to~~ this
229 section or may be placed by the court in accordance with an
230 order of involuntary examination or involuntary placement
231 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
232 placed in a residential treatment program under this subsection

8-01040A-20

20201548__

233 must have a guardian ad litem appointed.

234 (a) As used in this subsection, the term:

235 1. "Residential treatment" means placement for observation,
236 diagnosis, or treatment of an emotional disturbance in a
237 residential treatment center licensed under s. 394.875 or a
238 hospital licensed under chapter 395.

239 2. "Least restrictive alternative" means the treatment and
240 conditions of treatment that, separately and in combination, are
241 no more intrusive or restrictive of freedom than reasonably
242 necessary to achieve a substantial therapeutic benefit or to
243 protect the child or adolescent or others from physical injury.

244 3. "Suitable for residential treatment" or "suitability"
245 means a determination concerning a child or adolescent with an
246 emotional disturbance as defined in s. 394.492(5) or a serious
247 emotional disturbance as defined in s. 394.492(6) that each of
248 the following criteria is met:

249 a. The child requires residential treatment.

250 b. The child is in need of a residential treatment program
251 and is expected to benefit from mental health treatment.

252 c. An appropriate, less restrictive alternative to
253 residential treatment is unavailable.

254 (b) Whenever the department believes that a child in its
255 legal custody is emotionally disturbed and may need residential
256 treatment, an examination and suitability assessment must be
257 conducted by a qualified evaluator who is appointed by the
258 department ~~Agency for Health Care Administration~~. This
259 suitability assessment must be completed before the placement of
260 the child in a residential treatment center for emotionally
261 disturbed children and adolescents or a hospital. The qualified

8-01040A-20

20201548__

262 evaluator must be a psychiatrist or a psychologist licensed in
263 Florida who has at least 3 years of experience in the diagnosis
264 and treatment of serious emotional disturbances in children and
265 adolescents and who has no actual or perceived conflict of
266 interest with any inpatient facility or residential treatment
267 center or program.

268 (c) Before a child is admitted under this subsection, the
269 child shall be assessed for suitability for residential
270 treatment by a qualified evaluator who has conducted a personal
271 examination and assessment of the child and has made written
272 findings that:

273 1. The child appears to have an emotional disturbance
274 serious enough to require residential treatment and is
275 reasonably likely to benefit from the treatment.

276 2. The child has been provided with a clinically
277 appropriate explanation of the nature and purpose of the
278 treatment.

279 3. All available modalities of treatment less restrictive
280 than residential treatment have been considered, and a less
281 restrictive alternative that would offer comparable benefits to
282 the child is unavailable.

283

284 A copy of the written findings of the evaluation and suitability
285 assessment must be provided to the department, to the guardian
286 ad litem, and, if the child is a member of a Medicaid managed
287 care plan, to the plan that is financially responsible for the
288 child's care in residential treatment, all of whom must be
289 provided with the opportunity to discuss the findings with the
290 evaluator.

8-01040A-20

20201548__

291 (d) Immediately upon placing a child in a residential
292 treatment program under this section, the department must notify
293 the guardian ad litem and the court having jurisdiction over the
294 child and must provide the guardian ad litem and the court with
295 a copy of the assessment by the qualified evaluator.

296 (e) Within 10 days after the admission of a child to a
297 residential treatment program, the director of the residential
298 treatment program or the director's designee must ensure that an
299 individualized plan of treatment has been prepared by the
300 program and has been explained to the child, to the department,
301 and to the guardian ad litem, and submitted to the department.
302 The child must be involved in the preparation of the plan to the
303 maximum feasible extent consistent with his or her ability to
304 understand and participate, and the guardian ad litem and the
305 child's foster parents must be involved to the maximum extent
306 consistent with the child's treatment needs. The plan must
307 include a preliminary plan for residential treatment and
308 aftercare upon completion of residential treatment. The plan
309 must include specific behavioral and emotional goals against
310 which the success of the residential treatment may be measured.
311 A copy of the plan must be provided to the child, to the
312 guardian ad litem, and to the department.

313 (f) Within 30 days after admission, the residential
314 treatment program must review the appropriateness and
315 suitability of the child's placement in the program. The
316 residential treatment program must determine whether the child
317 is receiving benefit toward the treatment goals and whether the
318 child could be treated in a less restrictive treatment program.
319 The residential treatment program shall prepare a written report

8-01040A-20

20201548__

320 of its findings and submit the report to the guardian ad litem
321 and to the department. The department must submit the report to
322 the court. The report must include a discharge plan for the
323 child. The residential treatment program must continue to
324 evaluate the child's treatment progress every 30 days thereafter
325 and must include its findings in a written report submitted to
326 the department. The department may not reimburse a facility
327 until the facility has submitted every written report that is
328 due.

329 (g)1. The department must submit, at the beginning of each
330 month, to the court having jurisdiction over the child, a
331 written report regarding the child's progress toward achieving
332 the goals specified in the individualized plan of treatment.

333 2. The court must conduct a hearing to review the status of
334 the child's residential treatment plan no later than 60 days
335 after the child's admission to the residential treatment
336 program. An independent review of the child's progress toward
337 achieving the goals and objectives of the treatment plan must be
338 completed by a qualified evaluator and submitted to the court
339 before its 60-day review.

340 3. For any child in residential treatment at the time a
341 judicial review is held pursuant to s. 39.701, the child's
342 continued placement in residential treatment must be a subject
343 of the judicial review.

344 4. If at any time the court determines that the child is
345 not suitable for continued residential treatment, the court
346 shall order the department to place the child in the least
347 restrictive setting that is best suited to meet his or her
348 needs.

8-01040A-20

20201548__

349 (h) After the initial 60-day review, the court must conduct
350 a review of the child's residential treatment plan every 90
351 days.

352 (i) The department must adopt rules for implementing
353 timeframes for the completion of suitability assessments by
354 qualified evaluators and a procedure that includes timeframes
355 for completing the 60-day independent review by the qualified
356 evaluators of the child's progress toward achieving the goals
357 and objectives of the treatment plan which review must be
358 submitted to the court. The Agency for Health Care
359 Administration must adopt rules for the registration of
360 qualified evaluators, the procedure for selecting the evaluators
361 to conduct the reviews required under this section, and a
362 reasonable, cost-efficient fee schedule for qualified
363 evaluators.

364 Section 7. Section 39.503, Florida Statutes, is amended to
365 read:

366 39.503 Identity or location of parent unknown; special
367 procedures.—

368 (1) If the identity or location of a parent is unknown and
369 a petition for dependency ~~or shelter~~ is filed, the court shall
370 conduct under oath an ~~the following~~ inquiry of the parent or
371 legal custodian who is available, or, if no parent or legal
372 custodian is available, of any relative or custodian of the
373 child who is present at the hearing and likely to have any of
374 the following information:

375 (a) Whether the mother of the child was married at the
376 probable time of conception of the child or at the time of birth
377 of the child.

8-01040A-20

20201548__

378 (b) Whether the mother was cohabiting with a male at the
379 probable time of conception of the child.

380 (c) Whether the mother has received payments or promises of
381 support with respect to the child or because of her pregnancy
382 from a man who claims to be the father.

383 (d) Whether the mother has named any man as the father on
384 the birth certificate of the child or in connection with
385 applying for or receiving public assistance.

386 (e) Whether any man has acknowledged or claimed paternity
387 of the child in a jurisdiction in which the mother resided at
388 the time of or since conception of the child, or in which the
389 child has resided or resides.

390 (f) Whether a man is named on the birth certificate of the
391 child under ~~pursuant to~~ s. 382.013(2).

392 (g) Whether a man has been determined by a court order to
393 be the father of the child.

394 (h) Whether a man has been determined to be the father of
395 the child by the Department of Revenue as provided in s.
396 409.256.

397 (2) The information required in subsection (1) may be
398 supplied to the court or the department in the form of a sworn
399 affidavit by a person having personal knowledge of the facts.

400 (3) If the inquiry under subsection (1) identifies any
401 person as a parent or prospective parent and that person's
402 location is known, the court shall require notice of the hearing
403 to be provided to that person. However, notice is not required
404 to be provided to a prospective parent if there is an identified
405 legal father, as defined in s. 39.01, of the child.

406 (4) If the inquiry under subsection (1) identifies a person

8-01040A-20

20201548__

407 as a legal father, as defined in s. 39.01, the court shall enter
408 an order establishing the paternity of the father. Once an order
409 establishing paternity has been entered, the court may not take
410 any action to disestablish this paternity in the absence of an
411 action filed under chapter 742. An action filed under chapter
412 742 concerning a child who is the subject in a dependence
413 proceeding must comply with s. 742.0211.

414 (5)~~(4)~~ If the inquiry under subsection (1) fails to
415 identify any person as a parent or prospective parent, the court
416 shall so find and may proceed without further notice and the
417 petitioner is relieved of performing any further search.

418 (6)~~(5)~~ If the inquiry under subsection (1) identifies a
419 parent or prospective parent, and that person's location is
420 unknown, the court shall direct the petitioner to conduct a
421 diligent search for that person before scheduling a disposition
422 hearing regarding the dependency of the child unless the court
423 finds that the best interest of the child requires proceeding
424 without notice to the person whose location is unknown. However,
425 a diligent search is not required to be conducted for a
426 prospective parent if there is an identified legal father, as
427 defined in s. 39.01, of the child.

428 (7)~~(6)~~ The diligent search required by subsection (6) ~~(5)~~
429 must include, at a minimum, inquiries of all relatives of the
430 parent or prospective parent made known to the petitioner,
431 inquiries of all offices of program areas of the department
432 likely to have information about the parent or prospective
433 parent, inquiries of other state and federal agencies likely to
434 have information about the parent or prospective parent,
435 inquiries of appropriate utility and postal providers, a

8-01040A-20

20201548__

436 thorough search of at least one electronic database specifically
437 designed for locating persons, a search of the Florida Putative
438 Father Registry, and inquiries of appropriate law enforcement
439 agencies. Pursuant to s. 453 of the Social Security Act, 42
440 U.S.C. s. 653(c)(4), the department, as the state agency
441 administering Titles IV-B and IV-E of the act, shall be provided
442 access to the federal and state parent locator service for
443 diligent search activities.

444 (8)~~(7)~~ Any agency contacted by a petitioner with a request
445 for information under ~~pursuant to~~ subsection (7) ~~must~~ ~~(6)~~ ~~shall~~
446 release the requested information to the petitioner without the
447 necessity of a subpoena or court order.

448 (9) If the inquiry and diligent search identifies and
449 locates a parent, that person is considered a parent for all
450 purposes under this chapter and must be provided notice of all
451 hearings.

452 (10)~~(8)~~ If the inquiry and diligent search identifies and
453 locates a prospective parent and there is no legal father, that
454 person must be given the opportunity to become a party to the
455 proceedings by completing a sworn affidavit of parenthood and
456 filing it with the court or the department. A prospective parent
457 who files a sworn affidavit of parenthood while the child is a
458 dependent child but no later than at the time of or before the
459 adjudicatory hearing in any termination of parental rights
460 proceeding for the child shall be considered a parent for all
461 purposes under this chapter ~~section~~ unless the other parent
462 contests the determination of parenthood. A person does not have
463 standing to file a sworn affidavit of parenthood or otherwise
464 establish parenthood, except through adoption, after entry of a

8-01040A-20

20201548__

465 judgment terminating the parental rights of the legal father for
466 a child. If the known parent contests the recognition of the
467 prospective parent as a parent, the court having jurisdiction
468 over the dependency matter shall conduct a determination of
469 parentage under chapter 742. The prospective parent may not be
470 recognized as a parent until proceedings to determine maternity
471 or paternity ~~under chapter 742~~ have been concluded. However, the
472 prospective parent shall continue to receive notice of hearings
473 as a participant pending results of the ~~chapter 742~~ proceedings
474 to determine maternity or paternity.

475 ~~(11)(9)~~ If the diligent search under subsection (6) ~~(5)~~
476 fails to ~~identify and~~ locate a parent or prospective parent who
477 was identified during the inquiry under subsection (1), the
478 court shall so find and may proceed without further notice and
479 the petitioner is relieved from performing any further search.

480 Section 8. Section 39.5035, Florida Statutes, is created to
481 read:

482 39.5035 Deceased parents; special procedures.—

483 (1)(a)1. If both parents of a child are deceased and a
484 legal custodian has not been appointed for the child through a
485 probate or guardianship proceeding, then an attorney for the
486 department or any other person, who has knowledge of the facts
487 whether alleged or is informed of the alleged facts and believes
488 them to be true, may initiate a proceeding by filing a petition
489 for adjudication and permanent commitment.

490 2. If a child has been placed in shelter status by order of
491 the court but has not yet been adjudicated, a petition for
492 adjudication and permanent commitment must be filed within 21
493 days after the shelter hearing. In all other cases, the petition

8-01040A-20

20201548__

494 must be filed within a reasonable time after the date the child
495 was referred to protective investigation or after the petitioner
496 first becomes aware of the facts that support the petition for
497 adjudication and permanent commitment.

498 (b) If both parents or the last living parent dies after a
499 child has already been adjudicated dependent, an attorney for
500 the department or any other person who has knowledge of the
501 facts alleged or is informed of the alleged facts and believes
502 them to be true may file a petition for permanent commitment.

503 (2) The petition:

504 (a) Must be in writing, identify the alleged deceased
505 parents, and provide facts that establish that both parents of
506 the child are deceased and that a legal custodian has not been
507 appointed for the child through a probate or guardianship
508 proceeding.

509 (b) Must be signed by the petitioner under oath stating the
510 petitioner's good faith in filing the petition.

511 (3) When a petition for adjudication and permanent
512 commitment or a petition for permanent commitment has been
513 filed, the clerk of court shall set the case before the court
514 for an adjudicatory hearing. The adjudicatory hearing must be
515 held as soon as practicable after the petition is filed, but no
516 later than 30 days after the filing date.

517 (4) Notice of the date, time, and place of the adjudicatory
518 hearing and a copy of the petition must be served on the
519 following persons:

520 (a) Any person who has physical custody of the child.

521 (b) A living relative of each parent of the child, unless a
522 living relative cannot be found after a diligent search and

8-01040A-20

20201548__

523 inquiry.

524 (c) The guardian ad litem for the child or the
525 representative of the guardian ad litem program, if the program
526 has been appointed.

527 (5) Adjudicatory hearings shall be conducted by the judge
528 without a jury, applying the rules of evidence in use in civil
529 cases and adjourning the hearings from time to time as
530 necessary. At the hearing, the judge must determine whether the
531 petitioner has established by clear and convincing evidence that
532 both parents of the child are deceased and that a legal
533 custodian has not been appointed for the child through a probate
534 or guardianship proceeding. A certified copy of the death
535 certificate for each parent is sufficient evidence of proof of
536 the parents' deaths.

537 (6) Within 30 days after an adjudicatory hearing on a
538 petition for adjudication and permanent commitment:

539 (a) If the court finds that the petitioner has met the
540 clear and convincing standard, the court shall enter a written
541 order adjudicating the child dependent and permanently
542 committing the child to the custody of the department for the
543 purpose of adoption. A disposition hearing shall be scheduled no
544 later than 30 days after the entry of the order, in which the
545 department shall provide a case plan that identifies the
546 permanency goal for the child to the court. Reasonable efforts
547 must be made to place the child in a timely manner in accordance
548 with the permanency plan and to complete all steps necessary to
549 finalize the permanent placement of the child. Thereafter, until
550 the adoption of the child is finalized or the child reaches the
551 age of 18 years, whichever occurs first, the court shall hold

8-01040A-20

20201548__

552 hearings every 6 months to review the progress being made toward
553 permanency for the child.

554 (b) If the court finds that clear and convincing evidence
555 does not establish that both parents of a child are deceased and
556 that a legal custodian has not been appointed for the child
557 through a probate or guardianship proceeding, but that a
558 preponderance of the evidence establishes that the child does
559 not have a parent or legal custodian capable of providing
560 supervision or care, the court shall enter a written order
561 adjudicating the child dependent. A disposition hearing shall be
562 scheduled no later than 30 days after the entry of the order as
563 provided in s. 39.521.

564 (c) If the court finds that clear and convincing evidence
565 does not establish that both parents of a child are deceased and
566 that a legal custodian has not been appointed for the child
567 through a probate or guardianship proceeding and that a
568 preponderance of the evidence does not establish that the child
569 does not have a parent or legal custodian capable of providing
570 supervision or care, the court shall enter a written order so
571 finding and dismissing the petition.

572 (7) Within 30 days after an adjudicatory hearing on a
573 petition for permanent commitment:

574 (a) If the court finds that the petitioner has met the
575 clear and convincing standard, the court shall enter a written
576 order permanently committing the child to the custody of the
577 department for purposes of adoption. A disposition hearing shall
578 be scheduled no later than 30 days after the entry of the order,
579 in which the department shall provide an amended case plan that
580 identifies the permanency goal for the child to the court.

8-01040A-20

20201548__

581 Reasonable efforts must be made to place the child in a timely
582 manner in accordance with the permanency plan and to complete
583 all steps necessary to finalize the permanent placement of the
584 child. Thereafter, until the adoption of the child is finalized
585 or the child reaches the age of 18 years, whichever occurs
586 first, the court shall hold hearings every 6 months to review
587 the progress being made toward permanency for the child.

588 (b) If the court finds that clear and convincing evidence
589 does not establish that both parents of a child are deceased and
590 that a legal custodian has not been appointed for the child
591 through a probate or guardianship proceeding, the court shall
592 enter a written order denying the petition. The order has no
593 effect on the child's prior adjudication. The order does not bar
594 the petitioner from filing a subsequent petition for permanent
595 commitment based on newly discovered evidence that establishes
596 that both parents of a child are deceased and that a legal
597 custodian has not been appointed for the child through a probate
598 or guardianship proceeding.

599 Section 9. Paragraph (c) of subsection (1) and subsections
600 (3) and (7) of section 39.521, Florida Statutes, are amended to
601 read:

602 39.521 Disposition hearings; powers of disposition.—

603 (1) A disposition hearing shall be conducted by the court,
604 if the court finds that the facts alleged in the petition for
605 dependency were proven in the adjudicatory hearing, or if the
606 parents or legal custodians have consented to the finding of
607 dependency or admitted the allegations in the petition, have
608 failed to appear for the arraignment hearing after proper
609 notice, or have not been located despite a diligent search

8-01040A-20

20201548__

610 having been conducted.

611 (c) When any child is adjudicated by a court to be
612 dependent, the court having jurisdiction of the child has the
613 power by order to:

614 1. Require the parent and, when appropriate, the legal
615 guardian or the child to participate in treatment and services
616 identified as necessary. The court may require the person who
617 has custody or who is requesting custody of the child to submit
618 to a mental health or substance abuse disorder assessment or
619 evaluation. The order may be made only upon good cause shown and
620 pursuant to notice and procedural requirements provided under
621 the Florida Rules of Juvenile Procedure. The mental health
622 assessment or evaluation must be administered by a qualified
623 professional as defined in s. 39.01, and the substance abuse
624 assessment or evaluation must be administered by a qualified
625 professional as defined in s. 397.311. The court may also
626 require such person to participate in and comply with treatment
627 and services identified as necessary, including, when
628 appropriate and available, participation in and compliance with
629 a mental health court program established under chapter 394 or a
630 treatment-based drug court program established under s. 397.334.
631 Adjudication of a child as dependent based upon evidence of harm
632 as defined in s. 39.01(35)(g) demonstrates good cause, and the
633 court shall require the parent whose actions caused the harm to
634 submit to a substance abuse disorder assessment or evaluation
635 and to participate and comply with treatment and services
636 identified in the assessment or evaluation as being necessary.
637 In addition to supervision by the department, the court,
638 including the mental health court program or the treatment-based

8-01040A-20

20201548__

639 drug court program, may oversee the progress and compliance with
640 treatment by a person who has custody or is requesting custody
641 of the child. The court may impose appropriate available
642 sanctions for noncompliance upon a person who has custody or is
643 requesting custody of the child or make a finding of
644 noncompliance for consideration in determining whether an
645 alternative placement of the child is in the child's best
646 interests. Any order entered under this subparagraph may be made
647 only upon good cause shown. This subparagraph does not authorize
648 placement of a child with a person seeking custody of the child,
649 other than the child's parent or legal custodian, who requires
650 mental health or substance abuse disorder treatment.

651 2. Require, if the court deems necessary, the parties to
652 participate in dependency mediation.

653 3. Require placement of the child either under the
654 protective supervision of an authorized agent of the department
655 in the home of one or both of the child's parents or in the home
656 of a relative of the child or another adult approved by the
657 court, or in the custody of the department. ~~Protective~~
658 ~~supervision continues until the court terminates it or until the~~
659 ~~child reaches the age of 18, whichever date is first. Protective~~
660 ~~supervision shall be terminated by the court whenever the court~~
661 ~~determines that permanency has been achieved for the child,~~
662 ~~whether with a parent, another relative, or a legal custodian,~~
663 ~~and that protective supervision is no longer needed. The~~
664 ~~termination of supervision may be with or without retaining~~
665 ~~jurisdiction, at the court's discretion, and shall in either~~
666 ~~case be considered a permanency option for the child. The order~~
667 ~~terminating supervision by the department must set forth the~~

8-01040A-20

20201548__

668 ~~powers of the custodian of the child and include the powers~~
669 ~~ordinarily granted to a guardian of the person of a minor unless~~
670 ~~otherwise specified. Upon the court's termination of supervision~~
671 ~~by the department, further judicial reviews are not required if~~
672 ~~permanency has been established for the child.~~

673 4. Determine whether the child has a strong attachment to
674 the prospective permanent guardian and whether such guardian has
675 a strong commitment to permanently caring for the child.

676 (3) When any child is adjudicated by a court to be
677 dependent, the court shall determine the appropriate placement
678 for the child as follows:

679 (a) If the court determines that the child can safely
680 remain in the home with the parent with whom the child was
681 residing at the time the events or conditions arose that brought
682 the child within the jurisdiction of the court and that
683 remaining in this home is in the best interest of the child,
684 then the court shall order conditions under which the child may
685 remain or return to the home and that this placement be under
686 the protective supervision of the department for not less than 6
687 months.

688 (b) If there is a parent with whom the child was not
689 residing at the time the events or conditions arose that brought
690 the child within the jurisdiction of the court who desires to
691 assume custody of the child, the court shall place the child
692 with that parent upon completion of a home study, unless the
693 court finds that such placement would endanger the safety, well-
694 being, or physical, mental, or emotional health of the child.
695 Any party with knowledge of the facts may present to the court
696 evidence regarding whether the placement will endanger the

8-01040A-20

20201548__

697 safety, well-being, or physical, mental, or emotional health of
698 the child. If the court places the child with such parent, it
699 may do either of the following:

700 1. Order that the parent assume sole custodial
701 responsibilities for the child. The court may also provide for
702 reasonable visitation by the noncustodial parent. The court may
703 then terminate its jurisdiction over the child.

704 2. Order that the parent assume custody subject to the
705 jurisdiction of the circuit court hearing dependency matters.
706 The court may order that reunification services be provided to
707 the parent from whom the child has been removed, that services
708 be provided solely to the parent who is assuming physical
709 custody in order to allow that parent to retain later custody
710 without court jurisdiction, or that services be provided to both
711 parents, in which case the court shall determine at every review
712 hearing which parent, if either, shall have custody of the
713 child. The standard for changing custody of the child from one
714 parent to another or to a relative or another adult approved by
715 the court shall be the best interest of the child.

716 (c) If no fit parent is willing or available to assume care
717 and custody of the child, place the child in the temporary legal
718 custody of an adult relative, the adoptive parent of the child's
719 sibling, or another adult approved by the court who is willing
720 to care for the child, under the protective supervision of the
721 department. The department must supervise this placement until
722 the child reaches permanency status in this home, and in no case
723 for a period of less than 6 months. Permanency in a relative
724 placement shall be by adoption, long-term custody, or
725 guardianship.

8-01040A-20

20201548__

726 (d) If the child cannot be safely placed in a nonlicensed
727 placement, the court shall commit the child to the temporary
728 legal custody of the department. Such commitment invests in the
729 department all rights and responsibilities of a legal custodian.
730 The department may ~~shall~~ not return any child to the physical
731 care and custody of the person from whom the child was removed,
732 except for court-approved visitation periods, without the
733 approval of the court. Any order for visitation or other contact
734 must conform to the provisions of s. 39.0139. The term of such
735 commitment continues until terminated by the court or until the
736 child reaches the age of 18. After the child is committed to the
737 temporary legal custody of the department, all further
738 proceedings under this section are governed by this chapter.

739
740 ~~Protective supervision continues until the court terminates it~~
741 ~~or until the child reaches the age of 18, whichever date is~~
742 ~~first. Protective supervision shall be terminated by the court~~
743 ~~whenever the court determines that permanency has been achieved~~
744 ~~for the child, whether with a parent, another relative, or a~~
745 ~~legal custodian, and that protective supervision is no longer~~
746 ~~needed. The termination of supervision may be with or without~~
747 ~~retaining jurisdiction, at the court's discretion, and shall in~~
748 ~~either case be considered a permanency option for the child. The~~
749 ~~order terminating supervision by the department shall set forth~~
750 ~~the powers of the custodian of the child and shall include the~~
751 ~~powers ordinarily granted to a guardian of the person of a minor~~
752 ~~unless otherwise specified. Upon the court's termination of~~
753 ~~supervision by the department, no further judicial reviews are~~
754 ~~required, so long as permanency has been established for the~~

8-01040A-20

20201548__

755 ~~child.~~

756 ~~(7) The court may enter an order ending its jurisdiction~~
757 ~~over a child when a child has been returned to the parents,~~
758 ~~provided the court shall not terminate its jurisdiction or the~~
759 ~~department's supervision over the child until 6 months after the~~
760 ~~child's return. The department shall supervise the placement of~~
761 ~~the child after reunification for at least 6 months with each~~
762 ~~parent or legal custodian from whom the child was removed. The~~
763 ~~court shall determine whether its jurisdiction should be~~
764 ~~continued or terminated in such a case based on a report of the~~
765 ~~department or agency or the child's guardian ad litem, and any~~
766 ~~other relevant factors; if its jurisdiction is to be terminated,~~
767 ~~the court shall enter an order to that effect.~~

768 Section 10. Section 39.522, Florida Statutes, is amended to
769 read:

770 39.522 Postdisposition change of custody.—The court may
771 change the temporary legal custody or the conditions of
772 protective supervision at a postdisposition hearing, without the
773 necessity of another adjudicatory hearing. If a child has been
774 returned to the parent and is under protective supervision by
775 the department and the child is later removed again from the
776 parent's custody, any modifications of placement shall be done
777 under this section.

778 (1) At any time, an authorized agent of the department or a
779 law enforcement officer may remove a child from a court-ordered
780 placement and take the child into custody if the child's current
781 caregiver requests immediate removal of the child from the home
782 or if there is probable cause as required in s. 39.401(1)(b).
783 The department shall file a motion to modify placement within 1

8-01040A-20

20201548__

784 business day after the child is taken into custody. Unless all
785 parties agree to the change of placement, the court must set a
786 hearing within 24 hours after the filing of the motion. At the
787 hearing, the court shall determine whether the department has
788 established probable cause to support the immediate removal of
789 the child from his or her current placement. The court may base
790 its determination on a sworn petition, testimony, or an
791 affidavit and may hear all relevant and material evidence,
792 including oral or written reports, to the extent of its
793 probative value even though it would not be competent evidence
794 at an adjudicatory hearing. If the court finds that probable
795 cause is not established to support the removal of the child
796 from the placement, the court shall order that the child be
797 returned to his or her current placement. If the caregiver
798 admits to a need for a change of placement or probable cause is
799 established to support the removal, the court shall enter an
800 order changing the placement of the child. If the child is not
801 placed in foster care, then the new placement for the child must
802 meet the home study criteria in chapter 39. If the child's
803 placement is modified based on a probable cause finding, the
804 court must conduct a subsequent evidentiary hearing, unless
805 waived by all parties, on the motion to determine whether the
806 department has established by a preponderance of the evidence
807 that maintaining the new placement of the child is in the best
808 interest of the child. The court shall consider the continuity
809 of the child's placement in the same out-of-home residence as a
810 factor when determining the best interests of the child.

811 (2)~~(1)~~ At any time before a child is residing in the
812 permanent placement approved at the permanency hearing, a child

8-01040A-20

20201548__

813 who has been placed in the child's own home under the protective
814 supervision of an authorized agent of the department, in the
815 home of a relative, in the home of a legal custodian, or in some
816 other place may be brought before the court by the department or
817 by any other party ~~interested person~~, upon the filing of a
818 petition ~~motion~~ alleging a need for a change in the conditions
819 of protective supervision or the placement. If the parents or
820 other legal custodians deny the need for a change, the court
821 shall hear all parties in person or by counsel, or both. Upon
822 the admission of a need for a change or after such hearing, the
823 court shall enter an order changing the placement, modifying the
824 conditions of protective supervision, or continuing the
825 conditions of protective supervision as ordered. The standard
826 for changing custody of the child is determined by a
827 preponderance of the evidence that establishes that a change is
828 in ~~shall be~~ the best interest of the child. When applying this
829 standard, the court shall consider the continuity of the child's
830 placement in the same out-of-home residence as a factor when
831 determining the best interests of the child. If the child is not
832 placed in foster care, then the new placement for the child must
833 meet the home study criteria and court approval under ~~pursuant~~
834 ~~to~~ this chapter.

835 (3) ~~(2)~~ In cases where the issue before the court is whether
836 a child should be reunited with a parent, the court shall review
837 the conditions for return and determine whether the
838 circumstances that caused the out-of-home placement and issues
839 subsequently identified have been remedied to the extent that
840 the return of the child to the home with an in-home safety plan
841 prepared or approved by the department will not be detrimental

8-01040A-20

20201548__

842 to the child's safety, well-being, and physical, mental, and
843 emotional health.

844 (4)~~(3)~~ In cases where the issue before the court is whether
845 a child who is placed in the custody of a parent should be
846 reunited with the other parent upon a finding that the
847 circumstances that caused the out-of-home placement and issues
848 subsequently identified have been remedied to the extent that
849 the return of the child to the home of the other parent with an
850 in-home safety plan prepared or approved by the department will
851 not be detrimental to the child, the standard shall be that the
852 safety, well-being, and physical, mental, and emotional health
853 of the child would not be endangered by reunification and that
854 reunification would be in the best interest of the child.

855 Section 11. Subsection (8) of section 39.6011, Florida
856 Statutes, is amended to read:

857 39.6011 Case plan development.—

858 (8) The case plan must be filed with the court and copies
859 provided to all parties, including the child if appropriate:~~7~~
860 ~~not less than 3 business days before the disposition hearing.~~

861 (a) Not less than 72 hours before the disposition hearing,
862 if the disposition hearing occurs on or after the 60th day after
863 the date the child was placed in out-of-home care; or

864 (b) Not less than 72 hours before the case plan acceptance
865 hearing, if the disposition hearing occurs before the 60th day
866 after the date the child was placed in out-of-home care and a
867 case plan has not been submitted under this subsection, or if
868 the court does not approve the case plan at the disposition
869 hearing.

870 Section 12. Section 39.63, Florida Statutes, is created to

8-01040A-20

20201548__

871 read:

872 39.63 Case closure.—Unless s. 39.6251 applies, the court
873 shall close the judicial case for all proceedings under this
874 chapter by terminating protective supervision and its
875 jurisdiction as provided in this section.

876 (1) If a child is placed under the protective supervision
877 of the department, the protective supervision continues until
878 such supervision is terminated by the court or until the child
879 reaches the age of 18, whichever occurs first. The court shall
880 terminate protective supervision when it determines that
881 permanency has been achieved for the child and supervision is no
882 longer needed. If the court adopts a permanency goal of
883 reunification with a parent or legal custodian from whom the
884 child was initially removed, the court must retain jurisdiction
885 and the department must supervise the placement for a minimum of
886 6 months after reunification. The court shall determine whether
887 its jurisdiction should be continued or terminated based on a
888 report of the department or the child's guardian ad litem. The
889 termination of supervision may be with or without retaining
890 jurisdiction, at the court's discretion.

891 (2) The order terminating protective supervision must set
892 forth the powers of the legal custodian of the child and include
893 the powers originally granted to a guardian of the person of a
894 minor unless otherwise specified.

895 (3) Upon the court's termination of supervision by the
896 department, further judicial reviews are not required.

897 (4) The court must enter a written order terminating its
898 jurisdiction over a child when the child is returned to his or
899 her parent. However, the court must retain jurisdiction over the

8-01040A-20

20201548__

900 child for a minimum of 6 months after reunification and may not
901 terminate its jurisdiction until the court determines that
902 protective supervision is no longer needed.

903 (5) If a child was not removed from the home, the court
904 must enter a written order terminating its jurisdiction over the
905 child when the court determines that permanency has been
906 achieved.

907 (6) If a child is placed in the custody of a parent and the
908 court determines that reasonable efforts to reunify the child
909 with the other parent are not required, the court may, at any
910 time, order that the custodial parent assume sole custodial
911 responsibilities for the child, provide for reasonable
912 visitation by the noncustodial parent, and terminate its
913 jurisdiction over the child. If the court previously approved a
914 case plan that requires services to be provided to the
915 noncustodial parent, the court may not terminate its
916 jurisdiction before the case plan expires unless the court finds
917 by a preponderance of the evidence that it is not likely that
918 the child will be reunified with the noncustodial parent within
919 12 months after the child was removed from the home.

920 (7) When a child has been adopted under a chapter 63
921 proceeding, the court must enter a written order terminating its
922 jurisdiction over the child in the chapter 39 proceeding.

923 Section 13. Paragraph (a) of subsection (3) of section
924 39.801, Florida Statutes, is amended to read:

925 39.801 Procedures and jurisdiction; notice; service of
926 process.—

927 (3) Before the court may terminate parental rights, in
928 addition to the other requirements set forth in this part, the

8-01040A-20

20201548__

929 following requirements must be met:

930 (a) Notice of the date, time, and place of the advisory
931 hearing for the petition to terminate parental rights and a copy
932 of the petition must be personally served upon the following
933 persons, specifically notifying them that a petition has been
934 filed:

935 1. The parents of the child.

936 2. The legal custodians of the child.

937 3. If the parents who would be entitled to notice are dead
938 or unknown, a living relative of the child, unless upon diligent
939 search and inquiry no such relative can be found.

940 4. Any person who has physical custody of the child.

941 5. Any grandparent entitled to priority for adoption under
942 s. 63.0425.

943 6. Any prospective parent who has been identified and
944 located under s. 39.503 or s. 39.803, unless a court order has
945 been entered under s. 39.503(5) or (11) or s. 39.803(5) or (11)
946 ~~pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9)~~ which
947 indicates no further notice is required. Except as otherwise
948 provided in this section, if there is not a legal father, notice
949 of the petition for termination of parental rights must be
950 provided to any known prospective father who is identified under
951 oath before the court or who is identified and located by a
952 diligent search of the Florida Putative Father Registry. Service
953 of the notice of the petition for termination of parental rights
954 is not required if the prospective father executes an affidavit
955 of nonpaternity or a consent to termination of his parental
956 rights which is accepted by the court after notice and
957 opportunity to be heard by all parties to address the best

8-01040A-20

20201548__

958 interests of the child in accepting such affidavit.

959 7. The guardian ad litem for the child or the
960 representative of the guardian ad litem program, if the program
961 has been appointed.

962

963 The document containing the notice to respond or appear must
964 contain, in type at least as large as the type in the balance of
965 the document, the following or substantially similar language:

966 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
967 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
968 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
969 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
970 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
971 NOTICE."

972 Section 14. Section 39.803, Florida Statutes, is amended to
973 read:

974 39.803 Identity or location of parent unknown after filing
975 of termination of parental rights petition; special procedures.—

976 (1) If the identity or location of a parent is unknown, and
977 a petition for termination of parental rights is filed, and the
978 court has not previously conducted an inquiry or entered an
979 order relieving the petitioner of further search or notice under
980 s. 39.503, the court shall conduct under oath the following
981 inquiry of the parent who is available, or, if no parent is
982 available, of any relative, caregiver, or legal custodian of the
983 child who is present at the hearing and likely to have the
984 information:

985 (a) Whether the mother of the child was married at the
986 probable time of conception of the child or at the time of birth

8-01040A-20

20201548__

987 of the child.

988 (b) Whether the mother was cohabiting with a male at the
989 probable time of conception of the child.

990 (c) Whether the mother has received payments or promises of
991 support with respect to the child or because of her pregnancy
992 from a man who claims to be the father.

993 (d) Whether the mother has named any man as the father on
994 the birth certificate of the child or in connection with
995 applying for or receiving public assistance.

996 (e) Whether any man has acknowledged or claimed paternity
997 of the child in a jurisdiction in which the mother resided at
998 the time of or since conception of the child, or in which the
999 child has resided or resides.

1000 (f) Whether a man is named on the birth certificate of the
1001 child under ~~pursuant to~~ s. 382.013(2).

1002 (g) Whether a man has been determined by a court order to
1003 be the father of the child.

1004 (h) Whether a man has been determined to be the father of
1005 the child by the Department of Revenue as provided in s.
1006 409.256.

1007 (2) The information required in subsection (1) may be
1008 supplied to the court or the department in the form of a sworn
1009 affidavit by a person having personal knowledge of the facts.

1010 (3) If the inquiry under subsection (1) identifies any
1011 person as a parent or prospective parent and that person's
1012 location is known, the court shall require notice of the hearing
1013 to be provided to that person. However, notice is not required
1014 to be provided to a prospective parent if there is an identified
1015 legal father, as defined in s. 39.01, of the child.

8-01040A-20

20201548__

1016 (4) If the inquiry under subsection (1) identifies a person
1017 as a legal father, as defined in s. 39.01, the court shall enter
1018 an order establishing the paternity of the father. Once an order
1019 establishing paternity has been entered, the court may not take
1020 any action to disestablish this paternity in the absence of an
1021 action filed under chapter 742. An action filed under chapter
1022 742 concerning a child who is the subject in a dependence
1023 proceeding must comply with s. 742.0211.

1024 ~~(5)~~(4) If the inquiry under subsection (1) fails to
1025 identify any person as a parent or prospective parent, the court
1026 shall so find and may proceed without further notice and the
1027 petitioner is relieved of performing any further search.

1028 ~~(6)~~(5) If the inquiry under subsection (1) identifies a
1029 parent or prospective parent, and that person's location is
1030 unknown, the court shall direct the petitioner to conduct a
1031 diligent search for that person before scheduling an
1032 adjudicatory hearing regarding the petition for termination of
1033 parental rights to the child unless the court finds that the
1034 best interest of the child requires proceeding without actual
1035 notice to the person whose location is unknown. However, a
1036 diligent search is not required to be conducted for a
1037 prospective parent if there is an identified legal father, as
1038 defined in s. 39.01, of the child.

1039 ~~(7)~~(6) The diligent search required by subsection ~~(6)~~ (5)
1040 must include, at a minimum, inquiries of all known relatives of
1041 the parent or prospective parent, inquiries of all offices of
1042 program areas of the department likely to have information about
1043 the parent or prospective parent, inquiries of other state and
1044 federal agencies likely to have information about the parent or

8-01040A-20

20201548__

1045 prospective parent, inquiries of appropriate utility and postal
1046 providers, a thorough search of at least one electronic database
1047 specifically designed for locating persons, a search of the
1048 Florida Putative Father Registry, and inquiries of appropriate
1049 law enforcement agencies. Pursuant to s. 453 of the Social
1050 Security Act, 42 U.S.C. s. 653(c)(4), the department, as the
1051 state agency administering Titles IV-B and IV-E of the act,
1052 shall be provided access to the federal and state parent locator
1053 service for diligent search activities.

1054 (8)~~(7)~~ Any agency contacted by petitioner with a request
1055 for information under ~~pursuant to~~ subsection (7) ~~(6)~~ shall
1056 release the requested information to the petitioner without the
1057 necessity of a subpoena or court order.

1058 (9) If the inquiry and diligent search identifies and
1059 locates a parent, that person is considered a parent for all
1060 purposes under this chapter and must be provided notice of all
1061 hearings.

1062 (10)~~(8)~~ If the inquiry and diligent search identifies and
1063 locates a prospective parent and there is no legal father, that
1064 person must be given the opportunity to become a party to the
1065 proceedings by completing a sworn affidavit of parenthood and
1066 filing it with the court or the department. A prospective parent
1067 who files a sworn affidavit of parenthood while the child is a
1068 dependent child but no later than at the time of or before the
1069 adjudicatory hearing in the termination of parental rights
1070 proceeding for the child shall be considered a parent for all
1071 purposes under this chapter ~~section~~. A person does not have
1072 standing to file a sworn affidavit of parenthood or otherwise
1073 establish parenthood, except through adoption, after the entry

8-01040A-20

20201548__

1074 of a judgment terminating the parental rights of the legal
1075 father for a child. If the known parent contests the recognition
1076 of the prospective parent as a parent, the court having
1077 jurisdiction over the dependency matter shall conduct a
1078 determination of parentage proceeding under chapter 742. The
1079 prospective parent may not be recognized as a parent until
1080 proceedings to determine maternity or paternity have been
1081 concluded. However, the prospective parent shall continue to
1082 receive notice of hearings as a participant pending results of
1083 the proceedings to determine maternity or paternity.

1084 (11) ~~(9)~~ If the diligent search under subsection (6) ~~(5)~~
1085 fails to identify and locate a parent or prospective parent who
1086 was identified during the inquiry under subsection (1), the
1087 court shall so find and may proceed without further notice and
1088 the petitioner is relieved from performing any further search.

1089 Section 15. Paragraph (e) of subsection (1) and subsection
1090 (2) of section 39.806, Florida Statutes, are amended to read:

1091 39.806 Grounds for termination of parental rights.—

1092 (1) Grounds for the termination of parental rights may be
1093 established under any of the following circumstances:

1094 (e) When a child has been adjudicated dependent, a case
1095 plan has been filed with the court, and:

1096 1. The child continues to be abused, neglected, or
1097 abandoned by the parent or parents. The failure of the parent or
1098 parents to substantially comply with the case plan for a period
1099 of 12 months after an adjudication of the child as a dependent
1100 child or the child's placement into shelter care, whichever
1101 occurs first, constitutes evidence of continuing abuse, neglect,
1102 or abandonment unless the failure to substantially comply with

8-01040A-20

20201548__

1103 the case plan was due to the parent's lack of financial
 1104 resources or to the failure of the department to make reasonable
 1105 efforts to reunify the parent and child. The 12-month period
 1106 begins to run only after the child's placement into shelter care
 1107 or the entry of a disposition order placing the custody of the
 1108 child with the department or a person other than the parent and
 1109 the court's approval of a case plan having the goal of
 1110 reunification with the parent, whichever occurs first; ~~or~~

1111 2. The parent or parents have materially breached the case
 1112 plan by their action or inaction. Time is of the essence for
 1113 permanency of children in the dependency system. In order to
 1114 prove the parent or parents have materially breached the case
 1115 plan, the court must find by clear and convincing evidence that
 1116 the parent or parents are unlikely or unable to substantially
 1117 comply with the case plan before time to comply with the case
 1118 plan expires; or-

1119 3. The child has been in care for any 12 of the last 22
 1120 months and the parents have not substantially complied with the
 1121 case plan so as to permit reunification under s. 39.522(3) ~~s.~~
 1122 ~~39.522(2)~~ unless the failure to substantially comply with the
 1123 case plan was due to the parent's lack of financial resources or
 1124 to the failure of the department to make reasonable efforts to
 1125 reunify the parent and child.

1126 (2) Reasonable efforts to preserve and reunify families are
 1127 not required if a court of competent jurisdiction has determined
 1128 that any of the events described in paragraphs (1) (b)-(d) or
 1129 paragraphs (1) (f)-(n) ~~(1) (f)-(m)~~ have occurred.

1130 Section 16. Subsection (9) of section 39.811, Florida
 1131 Statutes, is amended to read:

8-01040A-20

20201548__

1132 39.811 Powers of disposition; order of disposition.—

1133 (9) After termination of parental rights or a written order
1134 of permanent commitment entered under s. 39.5035, the court
1135 shall retain jurisdiction over any child for whom custody is
1136 given to a social service agency until the child is adopted. The
1137 court shall review the status of the child's placement and the
1138 progress being made toward permanent adoptive placement. As part
1139 of this continuing jurisdiction, for good cause shown by the
1140 guardian ad litem for the child, the court may review the
1141 appropriateness of the adoptive placement of the child. The
1142 department's decision to deny an application to adopt a child
1143 who is under the court's jurisdiction is reviewable only through
1144 a motion to file a chapter 63 petition as provided in s.
1145 39.812(4), and is not subject to chapter 120.

1146 Section 17. Subsections (1), (4), and (5) of section
1147 39.812, Florida Statutes, are amended to read:

1148 39.812 Postdisposition relief; petition for adoption.—

1149 (1) If the department is given custody of a child for
1150 subsequent adoption in accordance with this chapter, the
1151 department may place the child with an agency as defined in s.
1152 63.032, with a child-caring agency registered under s. 409.176,
1153 or in a family home for prospective subsequent adoption without
1154 the need for a court order unless otherwise required under this
1155 section. The department may allow prospective adoptive parents
1156 to visit with a child in the department's custody without a
1157 court order to determine whether the adoptive placement would be
1158 appropriate. The department may thereafter become a party to any
1159 proceeding for the legal adoption of the child and appear in any
1160 court where the adoption proceeding is pending and consent to

8-01040A-20

20201548__

1161 the adoption, and that consent alone shall in all cases be
1162 sufficient.

1163 (4) The court shall retain jurisdiction over any child
1164 placed in the custody of the department until the case is closed
1165 as provided in s. 39.63 ~~the child is adopted~~. After custody of a
1166 child for subsequent adoption has been given to the department,
1167 the court has jurisdiction for the purpose of reviewing the
1168 status of the child and the progress being made toward permanent
1169 adoptive placement. As part of this continuing jurisdiction, for
1170 good cause shown by the guardian ad litem for the child, the
1171 court may review the appropriateness of the adoptive placement
1172 of the child.

1173 (a) If the department has denied a person's application to
1174 adopt a child, the denied applicant may file a motion with the
1175 court within 30 days after the issuance of the written
1176 notification of denial to allow him or her to file a chapter 63
1177 petition to adopt a child without the department's consent. The
1178 denied applicant must allege in its motion that the department
1179 unreasonably withheld its consent to the adoption. The court, as
1180 part of its continuing jurisdiction, may review and rule on the
1181 motion.

1182 1. The denied applicant only has standing in the chapter 39
1183 proceeding to file the motion in paragraph (a) and to present
1184 evidence in support of the motion at a hearing, which must be
1185 held within 30 days after the filing of the motion.

1186 2. At the hearing on the motion, the court may only
1187 consider whether the department's review of the application was
1188 consistent with its policies and made in an expeditious manner.
1189 The standard of review by the court is whether the department's

8-01040A-20

20201548__

1190 denial of the application is an abuse of discretion. The court
1191 may not compare the denied applicant against another applicant
1192 to determine which placement is in the best interests of the
1193 child.

1194 3. If the denied applicant establishes by a preponderance
1195 of the evidence that the department unreasonably withheld its
1196 consent, the court shall enter an order authorizing the denied
1197 applicant to file a petition to adopt the child under chapter 63
1198 without the department's consent.

1199 4. If the denied applicant does not prove by a
1200 preponderance of the evidence that the department unreasonably
1201 withheld its consent, the court shall enter an order so finding
1202 and dismiss the motion.

1203 5. The standing of the denied applicant in the chapter 39
1204 proceeding is terminated upon entry of the court's order.

1205 (b) When a licensed foster parent or court-ordered
1206 custodian has applied to adopt a child who has resided with the
1207 foster parent or custodian for at least 6 months and who has
1208 previously been permanently committed to the legal custody of
1209 the department and the department does not grant the application
1210 to adopt, the department may not, in the absence of a prior
1211 court order authorizing it to do so, remove the child from the
1212 foster home or custodian, except when:

1213 1.-(a) There is probable cause to believe that the child is
1214 at imminent risk of abuse or neglect;

1215 2.-(b) Thirty days have expired following written notice to
1216 the foster parent or custodian of the denial of the application
1217 to adopt, within which period no formal challenge of the
1218 department's decision has been filed; ~~or~~

8-01040A-20

20201548__

1219 3.~~(e)~~ The foster parent or custodian agrees to the child's
1220 removal; or-

1221 4. The department has selected another prospective adoptive
1222 parent to adopt the child and either the foster parent or
1223 custodian has not filed a motion with the court to allow him or
1224 her to file a chapter 63 petition to adopt a child without the
1225 department's consent, as provided under paragraph (a), or the
1226 court has denied such a motion.

1227 (5) The petition for adoption must be filed in the division
1228 of the circuit court which entered the judgment terminating
1229 parental rights, unless a motion for change of venue is granted
1230 under ~~pursuant to~~ s. 47.122. A copy of the consent executed by
1231 the department must be attached to the petition, unless such
1232 consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~.
1233 The petition must be accompanied by a statement, signed by the
1234 prospective adoptive parents, acknowledging receipt of all
1235 information required to be disclosed under s. 63.085 and a form
1236 provided by the department which details the social and medical
1237 history of the child and each parent and includes the social
1238 security number and date of birth for each parent, if such
1239 information is available or readily obtainable. The prospective
1240 adoptive parents may not file a petition for adoption until the
1241 judgment terminating parental rights becomes final. An adoption
1242 proceeding under this subsection is governed by chapter 63.

1243 Section 18. Subsection (7) of section 63.062, Florida
1244 Statutes, is amended to read:

1245 63.062 Persons required to consent to adoption; affidavit
1246 of nonpaternity; waiver of venue.-

1247 (7) If parental rights to the minor have previously been

8-01040A-20

20201548__

1248 terminated, the adoption entity with which the minor has been
1249 placed for subsequent adoption may provide consent to the
1250 adoption. In such case, no other consent is required. If the
1251 minor has been permanently committed to the department for
1252 subsequent adoption, the department must consent to the adoption
1253 or, in the alternative, the court order entered under s.
1254 39.812(4) finding that the department ~~The consent of the~~
1255 ~~department shall be waived upon a determination by the court~~
1256 ~~that such consent is being~~ unreasonably withheld its consent
1257 must be attached to the petition to adopt, and if the petitioner
1258 must file ~~has filed with the court~~ a favorable preliminary
1259 adoptive home study as required under s. 63.092.

1260 Section 19. Paragraph (b) of subsection (6) of section
1261 63.082, Florida Statutes, is amended to read:

1262 63.082 Execution of consent to adoption or affidavit of
1263 nonpaternity; family social and medical history; revocation of
1264 consent.—

1265 (6)

1266 (b) Upon execution of the consent of the parent, the
1267 adoption entity is ~~shall be~~ permitted to intervene in the
1268 dependency case as a party in interest and must provide the
1269 court that acquired jurisdiction over the minor, pursuant to the
1270 shelter order or dependency petition filed by the department, a
1271 copy of the preliminary home study of the prospective adoptive
1272 parents and any other evidence of the suitability of the
1273 placement. The preliminary home study must be maintained with
1274 strictest confidentiality within the dependency court file and
1275 the department's file. A preliminary home study must be provided
1276 to the court in all cases in which an adoption entity has

8-01040A-20

20201548__

1277 intervened under ~~pursuant to~~ this section. The exemption in s.
1278 63.092(3) from the home study for a stepparent or relative does
1279 not apply if a minor is under the supervision of the department
1280 or is otherwise subject to the jurisdiction of the dependency
1281 court as a result of the filing of a shelter petition,
1282 dependency petition, or termination of parental rights petition
1283 under chapter 39. Unless the court has concerns regarding the
1284 qualifications of the home study provider, or concerns that the
1285 home study may not be adequate to determine the best interests
1286 of the child, the home study provided by the adoption entity is
1287 ~~shall be deemed to be~~ sufficient and no additional home study
1288 needs to be performed by the department.

1289 Section 20. Subsections (8) and (9) of section 402.302,
1290 Florida Statutes, are amended to read:

1291 402.302 Definitions.—As used in this chapter, the term:

1292 (8) "Family day care home" means an occupied primary
1293 residence leased or owned by the operator in which child care is
1294 regularly provided for children from at least two unrelated
1295 families and which receives a payment, fee, or grant for any of
1296 the children receiving care, whether or not operated for profit.
1297 Household children under 13 years of age, when on the premises
1298 of the family day care home or on a field trip with children
1299 enrolled in child care, are ~~shall be~~ included in the overall
1300 capacity of the licensed home. A family day care home is ~~shall~~
1301 ~~be~~ allowed to provide care for one of the following groups of
1302 children, which shall include household children under 13 years
1303 of age:

1304 (a) A maximum of four children from birth to 12 months of
1305 age.

8-01040A-20

20201548__

1306 (b) A maximum of three children from birth to 12 months of
1307 age, and other children, for a maximum total of six children.

1308 (c) A maximum of six preschool children if all are older
1309 than 12 months of age.

1310 (d) A maximum of 10 children if no more than 5 are
1311 preschool age and, of those 5, no more than 2 are under 12
1312 months of age.

1313 (9) "Household children" means children who are related by
1314 blood, marriage, or legal adoption to, or who are the legal
1315 wards of, the family day care home operator, the large family
1316 child care home operator, or an adult household member who
1317 permanently or temporarily resides in the home. Supervision of
1318 the operator's household children shall be left to the
1319 discretion of the operator unless those children receive
1320 subsidized child care through the school readiness program under
1321 ~~pursuant to~~ s. 1002.92 to be in the home.

1322 Section 21. Paragraph (a) of subsection (7), paragraphs (b)
1323 and (c) of subsection (9), and subsection (10) of section
1324 402.305, Florida Statutes, are amended to read:

1325 402.305 Licensing standards; child care facilities.—

1326 (7) SANITATION AND SAFETY.—

1327 (a) Minimum standards shall include requirements for
1328 sanitary and safety conditions, first aid treatment, emergency
1329 procedures, and pediatric cardiopulmonary resuscitation. The
1330 minimum standards shall require that at least one staff person
1331 trained and certified in cardiopulmonary resuscitation, as
1332 evidenced by current documentation of course completion, must be
1333 present at all times that children are present.

1334 (9) ADMISSIONS AND RECORDKEEPING.—

8-01040A-20

20201548__

1335 (b) At the time of initial enrollment and annually
1336 thereafter ~~During the months of August and September of each~~
1337 ~~year~~, each child care facility shall provide parents of children
1338 enrolled in the facility detailed information regarding the
1339 causes, symptoms, and transmission of the influenza virus in an
1340 effort to educate those parents regarding the importance of
1341 immunizing their children against influenza as recommended by
1342 the Advisory Committee on Immunization Practices of the Centers
1343 for Disease Control and Prevention.

1344 (c) At the time of initial enrollment and annually
1345 thereafter ~~During the months of April and September of each~~
1346 ~~year~~, at a minimum, each facility shall provide parents of
1347 children enrolled in the facility information regarding the
1348 potential for a distracted adult to fail to drop off a child at
1349 the facility and instead leave the child in the adult's vehicle
1350 upon arrival at the adult's destination. The child care facility
1351 shall also give parents information about resources with
1352 suggestions to avoid this occurrence. The department shall
1353 develop a flyer or brochure with this information that shall be
1354 posted to the department's website, which child care facilities
1355 may choose to reproduce and provide to parents to satisfy the
1356 requirements of this paragraph.

1357 (10) TRANSPORTATION SAFETY.—

1358 (a) Minimum standards for child care facilities, family day
1359 care homes, and large family child care homes shall include all
1360 of the following:

1361 1. Requirements for child restraints or seat belts in
1362 vehicles used by ~~child care facilities and large family child~~
1363 ~~care~~ homes to transport children.7

8-01040A-20

20201548__

1364 2. Requirements for annual inspections of such ~~the~~
1365 vehicles.7

1366 3. Limitations on the number of children which may be
1367 transported in such ~~the~~ vehicles.7

1368 4. Procedures to ensure that ~~avoid leaving~~ children are not
1369 inadvertently left in vehicles when transported by a ~~the~~
1370 facility or home, and that systems are in place to ensure
1371 accountability for children transported by such facilities or
1372 homes ~~the child care facility~~.

1373 (b) Before providing transportation services or reinstating
1374 transportation services after a lapse or discontinuation of
1375 longer than 30 days, a child care facility, family day care
1376 home, or large family child care home must be approved by the
1377 department to transport children. Approval by the department is
1378 based on the provider's demonstration of compliance with all
1379 current rules and standards for transportation.

1380 (c) A child care facility, family day care home, or large
1381 family child care home is not responsible for the safe transport
1382 of children when they are being transported by a parent or
1383 guardian.

1384 Section 22. Subsections (14) and (15) of section 402.313,
1385 Florida Statutes, are amended to read:

1386 402.313 Family day care homes.—

1387 (14) At the time of initial enrollment and annually
1388 thereafter ~~During the months of August and September of each~~
1389 ~~year~~, each family day care home shall provide parents of
1390 children enrolled in the home detailed information regarding the
1391 causes, symptoms, and transmission of the influenza virus in an
1392 effort to educate those parents regarding the importance of

8-01040A-20

20201548__

1393 immunizing their children against influenza as recommended by
1394 the Advisory Committee on Immunization Practices of the Centers
1395 for Disease Control and Prevention.

1396 (15) At the time of initial enrollment and annually
1397 thereafter ~~During the months of April and September of each~~
1398 ~~year~~, at a minimum, each family day care home shall provide
1399 parents of children attending the family day care home
1400 information regarding the potential for a distracted adult to
1401 fail to drop off a child at the family day care home and instead
1402 leave the child in the adult's vehicle upon arrival at the
1403 adult's destination. The family day care home shall also give
1404 parents information about resources with suggestions to avoid
1405 this occurrence. The department shall develop a flyer or
1406 brochure with this information that shall be posted to the
1407 department's website, which family day care homes may choose to
1408 reproduce and provide to parents to satisfy the requirements of
1409 this subsection.

1410 Section 23. Subsections (8), (9), and (10) of section
1411 402.3131, Florida Statutes, are amended to read:

1412 402.3131 Large family child care homes.—

1413 (8) Before ~~Prior to~~ being licensed by the department, large
1414 family child care homes must be approved by the state or local
1415 fire marshal in accordance with standards established for child
1416 care facilities.

1417 (9) At the time of initial enrollment and annually
1418 thereafter ~~During the months of August and September of each~~
1419 ~~year~~, each large family child care home shall provide parents of
1420 children enrolled in the home detailed information regarding the
1421 causes, symptoms, and transmission of the influenza virus in an

8-01040A-20

20201548__

1422 effort to educate those parents regarding the importance of
1423 immunizing their children against influenza as recommended by
1424 the Advisory Committee on Immunization Practices of the Centers
1425 for Disease Control and Prevention.

1426 (10) At the time of initial enrollment and annually
1427 thereafter ~~During the months of April and September of each~~
1428 ~~year~~, at a minimum, each large family child care home shall
1429 provide parents of children attending the large family child
1430 care home information regarding the potential for a distracted
1431 adult to fail to drop off a child at the large family child care
1432 home and instead leave the child in the adult's vehicle upon
1433 arrival at the adult's destination. The large family child care
1434 home shall also give parents information about resources with
1435 suggestions to avoid this occurrence. The department shall
1436 develop a flyer or brochure with this information that shall be
1437 posted to the department's website, which large family child
1438 care homes may choose to reproduce and provide to parents to
1439 satisfy the requirements of this subsection.

1440 Section 24. Subsection (6) and paragraphs (b) and (e) of
1441 subsection (7) of section 409.1451, Florida Statutes, are
1442 amended to read:

1443 409.1451 The Road-to-Independence Program.—

1444 (6) ACCOUNTABILITY.—The department shall develop outcome
1445 measures for the program and other performance measures ~~in order~~
1446 ~~to maintain oversight of the program. No later than January 31~~
1447 ~~of each year, the department shall prepare a report on the~~
1448 ~~outcome measures and the department's oversight activities and~~
1449 ~~submit the report to the President of the Senate, the Speaker of~~
1450 ~~the House of Representatives, and the committees with~~

8-01040A-20

20201548__

1451 ~~jurisdiction over issues relating to children and families in~~
1452 ~~the Senate and the House of Representatives. The report must~~
1453 ~~include:~~

1454 ~~(a) An analysis of performance on the outcome measures~~
1455 ~~developed under this section reported for each community-based~~
1456 ~~care lead agency and compared with the performance of the~~
1457 ~~department on the same measures.~~

1458 ~~(b) A description of the department's oversight of the~~
1459 ~~program, including, by lead agency, any programmatic or fiscal~~
1460 ~~deficiencies found, corrective actions required, and current~~
1461 ~~status of compliance.~~

1462 ~~(c) Any rules adopted or proposed under this section since~~
1463 ~~the last report. For the purposes of the first report, any rules~~
1464 ~~adopted or proposed under this section must be included.~~

1465 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
1466 secretary shall establish the Independent Living Services
1467 Advisory Council for the purpose of reviewing and making
1468 recommendations concerning the implementation and operation of
1469 the provisions of s. 39.6251 and the Road-to-Independence
1470 Program. The advisory council shall function as specified in
1471 this subsection until the Legislature determines that the
1472 advisory council can no longer provide a valuable contribution
1473 to the department's efforts to achieve the goals of the services
1474 designed to enable a young adult to live independently.

1475 ~~(b) The advisory council shall report to the secretary on~~
1476 ~~the status of the implementation of the Road-to-Independence~~
1477 ~~Program, efforts to publicize the availability of the Road-to-~~
1478 ~~Independence Program, the success of the services, problems~~
1479 ~~identified, recommendations for department or legislative~~

8-01040A-20

20201548__

1480 ~~action, and the department's implementation of the~~
1481 ~~recommendations contained in the Independent Living Services~~
1482 ~~Integration Workgroup Report submitted to the appropriate~~
1483 ~~substantive committees of the Legislature by December 31, 2013.~~
1484 ~~The department shall submit a report by December 31 of each year~~
1485 ~~to the Governor, the President of the Senate, and the Speaker of~~
1486 ~~the House of Representatives which includes a summary of the~~
1487 ~~factors reported on by the council and identifies the~~
1488 ~~recommendations of the advisory council and either describes the~~
1489 ~~department's actions to implement the recommendations or~~
1490 ~~provides the department's rationale for not implementing the~~
1491 ~~recommendations.~~

1492 ~~(c) The advisory council report required under paragraph~~
1493 ~~(b) must include an analysis of the system of independent living~~
1494 ~~transition services for young adults who reach 18 years of age~~
1495 ~~while in foster care before completing high school or its~~
1496 ~~equivalent and recommendations for department or legislative~~
1497 ~~action. The council shall assess and report on the most~~
1498 ~~effective method of assisting these young adults to complete~~
1499 ~~high school or its equivalent by examining the practices of~~
1500 ~~other states.~~

1501 Section 25. Section 742.0211, Florida Statutes, is created
1502 to read:

1503 742.0211 Proceedings applicable to dependent children.—

1504 (1) As used in this section, the term "dependent child"
1505 means a child who is the subject of any proceeding under chapter
1506 39.

1507 (2) In addition to the other requirements of this chapter,
1508 any paternity proceeding filed under this chapter that concerns

8-01040A-20

20201548__

1509 a dependent child must also comply with the requirements of this
1510 section.

1511 (3) Notwithstanding s. 742.021(1), a paternity proceeding
1512 filed under this chapter that concerns a dependent child may be
1513 filed in the circuit court of the county that is exercising
1514 jurisdiction over the chapter 39 proceeding, even if the
1515 plaintiff or defendant do not reside in that county.

1516 (4) The court having jurisdiction over the dependency
1517 matter may conduct any paternity proceeding filed under this
1518 chapter either as part of the chapter 39 proceeding or as a
1519 separate action under this chapter.

1520 (5) A person does not have standing to file a complaint
1521 under this chapter after the entry of a judgment terminating the
1522 parental rights of the legal father, as defined in s. 39.01, for
1523 the dependent child in the chapter 39 proceeding.

1524 (6) The court must hold a hearing on the complaint
1525 concerning a dependent child as required under s. 742.031 within
1526 30 days after the complaint is filed.

1527 (7) (a) If the dependent child has a legal father, as
1528 defined in s. 39.01, and a different man, who has reason to
1529 believe that he is the father of the dependent child, has filed
1530 a complaint to establish paternity under this chapter and
1531 disestablish the paternity of the legal father, the alleged
1532 father must prove at the hearing held under s. 742.031 that:

1533 1. He has acted with diligence in seeking the establishment
1534 of paternity.

1535 2. He is the father of the dependent child.

1536 3. He has manifested a substantial and continuing concern
1537 for the welfare of the dependent child.

8-01040A-20

20201548__

1538 (b) If the alleged father establishes the facts under
1539 paragraph (a), he must then prove by clear and convincing
1540 evidence that there is a clear and compelling reason to
1541 disestablish the legal father's paternity and instead establish
1542 paternity with him by considering the best interest of the
1543 dependent child.

1544 (c) There is a rebuttable presumption that it is not in the
1545 dependent child's best interest to disestablish the legal
1546 father's paternity if:

1547 1. The dependent child has been the subject of a chapter 39
1548 proceeding for 12 months or more before the alleged father files
1549 a complaint under this chapter.

1550 2. The alleged father does not pass a preliminary home
1551 study as required under s. 63.092 to be a placement for the
1552 dependent child.

1553 (8) The court must enter a written order on the paternity
1554 complaint within 30 days after the conclusion of the hearing.

1555 (9) If the court enters an order disestablishing the
1556 paternity of the legal father and establishing the paternity of
1557 the alleged father, then that person shall be considered a
1558 parent, as defined in s. 39.01, for all purposes of the chapter
1559 39 proceeding.

1560 Section 26. 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 Children, Families, and Elder Affairs

BILL: CS/SB 1586

INTRODUCER: Children, Families, and Elder Affairs and Senators Hooper and Perry

SUBJECT: First Responders Suicide Deterrence Task Force

DATE: January 29, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Fav/CS
2.			MS	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1586 creates the First Responders Suicide Deterrence Task Force within the Department of Children and Families' Statewide Office of Suicide Prevention. The task force is made up of representatives of the Florida Professional Firefighters, the Florida Police Benevolent Association, the Florida Fraternal Order of Police, the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Fire Chiefs Association. The task force is to identify or develop training programs and materials to better enable first responders to cope with life and work stress and foster an organizational culture that supports first responders. The task force is to report its findings and recommendations on preventing suicide to the Governor and Legislature each July 1. The task force expires after 3 years.

The bill is not expected to have a significant fiscal impact and has an effective date of July 1, 2020.

II. Present Situation:

Suicide

Suicide is a major public health issue and a leading cause of death nationally, with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation. Suicide rates increased in nearly every state from 1999 through 2016. In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19,

and 20–24. After stable trends from 2000 to 2007, suicide rates for persons aged 10–24 increased 56% from 2007 (6.8 per 100,000 persons) to 2017 (10.6).

While suicide is often characterized as a response to a single event or set of circumstances, suicide is, in fact, the result of complex interactions among neurobiological, genetic, psychological, social, cultural, and environmental risk and protective factors. The factors that contribute to any particular suicide are diverse; therefore, it is generally believed that efforts related to prevention must incorporate multiple approaches.

In Florida, the rate of suicides increased by 10.6% from 1996 to 2016. According to the 2017 Florida Morbidity Statistics Report, the total number of deaths due to suicide in Florida was 3,187 in 2017, a slight increase from 3,122 in 2016. Suicide was the eighth leading cause of death in Florida, and the suicide rate per 100,000 population was 15.5. This is a slight increase from 2016 (15.4). Suicide was the second leading cause of death for individuals within the 25-34 age group in 2017, and the third leading cause of death for individuals within the 15-24 age group; suicide was the fourth leading cause of death for individuals within the 5-14, 35-44, and 45-54 age groups.

Suicide Among First Responders

The federal Law Enforcement Mental Health and Wellness Act of 2017 was signed into law in January 2018, to recognize that law enforcement agencies need support in their ongoing efforts to protect the mental health and well-being of their employees.¹ Officers anticipate and accept the unique dangers and pressures of their chosen profession. However, first responders under stress find it harder than people not experiencing stress to connect with others and regulate their own emotions. They may experience narrowed physical perception, increased anxiety and fearfulness, and degraded cognitive abilities. This can be part of a fight-or-flight response, but it can also lead to significantly greater probabilities of errors in judgment, compromised performance, and injuries. Failing to address the mental health and wellness of officers can ultimately undermine community support for law enforcement and result in officers being less safe on the job.

Psychological stress may also have serious consequences for the individual first responder's health. In particular, traumatic law enforcement work has been shown to increase officers' risk of developing post-traumatic stress disorder (PTSD) symptoms. PTSD is associated with major depression, panic attacks, phobias, mania, substance abuse, and increased risk of suicide. PTSD can increase the risk of cardiovascular disease, hypertension, heart disease, and stroke.

For law enforcement officers, the suicide rate per 100,000 population is estimated to be 28.2 for men and 12.2 for women.² For firefighters, the suicide rate per 100,000 population is estimated to be 18.³ Under reporting of suicides among first responders is common. The Firefighter

¹ U.S. Department of Justice website. See <https://cops.usdoj.gov/lemhwaresources> last visited Jan. 22, 2020.

² Spence, Deborah L., Melissa Fox, Gilbert C. Moore, Sarah Estill, and Nazmia E.A. Comrie. 2019. Law Enforcement Mental Health and Wellness Act: Report to Congress. Washington, DC: U.S. Department of Justice. See <https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf> last visited Jan. 22, 2020.

³ Ruderman Foundation white paper. See https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb last visited Jan. 22, 2020

Behavioral Health Alliance estimates that approximately 40% of firefighter suicides are reported.⁴

Statewide Office and Suicide Prevention Coordinating Council

The Statewide Office of Suicide Prevention (Statewide Office) is housed within the Department of Children and Families (DCF). Among other things, the Statewide Office must coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and other persons who may have contact with persons at risk of suicide.

The Statewide Office is required to operate within available resources but is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the Statewide Office and the Suicide Prevention Coordinating Council.

The Suicide Prevention Coordinating Council (Council) is located within DCF and develops strategies for preventing suicide and advises the Statewide Office regarding the development of a statewide plan for suicide prevention. A report on the plan is prepared and presented annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The Council is comprised of 27 voting members and 1 nonvoting member. The director of the Statewide Office appoints 13 members, while the Governor appoints 4 members, and 10 are state agency directors or their designees.

III. Effect of Proposed Changes:

Section 1 amends s. 14.2019, F.S., that establishes the Statewide Office of Suicide Prevention to create the First Responders Suicide Deterrence Task Force. The task force is located within and supported by the statewide office. The purpose of the task force is to make recommendations on how to reduce the incidence of suicide among current and retired first responders. The task force is made up of representatives of the Florida Professional Firefighters, the Florida Police Benevolent Association, the Florida Fraternal Order of Police, the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Fire Chiefs' Association.

In addition to making recommendations to reduce suicide, the task force is to identify or develop training programs and materials for first responders. The programs and materials are to better enable first responders to cope with life and work stress and foster an organizational culture that supports first responders. The bill identifies a supportive organizational culture as one that:

- Promotes mutual support and solidarity among first responders,
- Trains supervisors to identify suicidal risk among first responders,
- Improves the use of existing resources by first responders, and
- Educates first responders on suicide awareness and help-seeking.

The task force is to identify public and private resources to implement identified training programs and materials. The task force must report its findings and recommendations to the

⁴ *Id.*

Governor and Legislature each July 1, beginning in 2021. Consistent with s. 20.03, F.S., the task force expires after 3 years.

Section 2 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 task force is not expected to have a significant fiscal impact on the Statewide Office of Suicide Prevention housed within the Department of Children and Families.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 14.2019 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on January 28, 2020:

The CS adds the Florida Police Benevolent Association, the Florida Fraternal Order of Police, and the Florida Fire Chiefs' Association to the First Responders Suicide Deterrence Task Force.

- B. **Amendments:**

None.



526956

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2020	.	
	.	
	.	
	.	

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

Senate Amendment

Between lines 35 and 36

insert:

6. The Florida Fire Chiefs' Association.



424344

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2020	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 30 - 33

and insert:

2. The Florida Police Benevolent Association.

3. The Florida Fraternal Order of Police: State Lodge.

By Senator Hooper

16-01208-20

20201586__

1 A bill to be entitled
2 An act relating to the First Responders Suicide
3 Deterrence Task Force; amending s. 14.2019, F.S.;
4 establishing the task force adjunct to the Statewide
5 Office for Suicide Prevention of the Department of
6 Children and Families; specifying the task force's
7 purpose; providing for the composition and the duties
8 of the task force; requiring the task force to submit
9 reports to the Governor and the Legislature on an
10 annual basis; providing for future repeal; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (5) is added to section 14.2019,
16 Florida Statutes, to read:

17 14.2019 Statewide Office for Suicide Prevention.—

18 (5) The First Responders Suicide Deterrence Task Force, a
19 task force as defined in s. 20.03(8), is created adjunct to the
20 Statewide Office for Suicide Prevention.

21 (a) The purpose of the task force is to make
22 recommendations on how to reduce the incidence of suicide and
23 attempted suicide among employed or retired first responders in
24 this state.

25 (b) The task force is composed of a representative of the
26 statewide office and a representative of each of the following
27 first responder organizations, nominated by the organization and
28 appointed by the Secretary of Children and Families:

29 1. The Florida Professional Firefighters.

16-01208-20

20201586__

30 2. The Florida Police Benevolent Association: Florida
31 Highway Patrol Bargaining Unit.

32 3. The Florida Police Benevolent Association: Law
33 Enforcement Bargaining Unit.

34 4. The Florida Sheriffs Association.

35 5. The Florida Police Chiefs Association.

36 (c) The task force shall elect a chair from among its
37 membership. Except as otherwise provided, the task force shall
38 operate in a manner consistent with s. 20.052.

39 (d) The task force shall identify or make recommendations
40 on developing training programs and materials that would better
41 enable first responders to cope with personal life stressors and
42 stress related to their profession and foster an organizational
43 culture that:

44 1. Promotes mutual support and solidarity among active and
45 retired first responders;

46 2. Trains agency supervisors and managers to identify
47 suicidal risk among active and retired first responders;

48 3. Improves the use and awareness of existing resources
49 among active and retired first responders; and

50 4. Educates active and retired first responders on suicide
51 awareness and help-seeking.

52 (e) The task force shall identify state and federal public
53 resources, funding and grants, first responder association
54 resources, and private resources to implement identified
55 training programs and materials.

56 (f) The task force shall report on its findings and
57 recommendations for training programs and materials to deter
58 suicide among active and retired first responders to the

16-01208-20

20201586__

59 Governor, the President of the Senate, and the Speaker of the
60 House of Representatives by each July 1, beginning in 2021, and
61 through 2023.

62 (g) This subsection is repealed July 1, 2023.

63 Section 2. 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)

1-28-20
Meeting Date

1586
Bill Number (if applicable)

Topic FIRST RESPONDER TASK FORCE

Amendment Barcode (if applicable)

Name Wayne "BERNIE" BERNOSKA

Job Title PRESIDENT

Address 3413 W. MADISON ST
Street

Phone 321-231-9116

Tallahassee FL. 32301
City State Zip

Email BERNIE @ FPFP.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.

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)

1-28-20

Meeting Date

1586

Bill Number (if applicable)

Topic SUICIDE TASK FORCE

Amendment Barcode (if applicable)

Name MICHAEL CRABB

Job Title LIEUTENANT

Address 2500 W. COLONIAL DR
Street

Phone 321-436-4447

ORLANDO FL 32804
City State Zip

Email MICHAEL.CRABB@OCFL.NET

Speaking: For Against Information

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

Representing ORANGE COUNTY SHERIFF'S OFFICE / SHERIFF MINA

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

JAN 28, 2020

Meeting Date

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

SB 1586

Bill Number (if applicable)

Topic FIRST RESPONDERS Suicide Deterrence

Amendment Barcode (if applicable)

Name Chief RAY Colburn

Job Title Executive Director

Address 5289 PALM Dr.

Phone 407-468-6622

Street

MELBOURNE BEACH, FL

32951

Email ray@ffca.org

City

State

Zip

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.

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)

Jan 28, 2020

Meeting Date

1586

Bill Number (if applicable)

Topic First Responders Suicide Prevention

Amendment Barcode (if applicable)

Name Gary Bradford

Job Title Lobbyist

Address 300 East Brevard St

Phone 222-3329

Street

Talla

FL

32301

Email gary@flpba.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida PBA 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.

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)

1586

Bill Number (if applicable)

424344

Amendment Barcode (if applicable)

Meeting Date _____

Topic PTSD / Suicide

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza

Street

Tallahassee FL 32301

City

State

Zip

Phone 850-766-8808

Email lphlegislative@ad.com

Speaking: For Against Information

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

Representing Fraternal Order of Police

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1748

INTRODUCER: Senators Hutson and Perry

SUBJECT: Child Welfare

DATE: January 27, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1748 makes changes to the child welfare statutes to conform to the new federal Family First Prevention Services Act. The bill addresses preventive services, residential group care, and how Florida claims funding under Title IV-E of the Social Security Act. The bill clarifies policies regarding the rates paid to certain foster parents and requires written agreements among the Department of Children and Families (department), community-based care lead agencies and the foster parent when negotiating rates that exceed the state’s suggested monthly foster care rate.

The bill clarifies the extended foster care program where children can remain in care up to the age of 21 to align eligibility with the federal law regarding supervised independent living settings. The bill prohibits young adults from participating in extended foster care when they are in involuntary placements such as juvenile detention. The bill modifies the child support guidelines to establish child support payments for parents of children in foster care. The length of time the department must monitor the placement of a child with a successor guardian is reduced from six months to three months prior to closing the case to permanent guardianship. The bill updates language regarding the state’s Title IV-E plan and data reporting for children in all placement settings.

The bill may have a positive fiscal impact to the state and has an effective date of July 1, 2020.

II. Present Situation:

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on Feb. 9, 2018. This budget deal included the Family First Prevention Services Act, which has the potential to dramatically change child welfare systems across the country.¹ One of the major areas this legislation seeks to

¹ National Conference of State Legislatures, Family First Prevention Services Act Update. Available at <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>. Last visited Jan. 24, 2020.

change is the way Social Security Act, Title IV-E funds can be spent by states. Title IV-E funds previously could be used only to help with the costs of foster care maintenance for eligible children; administrative expenses to manage the program; and training for staff, foster parents, and certain private agency staff; adoption assistance; and kinship guardianship assistance.

With the Family First Prevention Services Act, states with an approved Title IV-E plan have the option to use these funds for prevention services that would allow “candidates for foster care” to stay with their parents or relatives. States will be reimbursed for prevention services for up to 12 months. A written, trauma-informed prevention plan must be created, and services will need to be evidence-based.²

The Family First Prevention Services Act also seeks to curtail the use of congregate or group care for children and instead places a new emphasis on family foster homes.³ With limited exceptions, the federal government will not reimburse states for children placed in group care settings for more than two weeks. Approved settings, known as qualified residential treatment programs, must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff. The act requires children to be formally assessed within 30 days of placement to determine if his or her needs can be met by family members, in a family foster home or another approved setting. The act provides that certain institutions are exempt from the two-week limitation, but are generally limited to 12-month placements. To be eligible for federal reimbursement, the law generally limits the number of children allowed in a foster home to six.

III. Effect of Proposed Changes:

Section 1 amends s. 39.01, F.S., providing definitions. The bill amends the definition of “case plan” to conform the definition with the federal language requiring documentation of “preventive” services.⁴ The definition of “preventive services” is revised so that such services may be voluntary or court ordered.

Section 2 amends s. 39.0135, F.S., establishing the Operations and Maintenance Trust Fund within the department. The bill requires the department to deposit the child support payment, equaling the child’s cost of care, into the Federal Grants Trust Fund for children who are determined Title IV-E eligible. The department is federally required to report and treat child support payments for Title IV-E eligible children differently than Title IV-E ineligible children.⁵

Section 3 amends s. 39.202, F.S., relating to confidentiality of reports of child abuse. The bill permits the Agency for Health Care Administration to receive reports of abuse and neglect as the

² *Id.*

³ *Id.*

⁴ Family First Prevention Services Act of 2017, section 111. See <https://www.congress.gov/bill/115th-congress/house-bill/253/text?q=%7B%22search%22%3A%5B%22family+first+prevention+services+act%22%5D%7D&r=1>. Last visited Jan. 23, 2020.

⁵ Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

agency is responsible for licensing hospitals under 395 that provide mental health services. This is a new federal requirement.⁶

Section 4 amends s. 39.407, F.S., relating to medical, psychiatric, and psychological assessment and treatment of children. The bill requires such assessments for children placed in a “qualified residential treatment program.” Section 11 of the bill creates this new type of group care to comply with the federal Family First Prevention Services Act.⁷ This is needed because the new federal law limits the use of federal Title IV-E funding for group care unless it is a specialized to meet specific needs of the child. The bill defines a “qualifying assessment” as an assessment of children who need placement in a qualified residential treatment program. This assessment must be completed within 30 days of placement. The court must approve or reject such placements within 60 days of placement. The department may adopt rules to implement this section.

Section 5 amends s. 39.6011, F.S., relating to case plan development for dependent children. The bill requires the child’s case plan to include documentation supporting a placement in a qualified residential treatment program.

Section 6 amends s. 39.6221, F.S., relating to permanent guardianship of a dependent child. The court can place a child with a relative under a permanent guardianship when the court determines that reunification or adoption is not in the best interest of the child. The bill revises the criteria used by the court to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months.

Section 7 amends s. 39.6251, F.S., providing for continuing care for young adults. Florida extended foster care to the age of 21. Young adults in extended foster care can reside in supervised independent living environments. The bill excludes residing in juvenile detention centers or other detention programs as supervised independent living environments.

Section 8 amends s. 61.30, F.S., providing child support guidelines and child support. The bill provides a guideline for establishing the child support amount for dependency cases. Specifically, the bill states that if the child is in an out-of-home placement the amount of child support would be 10% of the parent’s income.

Section 9 amends s. 409.145, F.S., relating to the care of dependent children and quality parenting. The bill requires that all residential group home employees meet level 2 background screening requirements pursuant to ss. 39.0138 and 435.04, F.S. This requirement for background screening is required under the federal Family First Prevention Services Act.⁸

Current law allows the department and community based care lead agency to increase the foster care room and board rate when necessary. The bill excludes level I foster care room and board payments from this allowance. Level I foster care is when relatives care for the abused child and such relatives are provided an established rate of \$333 per month.⁹ The bill also requires written

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 409.145, F.S.

documentation between the region and CBC when an enhanced foster care room and board payment is agreed upon.

Section 10 repeals s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs. The department does not currently use this setting for placement of children. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S., to comply with new federal requirements for the use of Title IV E funds.¹⁰

Section 11 creates s. 409.16765, F.S., to create the qualified residential treatment program. This will align Florida Statutes with federal Family First Prevention Services Act and provide for the placement of children who have emotional disturbance or mental illness.¹¹ The new program must provide a safe and therapeutic environment, use strength-based and trauma-informed treatment, be licensed and accredited, have licensed nursing or clinical staff 24 hours a day, and provide after care services to support children who are discharged from the program.

The bill requires the community based care lead agency to ensure that each child placed in a qualified residential treatment program be assessed within 30 days of placement, maintain documentation, and limit placements to no more than 12 consecutive months or 18 nonconsecutive months. For children under the age of 13, placement is limited to 6 months. Stays longer than 6 months for these children must be approved by the department. The bill authorizes the department of adopt rules to implement this section.

Section 12 amends s. 409.1678, F.S., relating to specialized placements of children who are victims of commercial sexual exploitation (human trafficking). The bill allows for safe houses and safe foster homes to serve victim of or at risk of human trafficking in the same setting with children of any population.

Section 13 repeals s. 409.1679, F.S., relating to reimbursement for comprehensive residential group care services to children who have extraordinary needs. This type of program is not used and is repealed by the bill. The bill establishes the qualified residential treatment program in the newly created s. 409.16765, F.S.

Section 14 amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemptions. The bill adds qualified residential treatment programs and human trafficking safe houses to the definition of a residential child-caring agency. This will ensure that the state can seek Title IV-E funding for such placements.¹²

Section 15 amends s. 39.301, F.S., relating to the initiation of a child abuse investigation. The bill conforms to changes made regarding preventive services.

¹⁰ Department of Children and Families SB 1748 Bill Analysis. Dated Jan. 16, 2020. On file with the Committee on Children, Families and Elder Affairs.

¹¹ *Id.*

¹² *Id.*

Section 16 amends s. 39.302, F.S., relating to child abuse investigations for children residing in an institution to correct a cross reference.

Section 17 amends s. 39.402, F.S., relating to placement of children in a shelter. The bill conforms to changes made regarding preventive services.

Section 18 amends s. 39.501, F.S., relating to petitions for dependency to conform to changes made in the bill regarding preventive services.

Section 19 amends s. 39.6013, F.S., relating to case plan amendments to correct a cross reference.

Section 20 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 bill revises the criteria the court uses to grant permanent guardianship to include children who have been placed with a guardian for the preceding 3 months rather than the current requirement of 6 months for those cases where the caregiver has been named as the successor guardian. The reduction by three months will reduce costs to the department for supervision and legal services. The amount of savings is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.0135, 39.202, 39.407, 39.6011, 39.6221, 39.6251, 61.30, 409.145, 409.1678, 409.175, 39.301, 39.302, 39.402, 39.501, and 39.6013.

This bill creates section 409.16765 of the Florida Statutes.

This bill repeals ss. 409.1676, and 409.1679 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 Hutson

7-01039A-20

20201748__

1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.01,
3 F.S.; revising definitions; amending s. 39.0135, F.S.;
4 requiring that child support payments be deposited
5 into specified trust funds; amending s. 39.202, F.S.;
6 authorizing the Agency for Health Care Administration
7 to access certain records; amending s. 39.407, F.S.;
8 authorizing the Department of Children and Families to
9 place children in a specified program without court
10 approval; defining the term "qualifying assessment"
11 and revising definitions; providing applicability;
12 requiring an assessment by a specified professional in
13 order to be placed in a program; requiring assessment
14 within a specified timeframe; requiring that an
15 assessment be provided to certain persons; requiring
16 the department to submit a specified report to the
17 court; requiring the court to approve program
18 placement for a child; authorizing the department to
19 adopt rules relating to the program; amending s.
20 39.6011, F.S.; requiring certain documentation in the
21 case plan when a child is placed in a qualified
22 residential treatment program; amending s. 39.6221,
23 F.S.; revising the conditions under which a court
24 determines permanent guardian placement for a child;
25 amending s. 39.6251, F.S.; specifying certain
26 facilities that are not considered a supervised living
27 arrangement; requiring a supervised living arrangement
28 to be voluntary; amending s. 61.30, F.S.; providing a
29 presumption for child support in proceedings under

7-01039A-20

20201748__

30 chapter 39; amending s. 409.145, F.S.; requiring
31 certain screening requirements for residential group
32 home employees and caregivers; requiring a written
33 agreement to modify foster care room and board rates;
34 providing an exception; repealing s. 409.1676, F.S.,
35 relating to comprehensive residential group care
36 services to children who have extraordinary needs;
37 creating s. 409.16765, F.S.; defining the term
38 "qualified residential treatment program"; providing
39 requirements for qualified residential treatment
40 programs; providing responsibilities for community-
41 based care lead agencies; providing placement
42 timeframes for the qualified residential treatment
43 program; requiring the department to adopt rules;
44 amending s. 409.1678, F.S.; revising a requirement and
45 an authorization for safe houses; repealing s.
46 409.1679, F.S., relating to comprehensive residential
47 group care requirements and reimbursement; amending s.
48 409.175, F.S.; revising definitions; amending ss.
49 39.301, 39.302, 39.402, 39.501, and 39.6013, F.S.;
50 making technical and conforming changes; providing an
51 effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Subsections (11) and (67) of section 39.01,
56 Florida Statutes, are amended to read:

57 39.01 Definitions.—When used in this chapter, unless the
58 context otherwise requires:

7-01039A-20

20201748__

59 (11) "Case plan" means a document, as described in s.
60 39.6011, prepared by the department with input from all parties.
61 The case plan follows the child from the provision of preventive
62 ~~voluntary~~ services through any dependency, foster care, or
63 termination of parental rights proceeding or related activity or
64 process.

65 (67) "Preventive services" means social services and other
66 supportive and rehabilitative services provided, either
67 voluntarily or by court order, to the parent or legal custodian
68 of the child and to the child or on behalf of the child for the
69 purpose of averting the removal of the child from the home or
70 disruption of a family which will or could result in the
71 placement of a child in foster care. Social services and other
72 supportive and rehabilitative services shall promote the child's
73 developmental needs and need for physical, mental, and emotional
74 health and a safe, stable, living environment; shall promote
75 family autonomy; and shall strengthen family life, whenever
76 possible.

77 Section 2. Section 39.0135, Florida Statutes, is amended to
78 read:

79 39.0135 Federal Grants and Operations and Maintenance Trust
80 Funds Fund.—The department shall deposit all child support
81 payments made to the department, equaling the cost of care,
82 under ~~pursuant to~~ this chapter into the Federal Grants Trust
83 Fund for Title IV-E eligible children and the Operations and
84 Maintenance Trust Fund for children ineligible for Title IV-E.
85 If the child support payment does not equal the cost of care,
86 the total amount of the payment shall be deposited into the
87 appropriate trust fund. The purpose of this funding is to care

7-01039A-20

20201748__

88 for children who are committed to the temporary legal custody of
89 the department.

90 Section 3. Paragraphs (a) and (h) of subsection (2) of
91 section 39.202, Florida Statutes, are amended to read:

92 39.202 Confidentiality of reports and records in cases of
93 child abuse or neglect.—

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

99 (a) Employees, authorized agents, or contract providers of
100 the department, the Department of Health, the Agency for Persons
101 with Disabilities, the Agency for Health Care Administration,
102 the Office of Early Learning, or county agencies responsible for
103 carrying out:

- 104 1. Child or adult protective investigations;
- 105 2. Ongoing child or adult protective services;
- 106 3. Early intervention and prevention services;
- 107 4. Healthy Start services;
- 108 5. Licensure or approval of adoptive homes, foster homes,
109 child care facilities, facilities licensed under chapters 393
110 and 394 ~~chapter 393~~, family day care homes, providers who
111 receive school readiness funding under part VI of chapter 1002,
112 or other homes used to provide for the care and welfare of
113 children;
- 114 6. Employment screening for employees ~~caregivers~~ in
115 residential group homes licensed by the department, the Agency
116 for Persons with Disabilities, or the Agency for Health Care

7-01039A-20

20201748__

117 Administration; or

118 7. Services for victims of domestic violence when provided
119 by certified domestic violence centers working at the
120 department's request as case consultants or with shared clients.

121
122 Also, employees or agents of the Department of Juvenile Justice
123 responsible for the provision of services to children, under
124 ~~pursuant to~~ chapters 984 and 985.

125 (h) Any appropriate official of the department, the Agency
126 for Health Care Administration, or the Agency for Persons with
127 Disabilities who is responsible for:

128 1. Administration or supervision of the department's
129 program for the prevention, investigation, or treatment of child
130 abuse, abandonment, or neglect, or abuse, neglect, or
131 exploitation of a vulnerable adult, when carrying out his or her
132 official function;

133 2. Taking appropriate administrative action concerning an
134 employee of the department or the agency who is alleged to have
135 perpetrated child abuse, abandonment, or neglect, or abuse,
136 neglect, or exploitation of a vulnerable adult; or

137 3. Employing and continuing employment of personnel of the
138 department or the agency.

139 Section 4. Subsection (6) of section 39.407, Florida
140 Statutes, is amended to read:

141 39.407 Medical, psychiatric, and psychological examination
142 and treatment of child; physical, mental, or substance abuse
143 examination of person with or requesting child custody.—

144 (6) Children who are in the legal custody of the department
145 may be placed by the department, without prior approval of the

7-01039A-20

20201748__

146 court, in a residential treatment center licensed under s.
147 394.875, a qualified residential treatment program as defined in
148 s. 409.16765, or a hospital licensed under chapter 395 for
149 residential mental health treatment only under ~~pursuant to~~ this
150 section or may be placed by the court in accordance with an
151 order of involuntary examination or involuntary placement
152 entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children
153 placed in a residential treatment program under this subsection
154 must have a guardian ad litem appointed.

155 (a) As used in this subsection, the term:

156 1. "Residential treatment" means placement for observation,
157 diagnosis, or treatment of an emotional disturbance in a
158 residential treatment center licensed under s. 394.875, a
159 qualified residential treatment program defined in s. 409.16765,
160 or a hospital licensed under chapter 395.

161 2. "Least restrictive alternative" means the treatment and
162 conditions of treatment that, separately and in combination, are
163 no more intrusive or restrictive of freedom than reasonably
164 necessary to achieve a substantial therapeutic benefit or to
165 protect the child or adolescent or others from physical injury.

166 3. "Suitable for residential treatment" or "suitability"
167 means a determination concerning a child or adolescent with an
168 emotional disturbance as defined in s. 394.492(5) or a serious
169 emotional disturbance as defined in s. 394.492(6) that each of
170 the following criteria is met:

171 a. The child requires residential treatment.

172 b. The child is in need of a residential treatment program
173 and is expected to benefit from mental health treatment.

174 c. An appropriate, less restrictive alternative to

7-01039A-20

20201748__

175 residential treatment is unavailable.

176 4. "Qualifying assessment" means a determination by a
177 department-approved functional assessment concerning a child or
178 adolescent who has an emotional disturbance or a serious
179 emotional disturbance or mental illness, as those terms are
180 defined in s. 394.492, for recommended placement in a qualified
181 residential treatment program under s. 409.16765.

182 (b)1. If ~~Whenever~~ the department believes that a child in
183 its legal custody is emotionally disturbed and may need
184 residential treatment, an examination and suitability assessment
185 must be conducted by a qualified evaluator who is appointed by
186 the Agency for Health Care Administration. This suitability
187 assessment must be completed before the placement of the child
188 in a residential treatment center for emotionally disturbed
189 children and adolescents or a hospital. The qualified evaluator
190 must be a psychiatrist or a psychologist licensed in Florida who
191 has at least 3 years of experience in the diagnosis and
192 treatment of serious emotional disturbances in children and
193 adolescents and who has no actual or perceived conflict of
194 interest with any inpatient facility or residential treatment
195 center or program. This paragraph does not apply to a child who
196 may need placement in a qualified residential treatment program.

197 2.~~(e)~~ Before a child is admitted under this paragraph
198 ~~subsection~~, the child must ~~shall~~ be assessed for suitability for
199 residential treatment by a qualified evaluator who has conducted
200 a personal examination and assessment of the child and has made
201 written findings that:

202 a.1.~~1.~~ The child appears to have an emotional disturbance
203 serious enough to require residential treatment and is

7-01039A-20

20201748__

204 reasonably likely to benefit from the treatment.

205 ~~b.2.~~ The child has been provided with a clinically
206 appropriate explanation of the nature and purpose of the
207 treatment.

208 ~~c.3.~~ All available modalities of treatment less restrictive
209 than residential treatment have been considered, and a less
210 restrictive alternative that would offer comparable benefits to
211 the child is unavailable.

212 3. A copy of the written findings of the evaluation and
213 suitability assessment must be provided to the department, to
214 the guardian ad litem, and, if the child is a member of a
215 Medicaid managed care plan, to the plan that is financially
216 responsible for the child's care in residential treatment, all
217 of whom must be provided with the opportunity to discuss the
218 findings with the evaluator.

219 (c)1. If the department believes that a child in its legal
220 custody has a serious emotional or behavioral disorder or
221 disturbance and may need placement in a qualified residential
222 treatment program, a qualifying assessment must be conducted by
223 a qualified evaluator who is a trained professional with a
224 master's degree in human services, has at least 3 years'
225 experience working with children or adolescents involved in the
226 child welfare system of care, and has no actual or perceived
227 conflict of interest with any inpatient facility or residential
228 treatment center or program. The qualifying assessment must be
229 completed no later than 30 days after placement of the child in
230 a qualified residential treatment program.

231 2. A copy of the qualifying assessment must be provided to
232 the department; to the guardian ad litem; and, if the child is a

7-01039A-20

20201748__

233 member of a Medicaid managed care plan, to the plan that is
234 financially responsible for the child's care in residential
235 treatment, all of whom must be provided with the opportunity to
236 discuss the placement recommendations with the evaluator.

237 (d) Immediately upon placing a child in a residential
238 treatment program under this section, the department must notify
239 the guardian ad litem and the court having jurisdiction over the
240 child and must provide the guardian ad litem and the court with
241 a copy of the suitability or qualifying assessment by the
242 qualified evaluator.

243 (e) Within 10 days after the admission of a child to a
244 residential treatment program, the director of the residential
245 treatment program or the director's designee must ensure that an
246 individualized plan of treatment has been prepared by the
247 program and has been explained to the child, to the department,
248 and to the guardian ad litem, and submitted to the department.
249 The child must be involved in the preparation of the plan to the
250 maximum feasible extent consistent with his or her ability to
251 understand and participate, and the guardian ad litem and the
252 child's foster parents must be involved to the maximum extent
253 consistent with the child's treatment needs. The plan must
254 include a preliminary plan for residential treatment and
255 aftercare upon completion of residential treatment. The plan
256 must include specific behavioral and emotional goals against
257 which the success of the residential treatment may be measured.
258 A copy of the plan must be provided to the child, to the
259 guardian ad litem, and to the department.

260 (f) Within 30 days after admission, the residential
261 treatment program must review the appropriateness and

7-01039A-20

20201748__

262 suitability of the child's placement in the program. The
263 residential treatment program must determine whether the child
264 is receiving benefit toward the treatment goals and whether the
265 child could be treated in a less restrictive treatment program.
266 The residential treatment program shall prepare a written report
267 of its findings and submit the report to the guardian ad litem
268 and to the department. The department must submit the report to
269 the court. The report must include a discharge plan for the
270 child. The residential treatment program must continue to
271 evaluate the child's treatment progress every 30 days thereafter
272 and must include its findings in a written report submitted to
273 the department and the guardian ad litem. The department must
274 submit the report to the court. The department may not reimburse
275 a facility until the facility has submitted every written report
276 that is due.

277 (g)1. The department must submit, at the beginning of each
278 month, to the court having jurisdiction over the child, a
279 written report regarding the child's progress toward achieving
280 the goals specified in the individualized plan of treatment.

281 2. The court must conduct a hearing to review the status of
282 the child's residential treatment plan no later than 60 days
283 after the child's admission to the residential treatment
284 program. An independent review of the child's progress toward
285 achieving the goals and objectives of the treatment plan must be
286 completed by a qualified evaluator and submitted to the court
287 before its 60-day review.

288 3. For any child in residential treatment at the time a
289 judicial review is held under ~~pursuant to~~ s. 39.701, the child's
290 continued placement in residential treatment must be a subject

7-01039A-20

20201748__

291 of the judicial review.

292 4. If at any time the court determines that the child is
293 not suitable for continued residential treatment, the court
294 shall order the department to place the child in the least
295 restrictive setting that is best suited to meet his or her
296 needs.

297 (h) After the initial 60-day review, the court must conduct
298 a review of the child's residential treatment plan every 90
299 days.

300 (i) In addition to the requirements of paragraphs (g) and
301 (h), within 60 days after initial placement in a qualified
302 residential treatment program, the court must approve or
303 disapprove the placement based on the qualified assessment,
304 determination, and documentation made by the qualified
305 evaluator, as well as any other factors the court deems fit.

306 (j)1.~~(i)~~ The department must adopt rules for implementing
307 timeframes for the completion of suitability and qualifying
308 assessments by qualified evaluators and a procedure that
309 includes timeframes for completing the 60-day independent review
310 by the qualified evaluators of the child's progress toward
311 achieving the goals and objectives of the treatment plan which
312 review must be submitted to the court. The Agency for Health
313 Care Administration must adopt rules for the registration of
314 qualified evaluators, the procedure for selecting the evaluators
315 to conduct the reviews required under this section, and a
316 reasonable, cost-efficient fee schedule for qualified
317 evaluators.

318 2. The department may adopt rules relating to the
319 assessment tool, the placement recommendations from the

7-01039A-20

20201748__

320 assessment, and the training criteria for qualified evaluators
321 in order to administer this section.

322 Section 5. Subsections (6) through (9) of section 39.6011,
323 Florida Statutes, are redesignated as subsections (7) through
324 (10), respectively, and a new subsection (6) is added to that
325 section, to read:

326 39.6011 Case plan development.—

327 (6) When a child is placed in a qualified residential
328 treatment program, the case plan must include documentation
329 outlining the most recent assessment for a qualified residential
330 treatment program, the date of the most recent placement in a
331 qualified residential treatment program, the treatment or
332 service needs of the child, and preparation for the child to
333 return home or be in an out-of-home placement. If a child is
334 placed in a qualified residential treatment program for longer
335 than the timeframes described in s. 409.16765, a copy of the
336 signed approval of such placement by the department must be
337 included in the case plan.

338 Section 6. Paragraph (a) of subsection (1) of section
339 39.6221, Florida Statutes, is amended to read:

340 39.6221 Permanent guardianship of a dependent child.—

341 (1) If a court determines that reunification or adoption is
342 not in the best interest of the child, the court may place the
343 child in a permanent guardianship with a relative or other adult
344 approved by the court if all of the following conditions are
345 met:

346 (a) The child has been in the placement for not less than
347 the preceding 6 months, or the preceding 3 months if the
348 caregiver has been named as the successor guardian on the

7-01039A-20

20201748__

349 child's Guardianship Assistance Agreement.

350 Section 7. Paragraph (a) of subsection (4) of section
351 39.6251, Florida Statutes, is amended to read:

352 39.6251 Continuing care for young adults.—

353 (4) (a) The young adult must reside in a supervised living
354 environment that is approved by the department or a community-
355 based care lead agency. The young adult shall live
356 independently, but in an environment in which he or she is
357 provided supervision, case management, and supportive services
358 by the department or lead agency. Such an environment must offer
359 developmentally appropriate freedom and responsibility to
360 prepare the young adult for adulthood. For the purposes of this
361 subsection, a supervised living arrangement may include a
362 licensed foster home, licensed group home, college dormitory,
363 shared housing, apartment, or another housing arrangement if the
364 arrangement is approved by the community-based care lead agency
365 and is acceptable to the young adult. A young adult may continue
366 to reside with the same licensed foster family or group care
367 provider with whom he or she was residing at the time he or she
368 reached the age of 18 years. A supervised living arrangement may
369 not include detention facilities, forestry camps, training
370 schools, or any other facility operated primarily for the
371 detention of children or young adults who are determined to be
372 delinquent. A young adult may not reside in any setting in which
373 the young adult is involuntarily placed.

374 Section 8. Paragraph (a) of subsection (1) of section
375 61.30, Florida Statutes, is amended, and paragraph (d) is added
376 to that subsection, to read:

377 61.30 Child support guidelines; retroactive child support.—

7-01039A-20

20201748__

378 (1) (a) The child support guideline amount as determined by
379 this section presumptively establishes the amount the trier of
380 fact shall order as child support in an initial proceeding for
381 such support or in a proceeding for modification of an existing
382 order for such support, whether the proceeding arises under this
383 or another chapter, except as provided in paragraph (d). The
384 trier of fact may order payment of child support which varies,
385 plus or minus 5 percent, from the guideline amount, after
386 considering all relevant factors, including the needs of the
387 child or children, age, station in life, standard of living, and
388 the financial status and ability of each parent. The trier of
389 fact may order payment of child support in an amount which
390 varies more than 5 percent from such guideline amount only upon
391 a written finding explaining why ordering payment of such
392 guideline amount would be unjust or inappropriate.

393 Notwithstanding the variance limitations of this section, the
394 trier of fact shall order payment of child support which varies
395 from the guideline amount as provided in paragraph (1)(b)
396 whenever any of the children are required by court order or
397 mediation agreement to spend a substantial amount of time with
398 either parent. This requirement applies to any living
399 arrangement, whether temporary or permanent.

400 (d) In a proceeding under chapter 39, if the child is in an
401 out-of-home placement, the presumptively correct amount of
402 periodic support is 10 percent of the obligor's actual or
403 imputed gross income. The court may deviate from this
404 presumption as provided in paragraph (a).

405 Section 9. Paragraph (e) of subsection (2) and paragraph
406 (f) of subsection (4) of section 409.145, Florida Statutes, are

7-01039A-20

20201748__

407 amended, and a new paragraph (h) is added to subsection (4) of
408 that section, to read:

409 409.145 Care of children; quality parenting; "reasonable
410 and prudent parent" standard.—The child welfare system of the
411 department shall operate as a coordinated community-based system
412 of care which empowers all caregivers for children in foster
413 care to provide quality parenting, including approving or
414 disapproving a child's participation in activities based on the
415 caregiver's assessment using the "reasonable and prudent parent"
416 standard.

417 (2) QUALITY PARENTING.—A child in foster care shall be
418 placed only with a caregiver who has the ability to care for the
419 child, is willing to accept responsibility for providing care,
420 and is willing and able to learn about and be respectful of the
421 child's culture, religion and ethnicity, special physical or
422 psychological needs, any circumstances unique to the child, and
423 family relationships. The department, the community-based care
424 lead agency, and other agencies shall provide such caregiver
425 with all available information necessary to assist the caregiver
426 in determining whether he or she is able to appropriately care
427 for a particular child.

428 (e) Employees ~~caregivers~~ employed by residential group
429 homes.—All employees, including persons who do not work directly
430 with children, of a residential group home must meet the
431 background screening requirements under s. 39.0138 and the level
432 2 standards for screening under chapter 435. All caregivers in
433 residential group homes must ~~shall~~ meet, at a minimum, the same
434 education and, ~~training, and background and other screening~~
435 requirements as foster parents.

7-01039A-20

20201748__

436 (4) FOSTER CARE ROOM AND BOARD RATES.—

437 (f) Excluding level I family foster homes, the amount of
438 the monthly foster care room and board rate may be increased
439 upon agreement among the department, the community-based care
440 lead agency, and the foster parent.

441 (h) All room and board rate increases, excluding increases
442 under paragraph (b), must be outlined in a written agreement
443 between the department and the community-based care lead agency.

444 Section 10. Section 409.1676, Florida Statutes, is
445 repealed.

446 Section 11. Section 409.16765, Florida Statutes, is created
447 to read:

448 409.16765 Qualified residential treatment programs.—

449 (1) As used in this section, the term "qualified
450 residential treatment program" means a residential group home
451 environment that provides care for a child who has an emotional
452 disturbance or a serious emotional disturbance or mental
453 illness, as those terms are defined in s. 394.492.

454 (2) A qualified residential treatment program shall,
455 subject to available resources, meet the following requirements:

456 (a) Provide a safe and therapeutic environment tailored to
457 the needs of children with emotional or behavioral health
458 problems.

459 (b) Use a model of treatment that includes a strength-based
460 and trauma-informed approach.

461 (c) Be licensed as a residential child-caring agency as
462 defined in s. 409.175.

463 (d) Be accredited by an accrediting organization under s.
464 472(k) (4) (g) of the Social Security Act.

7-01039A-20

20201748__

465 (e) Have available, 24 hours a day, registered or licensed
466 nursing and clinical staff based on the child's treatment plan.

467 (f) Provide aftercare services or supports to all children
468 who are discharged from the program.

469 (3) The community-based care lead agency shall:

470 (a) Ensure each child who is placed in a qualified
471 residential treatment program receives a qualifying assessment,
472 as defined in s. 39.407, no later than 30 days after placement
473 in the program.

474 (b) Maintain documentation of a child's placement in a
475 qualified residential treatment program as specified in s.
476 39.6011(6).

477 (c) Not place a child in a qualified residential treatment
478 program for more than 12 consecutive months or 18 nonconsecutive
479 months, or if the child is under the age of 13 years, for more
480 than 6 months, whether consecutive or nonconsecutive, without
481 the signed approval of the department for the continued
482 placement.

483 (4) The department shall adopt rules necessary to
484 administer this section.

485 Section 12. Paragraph (c) of subsection (2) of section
486 409.1678, Florida Statutes, is amended to read:

487 409.1678 Specialized residential options for children who
488 are victims of commercial sexual exploitation.—

489 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

490 (c) To be certified, a safe house must hold a license as a
491 residential child-caring agency, as defined in s. 409.175, and a
492 safe foster home must hold a license as a family foster home, as
493 defined in s. 409.175. A safe house or safe foster home must

7-01039A-20

20201748__

494 also:

- 495 1. Use strength-based and trauma-informed approaches to
496 care, to the extent possible and appropriate.
- 497 2. Serve exclusively one sex.
- 498 3. Group child victims of commercial sexual exploitation by
499 age or maturity level.
- 500 4. If a safe house, care for child victims of commercial
501 sexual exploitation ~~in a manner that separates those children~~
502 ~~from children with other needs. Safe houses and Safe foster~~
503 homes may care for other populations if the children who have
504 not experienced commercial sexual exploitation do not interact
505 with children who have experienced commercial sexual
506 exploitation.
- 507 5. Have awake staff members on duty 24 hours a day, if a
508 safe house.
- 509 6. Provide appropriate security through facility design,
510 hardware, technology, staffing, and siting, including, but not
511 limited to, external video monitoring or door exit alarms, a
512 high staff-to-client ratio, or being situated in a remote
513 location that is isolated from major transportation centers and
514 common trafficking areas.
- 515 7. Meet other criteria established by department rule,
516 which may include, but are not limited to, personnel
517 qualifications, staffing ratios, and types of services offered.

518 Section 13. Section 409.1679, Florida Statutes, is
519 repealed.

520 Section 14. Paragraphs (l) and (m) of subsection (2) of
521 section 409.175, Florida Statutes, are amended to read:

522 409.175 Licensure of family foster homes, residential

7-01039A-20

20201748__

523 child-caring agencies, and child-placing agencies; public
524 records exemption.-

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

526 (1) "Residential child-caring agency" means any person,
527 corporation, or agency, public or private, other than the
528 child's parent or legal guardian, that provides staffed 24-hour
529 care for children in facilities maintained for that purpose,
530 regardless of whether operated for profit or whether a fee is
531 charged. Such residential child-caring agencies include, but are
532 not limited to, maternity homes, runaway shelters, group homes
533 that are administered by an agency, emergency shelters that are
534 not in private residences, qualified residential treatment
535 programs as defined in s. 409.16765, human trafficking safe
536 houses as defined in s. 409.1678, at-risk homes, and wilderness
537 camps. Residential child-caring agencies do not include
538 hospitals, boarding schools, summer or recreation camps, nursing
539 homes, or facilities operated by a governmental agency for the
540 training, treatment, or secure care of delinquent youth, or
541 facilities licensed under s. 393.067 or s. 394.875 or chapter
542 397.

543 (m) "Screening" means the act of assessing the background
544 of personnel or level II through level V family foster homes and
545 includes, but is not limited to, criminal history checks as
546 provided in s. 39.0138 and employment history checks as provided
547 in chapter 435, using the level 2 standards for screening set
548 forth in that chapter.

549 Section 15. Paragraph (a) of subsection (14) of section
550 39.301, Florida Statutes, is amended to read:

551 39.301 Initiation of protective investigations.-

7-01039A-20

20201748__

552 (14) (a) If the department or its agent determines that a
553 child requires immediate or long-term protection through medical
554 or other health care or homemaker care, day care, protective
555 supervision, or other services to stabilize the home
556 environment, including intensive family preservation services
557 through the Intensive Crisis Counseling Program, such services
558 shall first be offered for voluntary acceptance unless:

559 1. There are high-risk factors that may impact the ability
560 of the parents or legal custodians to exercise judgment. Such
561 factors may include the parents' or legal custodians' young age
562 or history of substance abuse, mental illness, or domestic
563 violence; or

564 2. There is a high likelihood of lack of compliance with
565 preventive ~~voluntary~~ services, and such noncompliance would
566 result in the child being unsafe.

567 Section 16. Paragraph (b) of subsection (7) of section
568 39.302, Florida Statutes, is amended to read:

569 39.302 Protective investigations of institutional child
570 abuse, abandonment, or neglect.—

571 (7) When an investigation of institutional abuse, neglect,
572 or abandonment is closed and a person is not identified as a
573 caregiver responsible for the abuse, neglect, or abandonment
574 alleged in the report, the fact that the person is named in some
575 capacity in the report may not be used in any way to adversely
576 affect the interests of that person. This prohibition applies to
577 any use of the information in employment screening, licensing,
578 child placement, adoption, or any other decisions by a private
579 adoption agency or a state agency or its contracted providers.

580 (b) Likewise, if a person is employed as a caregiver in a

7-01039A-20

20201748__

581 residential group home licensed under ~~pursuant to~~ s. 409.175 and
582 is named in any capacity in three or more reports within a 5-
583 year period, the department may review all reports for the
584 purposes of the employment screening required under s.
585 409.175(2)(m) ~~pursuant to s. 409.145(2)(c)~~.

586 Section 17. Subsection (15) of section 39.402, Florida
587 Statutes, is amended to read:

588 39.402 Placement in a shelter.—

589 (15) The department, at the conclusion of the shelter
590 hearing, shall make available to parents or legal custodians
591 seeking preventive ~~voluntary~~ services any referral information
592 necessary for participation in such identified services to allow
593 the parents or legal custodians to begin the services as soon as
594 possible. The parents' or legal custodians' participation in the
595 services may not be considered an admission or other
596 acknowledgment of the allegations in the shelter petition.

597 Section 18. Paragraph (d) of subsection (3) of section
598 39.501, Florida Statutes, is amended to read:

599 39.501 Petition for dependency.—

600 (3)

601 (d) The petitioner must state in the petition, if known,
602 whether:

603 1. A parent or legal custodian named in the petition has
604 previously unsuccessfully participated in preventive ~~voluntary~~
605 services offered by the department;

606 2. A parent or legal custodian named in the petition has
607 participated in mediation and whether a mediation agreement
608 exists;

609 3. A parent or legal custodian has rejected the preventive

7-01039A-20

20201748__

610 ~~voluntary~~ services offered by the department;

611 4. A parent or legal custodian named in the petition has
612 not fully complied with a safety plan; or

613 5. The department has determined that preventive ~~voluntary~~
614 services are not appropriate for the parent or legal custodian
615 and the reasons for such determination.

616

617 If the department is the petitioner, it shall provide all safety
618 plans as defined in s. 39.01 involving the parent or legal
619 custodian to the court.

620 Section 19. Subsection (8) of section 39.6013, Florida
621 Statutes, is amended to read:

622 39.6013 Case plan amendments.—

623 (8) Amendments must include service interventions that are
624 the least intrusive into the life of the parent and child, must
625 focus on clearly defined objectives, and must provide the most
626 efficient path to quick reunification or permanent placement
627 given the circumstances of the case and the child's need for
628 safe and proper care. A copy of the amended plan must be
629 immediately given to the persons identified in s. 39.6011(8)(c)
630 ~~s. 39.6011(7)(e)~~.

631 Section 20. This act shall take effect July 1, 2020.

DECEMBER 2019

A DATA STUDY OF
FOSTER CHILDREN
WHO REFUSED
PLACEMENT IN
HILLSBOROUGH
COUNTY



MIAMILAW
UNIVERSITY OF MIAMI SCHOOL OF LAW
Children &
Youth Law
Clinic

Refusing Placements in Hillsborough County

A DATA STUDY OF FLORIDA'S FOSTER
CARE SYSTEM

Background

INVESTIGATIONS

Foster kids kept in cars at Wawa parking lot in Hillsborough County



NEWS

While kids slept in offices, foster beds went empty



Tampa Bay Times



Children refusing placement in foster care system

The Department of Children and Families is asking lawmakers to help them with a pressing issue: What to do with children in the foster care system who refuse placement.

Friday, October 18th 2019, 8:05 PM EDT



Two Reports

OFFICE OF INSPECTOR GENERAL MANAGEMENT REVIEW (2018)



INTRODUCTION

On February 15, 2018, in response to information obtained regarding a potential systemic problem with foster care placement tracking issues by Community-Based Care Lead Agency Eckerd Connects-Hillsborough (Eckerd) and subcontracted provider Youth and Family Alternatives, Inc. (YFA) in Circuit 13, Department of Children and Families (Department) Secretary Mike Carnell requested that the Office of Inspector General (OIG) conduct a management review of two specific data issues, as follows:

1. What was the process for reporting youth sleeping in locations other than approved placements in Circuit 13 and was the information accurately reported to the Department as required after November 14, 2017?
2. Did Florida Safe Families Network (FSFN) placement information accurately represent placements of children under the supervision of Eckerd?

BACKGROUND

On November 14, 2017, SunCoast Regional Program Manager Kathleen Cowan sent an e-mail to Eckerd Chief of Performance and Quality Lonta Shirley¹ and Eckerd Associate Executive Director Gene Stewart² requesting that Eckerd resume using a Placement Assignment Log (the Spreadsheet) to report placement issues for youth who, in the previous seven days:

- Had three or more placements;
- Slept in a non-licensed bed (i.e., office, vehicle, lobby, etc.);
- Were placed with a relative or non-relative without an approved homestudy;
- Were placed in a home for the purpose of sleeping only; or
- Had refused a placement.

Ms. Cowan's e-mail indicated that the Spreadsheet should be updated each Monday for the week prior and used through January 23, 2018, at which time it would be re-evaluated for need. That same date, Ms. Shirley responded to Ms. Cowan via e-mail indicating that the process would "absolutely" be resumed.

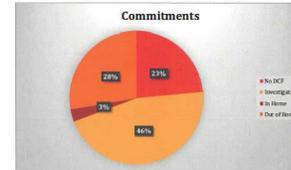
The Spreadsheet contained the name, age, and date of birth of the child(ren) with placement issues (as noted above), incident date, Case Management Organization

¹ On February 8, 2018, notice was provided that Contract #ECCAC13-CMO-YFA-F20 between Eckerd and YFA would be terminated effective May 8, 2018.

² At the time, Mr. Shirley was Eckerd Chief of Community Based Care. Effective May 14, 2018, Ms. Shirley became Eckerd Chief of Performance and Quality.

³ Copied in the e-mail were Hector: SunCoast Regional Managing Director Jennifer Kuhn, Circuit 20 Family Safety and Community Services Director Kimberly Williams, Circuit 13 Contract Manager Debra Derry and Circuit 20 Government Operations Consultant (GOC) Deborah Wilson.

REPORT OF THE AD HOC COMMITTEE ON DUALY INVOLVED YOUTH, CIRCUIT 13 JUVENILE JUSTICE BOARD (2019)



AD HOC COMMITTEE ON DUALY-INVOLVED YOUTH

FINAL REPORT

AUGUST 2019
HILLSBOROUGH COUNTY, FLORIDA

Summary of Ad Hoc Committee Report

THE COMMITTEE WROTE:

“ *Our overall review has led to the conclusion that children under the care and custody of Florida’s child welfare system should not have the ability to refuse temporary placements that have been determined to be in their best interest by the parties charged with their care.*

We routinely have children as young as 13 refuse placement and Florida Law does not currently provide any mechanism to order these children into an appropriate level of care.

This is an ever-present challenge. One which our current system of care is unable to address.

Placement refusals are common and they set an uncharted course of night to night placements and leave us with no permanent solution to engage the child in a meaningful treatment modality. ”

Ad Hoc Committee Recommendations



Expansion of CINS/FINS provisions to cover dependent children



Staff Secure & Physically Secure Placement



Better Data and Information

23,000 children in care -- 2,400 in Hillsborough

Children & Young Adults in Out-of-Home Care - Statewide

Last Updated: 1/10/2020



Display: Children Only (0-17) | Select the Report Period to Display: Sep-2003 to Dec-2019 | Select Entity Level: Statewide

Children In Out-of-Home Care (as of the end of each month)

(Age(s): All | Gender(s): All | Race(s): All | Placement Type(s): All)

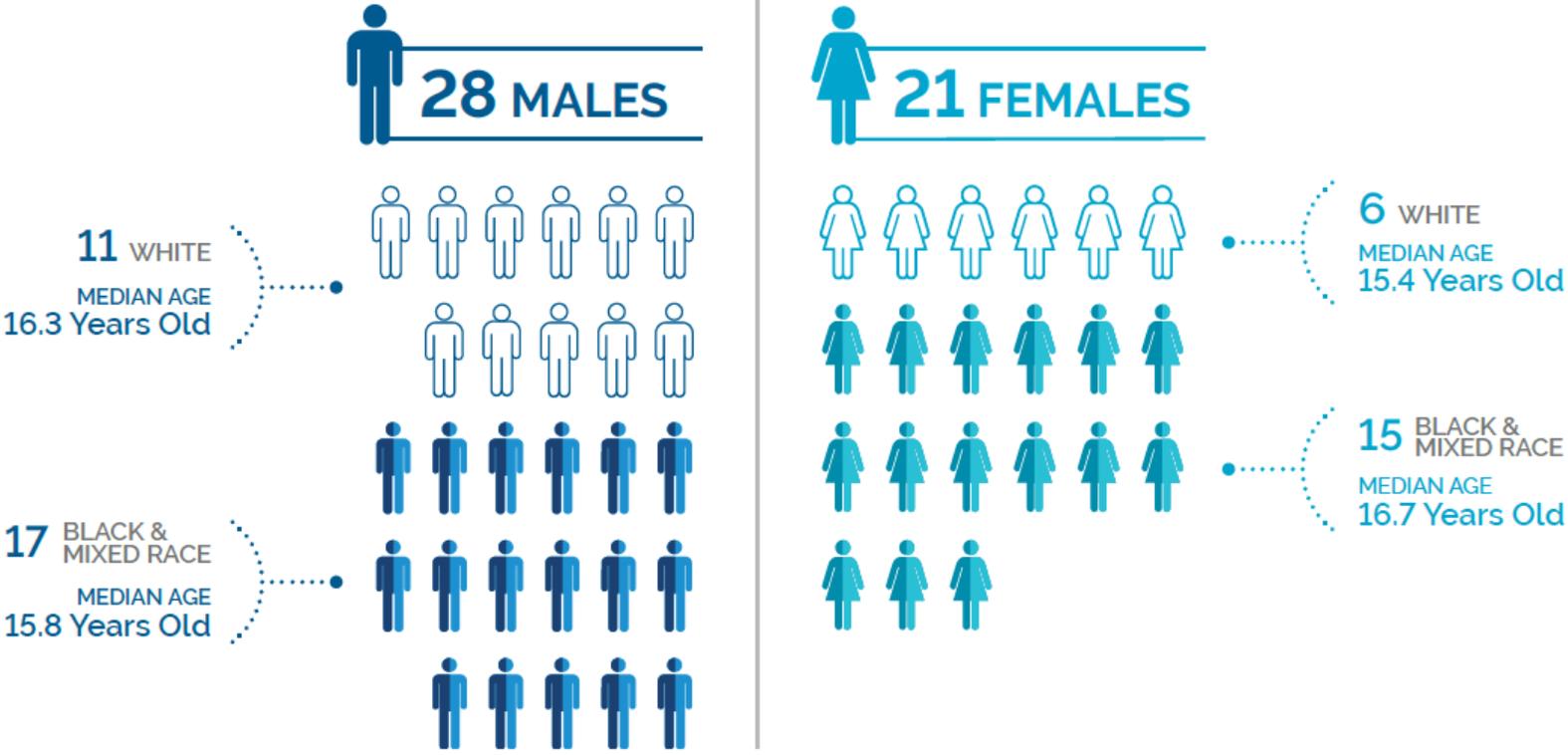


The Placement Public Data: 210,000 children & 1,155,000 data entries

#	CHILD INFO	PROVIDER INFO	DATES	PLACEMENT TYPE	ZIP CODE
1	3433438294823	XYZ Shelter	1/2/2013 - 1/16/2013	Shelter	33534
2	3433438294823	ABC Group Home	1/16/2013 - 3/2/2013	Group Home	33548
3	3433438294823	DEF Group Home	3/2/2013 - present	Group Home	33567
1	9584385738	DOR. TOR.	5/13/2018 - 5/14/2019	Foster Care	33688
2	9584385738	JAN. DOE.	5/14/2019 - present	<u>Placement Refusal</u>	33811

Who were the
children who refused
placements?

HILLSBOROUGH COUNTY
49 CHILDREN WHO REFUSED PLACEMENT





THE REFUSAL CHILDREN

65%
BLACK &
MIXED RACE



1.6X THE PERCENTAGE OF OTHER UNSTABLE CHILDREN 
1.8X THE PERCENTAGE OF TYPICAL TEENAGERS 

31
PLACEMENT
CHANGES



2X AS MANY AS OTHER UNSTABLE CHILDREN 
10X AS MANY AS TYPICAL TEENAGERS 

SPENT
37%
OF TIME IN
GROUP HOMES



2X AS LONG AS OTHER UNSTABLE CHILDREN 
7X AS LONG AS TYPICAL TEENAGERS 

MOVED
1,090
MILES



2X FARTHER THAN OTHER UNSTABLE CHILDREN 
15X FARTHER THAN TYPICAL TEENAGERS 

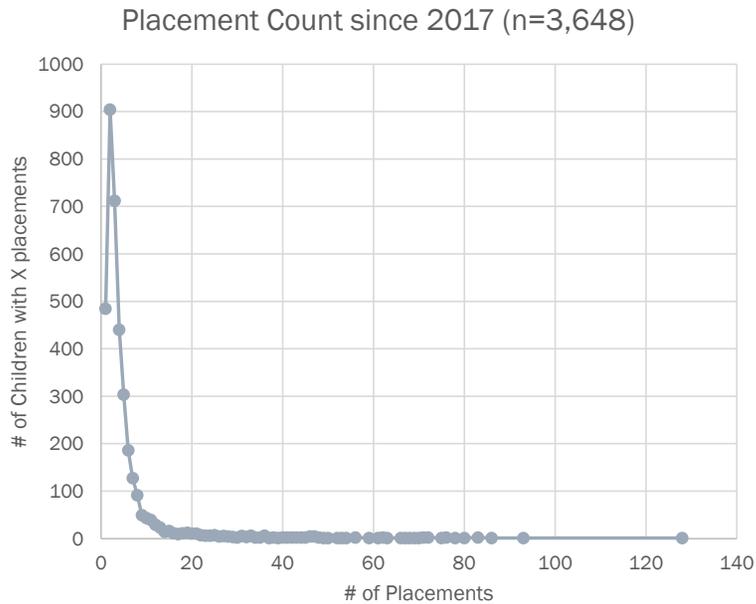
EJECTED BY
75%
OF THEIR
PLACEMENTS



2.5X AS OFTEN AS OTHER UNSTABLE CHILDREN 
2X AS OFTEN AS TYPICAL TEENAGERS 

What does
Hillsborough
Placement Array Look
Like?

Most children had stable placements, too many did not



57% had 3 or fewer placements

90% had 9 or fewer placements

352 children had 10 or more placements

145 children had 20 or more placements

30 children had 50 or more placements

Extremely Unstable Placement Patterns

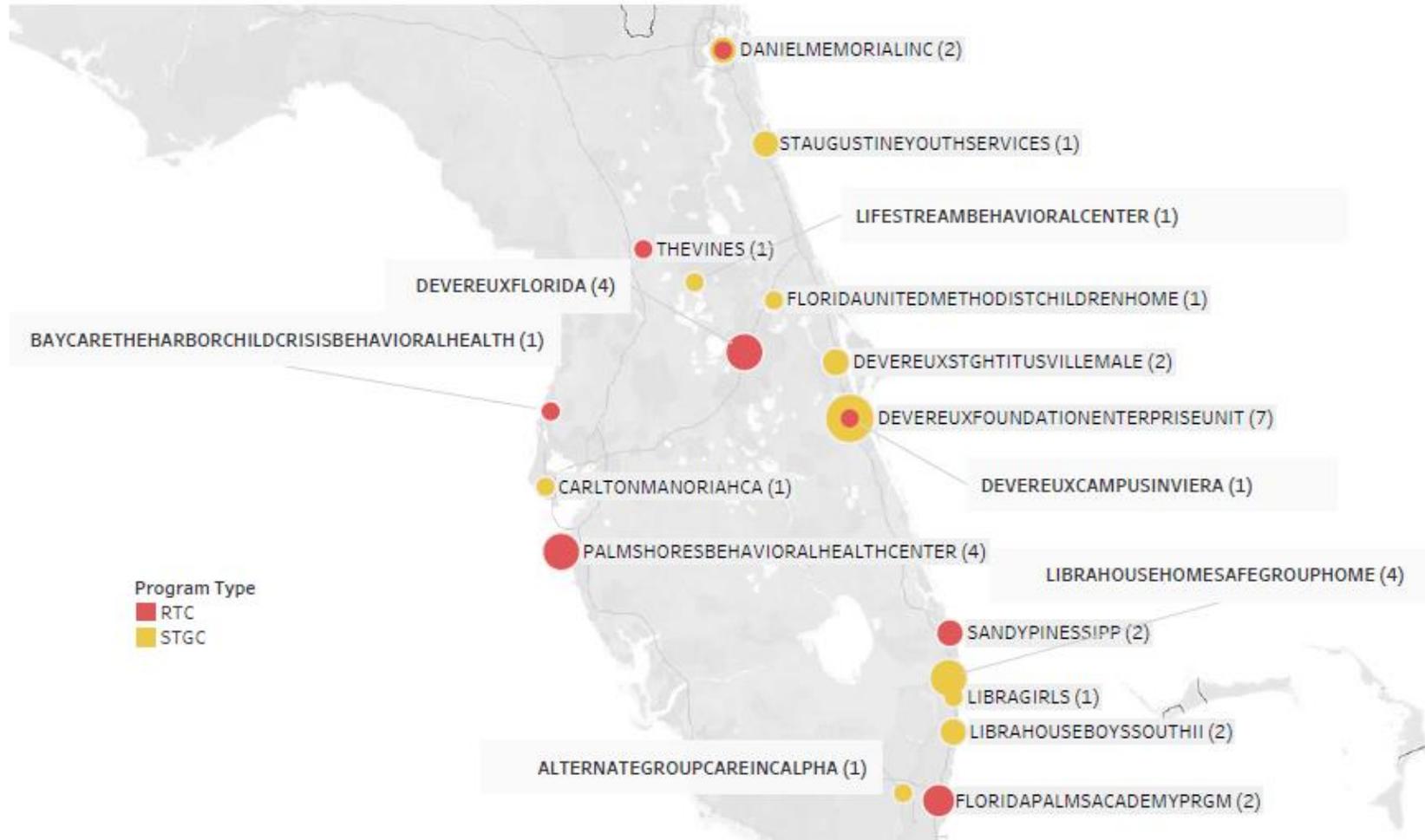


TABLE 11. CHILDREN WITH HIGH INSTABILITY BY AGENCY. SUNCOAST REGION MARKED IN BLUE.

REGION	AGENCY	# CHILDREN (PER 100 IN CARE)	AVG. PLACEMENT COUNT	AVG. DAYS IN CARE	PERC. UNPLANNED EXITS	AVG. THERAPEUTIC DAYS	AVG. CORRECTIONS DAYS
SC	ECKERD COMMUNITY HILLSBOROUGH	131 (3.55)	39	1,809	86%	217	97
SC	ECKERD COMMUNITY ALTERNATIVES	118 (3.50)	38	1,673	84%	115	106
SC	CHILDREN'S NETWORK OF SW FLORIDA	98 (3.98)	35	1,796	92%	105	133
C	EMBRACE FAMILIES CBC	88 (2.88)	32	1,603	88%	118	137
NE	FAMILY SUPPORT SERVICES	63 (2.78)	32	1,606	90%	249	110
S	CITRUS HEALTH NETWORK	47 (1.53)	39	1,687	75%	129	143
C	HEARTLAND FOR CHILDREN, INC.	40 (1.99)	40	1,788	75%	67	259
NE	PARTNERSHIP FOR STRONG FAMILIES	32 (2.03)	39	2,095	80%	391	137
SC	YMCA SOUTH	25 (1.39)	36	1,922	77%	368	57
C	CBC OF BREVARD	22 (1.72)	37	1,544	73%	0	247

PROVIDER NAME	NUMBER OF CHILDREN	AVERAGE PLACEMENT LENGTH IN DAYS	PERCENT PROVIDER REQUESTED CHANGE	AVERAGE CONCURRENT CHILDREN	AGGREGATE DAY RATE 2017-2018 ²⁷
HILLSBOROUGH CO CHILDREN AND YOUTH SERVICES - LAKE MAGDALENE	27 (146) ²⁸	27.3 (60.2)	47.5% (51.9%)	22.6	\$149.34
RUB. SAN. (CCC)	24 (125)	4.7 (3.9)	86.6% (85.0%)	3.3	\$53.02
HILLSBOROUGH JUVENILE DETENTION CENTER WEST	23 (126)	15.2 (17.8)	78.6% (64.6%)	9.9	
GRACE POINT MENTAL HEALTH CARE	22 (104)	2.5 (2.6)	85.7% (69.0%)	1.8	
CHILDREN'S HOME NETWORK RESIDENTIAL PROGRAM	21 (214)	59.7 (97)	23.1% (32.7%)	46.1	\$142.40
CYN. JAC. (CCC)	19 (291)	5.1 (10.7)	77.8% (84.9%)	6.0	\$19.51
RAP HOUSE	18 (294)	3.7 (11.2)	65.2% (65.3%)	8.1	\$133.85
UNION COUNTY DETENTION CENTER	17	9.9	65.4%	1.0	

FIGURE 10. LOCATION OF HILLSBOROUGH CHILDREN'S PLACEMENTS IN STGC AND RTC PROGRAMS.



What effect did
refusals have on
stability?

CAUSE & EFFECT

PLACEMENT INSTABILITY IS HIGHLY PREDICTABLE

Placement Changes



+70%

Risk of Additional Disruption

Daily Behavior Problems

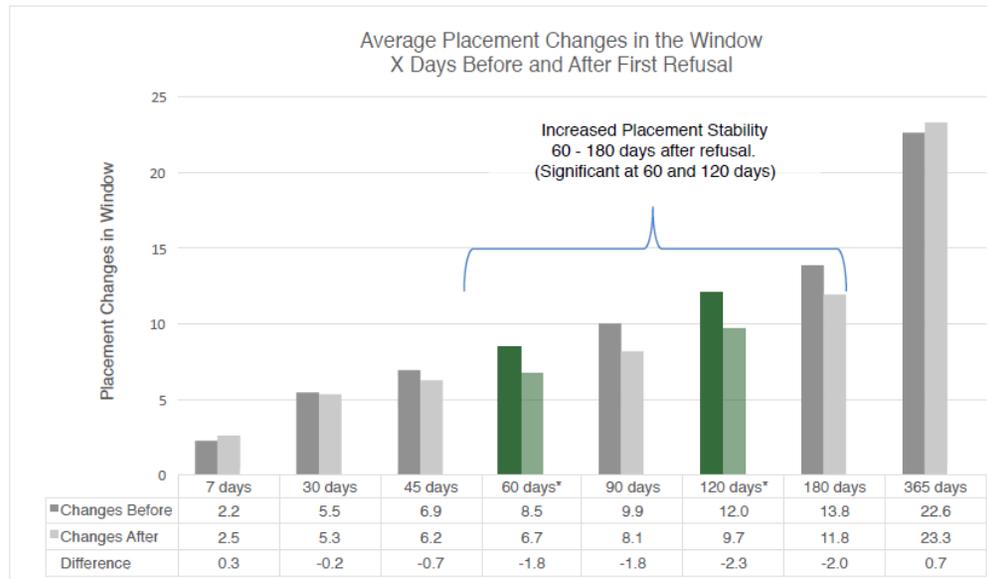


+25%

Risk of Placement
Disruption per behavior

The children were slightly more stable after their first refusal

FIGURE 4. PLACEMENT STABILITY CHANGE IN WINDOWS BEFORE AND AFTER FIRST REFUSAL.



Children were significantly less stable after their first arrest



More time in group care (37% to 50%)



Less time in relative care (24% to 1%)



Less time foster care (22% to 8%)



Less stability (92 to 45 days per placement)

What were the
individual children's
experiences?

*You might stay at a house one night,
go to school the next morning, and
you have no idea if you're going back
or going to a whole new
place.*

- ANONYMOUS FOSTER CHILD, AD HOC COMMITTEE REPORT

Narrative Placement Histories

7.4.1 | "AN APD KID"

THE LIFERS

REFUSALS	REFUSAL DAYS	PLACEMENTS	DAYS IN CARE	INTAKE MALTREATMENTS	THERAPEUTIC	CORRECTIONAL	EJECTION RATE
1	over 1 days	3	over 240 days	Emotional Harm, Drug Abuse Parent, Domestic Violence	0%	0%	33.3%

[Child 49641010019](#), a black male child, came into care at five years old. He was immediately placed in a relative placement that lasted 232 days before ending with a guardianship.

He re-entered care at the age of fifteen and was placed immediately into a group home on the list of common providers for refusal children. He lasted 6 days there before the provider requested a change. He went to another group home on the common provider list and lasted 2 days before there was a placement disruption.

AT THAT POINT, ON HIS NINTH DAY BACK IN FOSTER CARE IN PLACEMENT ENTRY #4, HE REFUSED PLACEMENT FOR ONE DAY.

The next day he went to a group home on the list of common providers and was there 5 days before that group home requested that he be moved. He was then placed in a group home for children with developmental disabilities, where he remained for 315 days.

He then left the group home and was placed back with the relative caregiver that had guardianship for nearly a decade. His case immediately closed out in a guardianship even though the law requires children to be in their guardian's custody for six months prior to closing a case. This suggests that he remained in the group home even though placed back in the relative's legal custody.

Child 049641010019

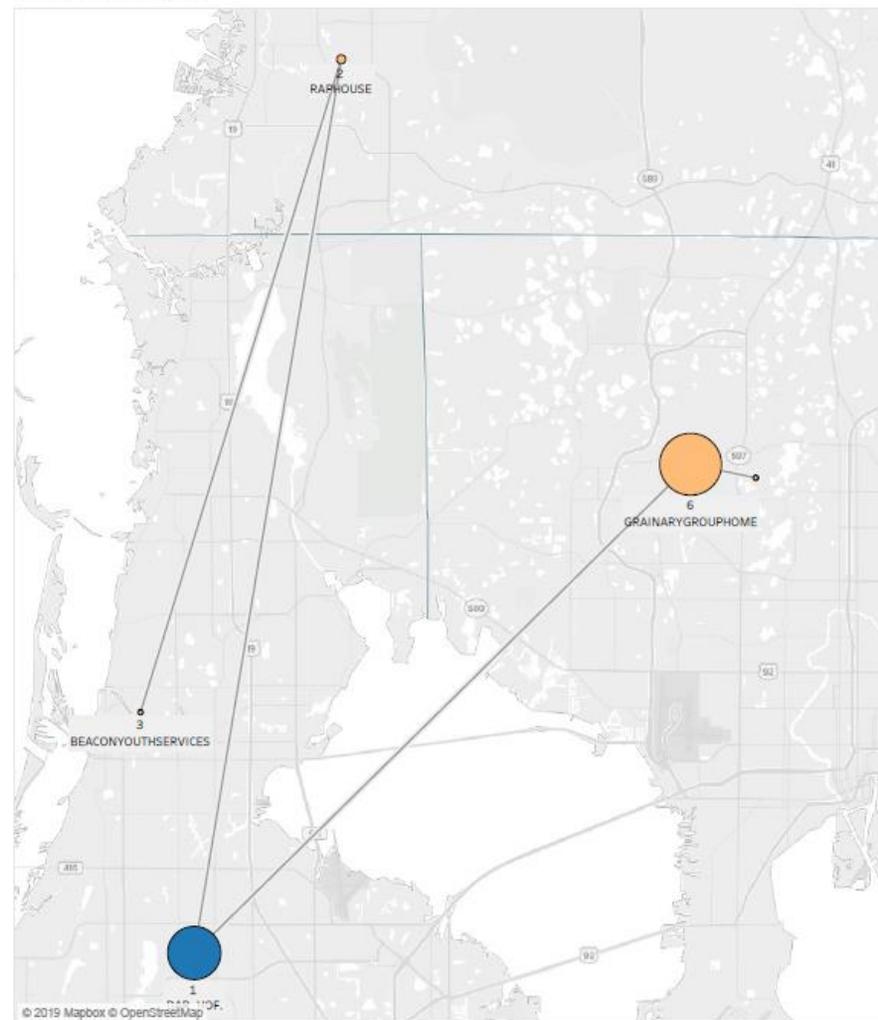


An APD Kid

Black male child. Entered care at age 5 and placed in guardianship. Re-entered care at age 15 and placed in group home.

Refused in placement #4 for one day.

Was placed in an APD home for 315 days and then closed again in a guardianship. Only 3 placement changes.



- Group Home
- Refusal
- Relative Care

Day One and Homeless

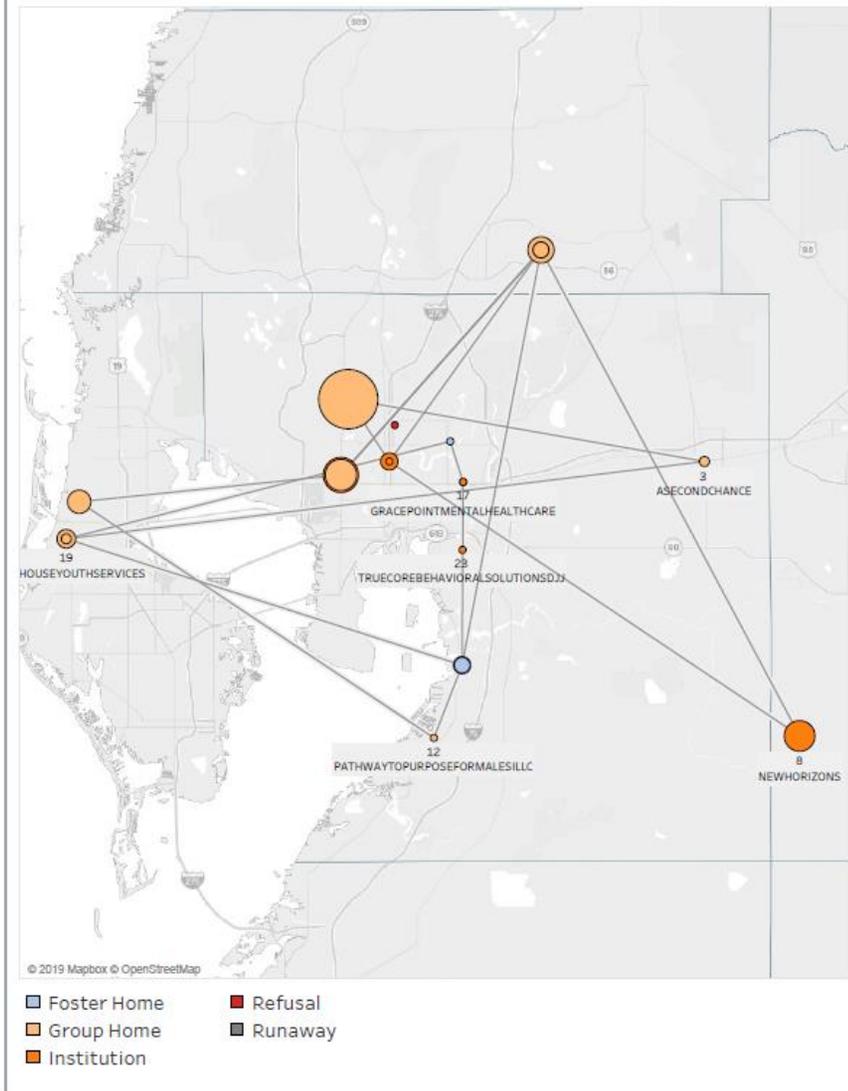
White male child. Entered care at age 16. Immediately no placement available.

Significant instability, with Baker Act and Marchman Act admissions. 93% of placements ejected him. 452 miles.

Refused in placement #28 for one day. Stayed at the agency office and went on run for 28 days.

Never in a therapeutic placement.

Child 527611000039



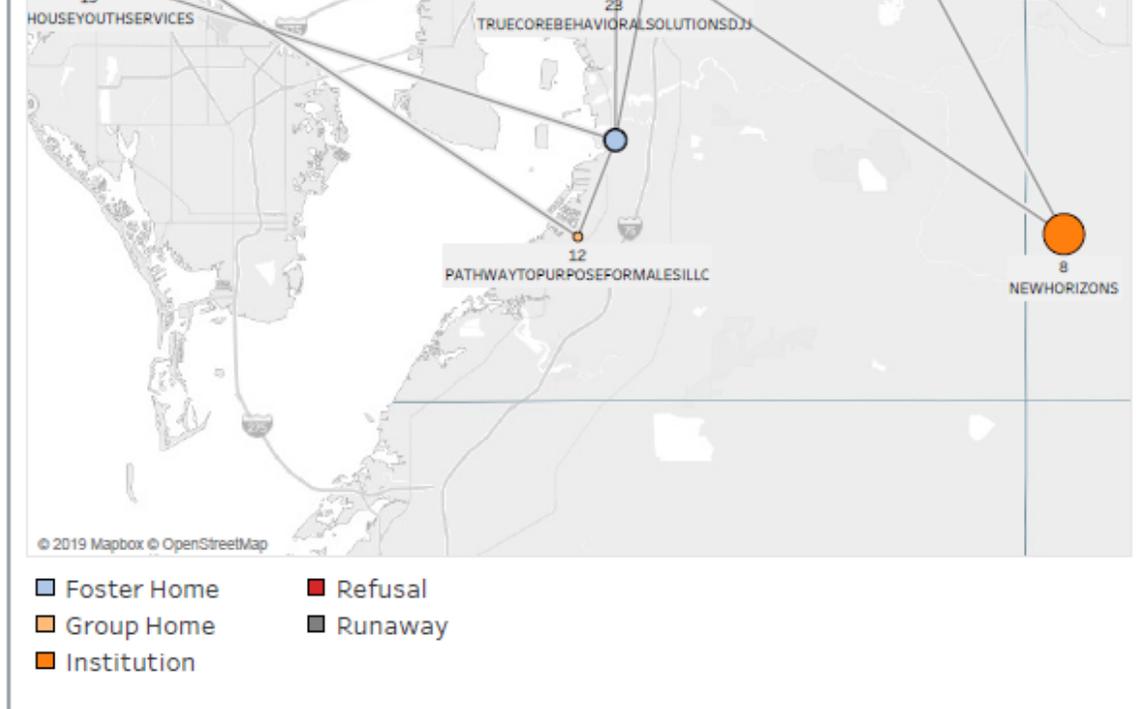
#9 He was then placed in a group home in Pasco County for 5 days, a group home in Hillsborough for 20 days, and then a group home in Pinellas for 11 days. All three requested he be moved.

This began a period of intense placement instability: 1 day in a group home, 5 days in an enhanced rate foster home, 1 day in a different group home, 6 days back at the foster home, 2 days on run, 1 day in a Baker Act unit, 4 days back at the foster home, 7 days in a group home, 1 days in a new enhanced rate foster home, another day in a Baker Act unit, 4 days on run, and then 1 day in juvenile detention, 1 day on run, and 1 day in a drug detox center.

He was moved back to the group home in Pasco but ran away after four days.

WHEN HE RETURNED NINE DAYS LATER, HE REFUSED PLACEMENT IN PLACEMENT ENTRY #28 – FOR ONE DAY. HE STAYED THAT NIGHT IN THE CASE MANAGEMENT OFFICE.

The next day he went on run for 28 days. He was recovered, placed in juvenile detention, and released back to the group home in Pasco. He ran again for 3 days and was arrested again. This time for 25 days. He was released

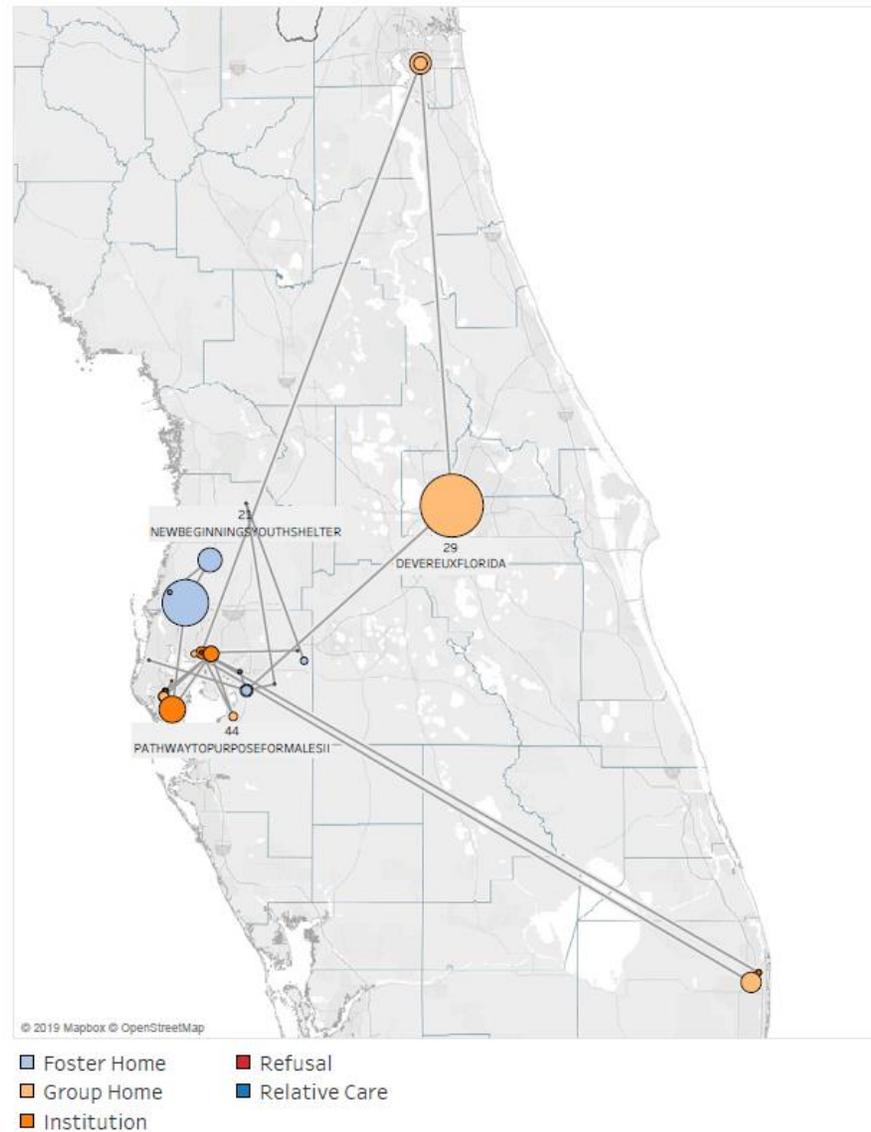


The Inspector General

White male child, came into care at age 3 and was reunified. Re-entered care at age 11.

Baker Acted the day before Christmas and went on a visit order for Christmas.

After night by night placement, refused placement for one day.



FSFN Case ID #	Child	Date and Time	Case Note ID #	Case Note Information	Placement Tab Information
100579176	Child 1	<p>January 20, 2018 2:30 a.m.</p> <p>January 20, 2018 4:40 a.m.</p> <p>January 20, 2018 8:00 a.m.</p>	<p>160919940 160903169 160598773</p>	<p>Child 1 and Child 11 were refusing placement at Joshua House. Child 1 "...refused the entire morning and slept in the van...picked up around 805am [sic] by another YFA staff..."</p> <p>Child 1 refused placement at Joshua House and "wanted to go to an Aunt."</p> <p>CM arrived at Joshua House to pick up Child 1 and another child and "was informed...that both youth had refused placement at Joshua house and had slept in the transport van that night..."</p>	<p>Joshua House January 19, 2018 through January 22, 2018</p>

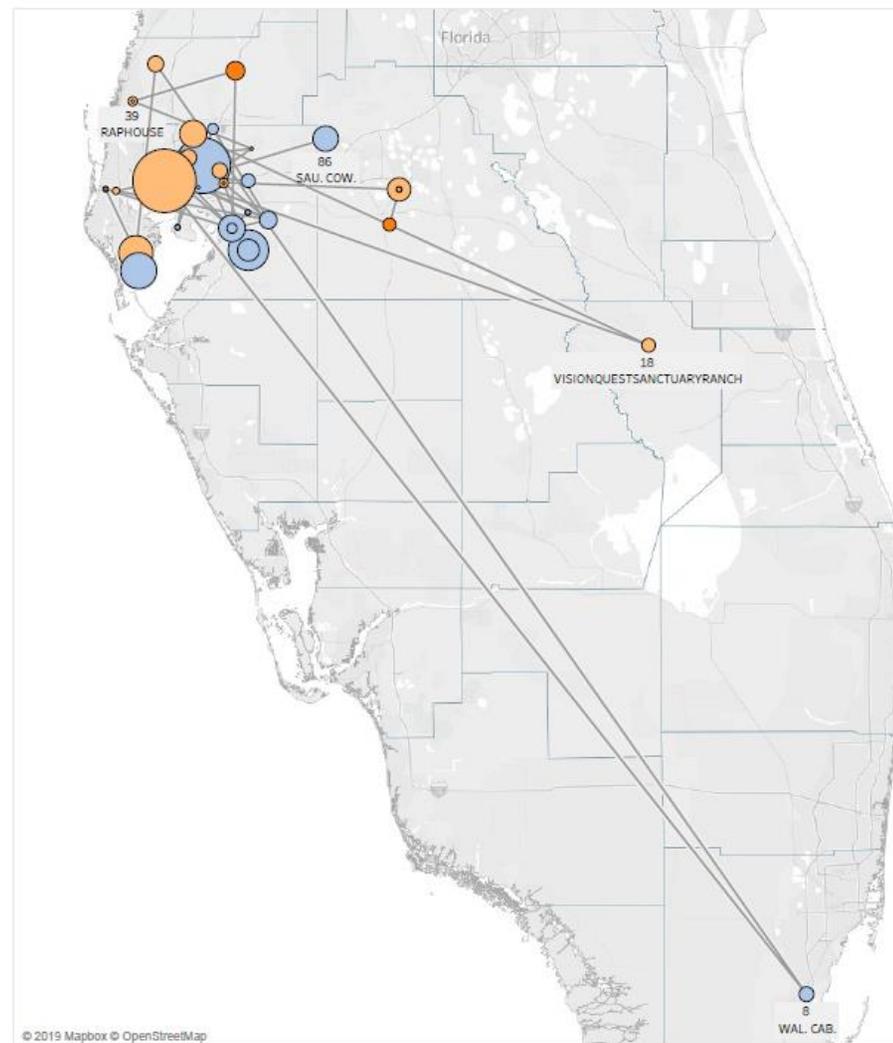
Sanctuary

Black female child. First entered care at age 10 and was reunified. Re-entered at age 13.

Significant instability, mental health, arrest, and trafficking placements. 2,029 miles; 493 concurrent children.

First refused in placement #73 for one day. Stayed in an unknown location. One additional refusal. 61% of placements ejected her.

Longest placement: 182 days.



- Foster Home
- Group Home
- Institution
- Refusal
- Relative Care
- Runaway

Summary

REFUSAL IS A SYMPTOM OF A COMPLEX PROBLEM

ARREST AND BAKER ACTS CHANGE CHILDREN'S EXPERIENCES IN CARE

THE LAW IS SUFFICIENT; THE PLACEMENT ARRAY IS NOT.

CourtSmart Tag Report

Room: SB 301
Caption: Senate Committee on Children, Families, and Elder Affairs

Case:

Type:
Judge:

Started: 1/28/2020 4:07:00 PM

Ends: 1/28/2020 6:01:12 PM

Length: 01:54:13

4:06:59 PM Meeting called to order
4:07:05 PM Roll Call - Quorum is present
4:07:18 PM Chair
4:07:21 PM Tab 1 - SB 682 by Senator Baxley, - Florida Guide to a Healthy Marriage
4:07:30 PM Delete-all amendment 676570 by Senator Baxley
4:08:52 PM Questions on delete-all amendment?
4:09:55 PM Appearance Cards on delete-all amendment? None
4:10:00 PM Debate on delete-all? None
4:10:03 PM Senator Baxley waives close
4:10:08 PM Delete-all amendment is adopted
4:10:13 PM Back on bill as amended
4:10:19 PM Senator Baxley
4:12:26 PM Questions?
4:13:26 PM Senator Torres
4:13:46 PM Senator Baxley
4:14:20 PM Senator Torres
4:14:23 PM Senator Baxley
4:16:58 PM Senator Torres
4:17:07 PM Senator Baxley
4:17:40 PM Senator Rader
4:17:51 PM Senator Baxley
4:19:03 PM Senator Rader
4:19:03 PM
4:19:30 PM Senator Baxley
4:20:19 PM Senator Rader
4:22:12 PM Senator Baxley
4:25:02 PM Chair
4:25:04 PM Appearance Forms?
4:25:09 PM Pam Olsen, Legislative Lead, Florida Faith Based, speaking for
4:26:22 PM Melinda Ryna Svanhild Farley-Burrett, FL NOW, speaking in opposition
4:27:58 PM Barbara DeVane, FL NOW, speaking in opposition
4:30:07 PM Debate?
4:30:13 PM Senator Rader
4:31:04 PM Senator Torres
4:31:55 PM Senator Book
4:32:56 PM Senator Baxley to close
4:35:46 PM Roll call CS/SB 682 - Favorable
4:36:11 PM Tab 7 - SB 1586 by Senator Hopper - First Responders Suicide Deterrence Force
4:38:03 PM Questions? None
4:38:11 PM Late filed amendment 424344 Senator Hooper
4:38:52 PM Questions? None
4:38:56 PM Appearance Forms? None
4:39:03 PM Debate?
4:39:09 PM Late filed amendment is adopted
4:39:17 PM Back on the bill as amended
4:39:26 PM Senator Hooper
4:39:40 PM Questions? None
4:39:44 PM Debate? None
4:39:50 PM Amendment is adopted
4:39:54 PM Back on bill as amended
4:40:05 PM Wayne "Bernie" Bernoska, President, FL Professional Firefighters - waives in support
4:40:13 PM Chief Ray Colburn, ED, FL Fire Chiefs Association, waives in support

4:40:25 PM Gary Bradford, Lobbyist, Florida PBA, Inc., waives in support
4:40:26 PM Michael Crabb, Lieutenant, Orange County Sheriff's Office/Sheriff Mina, waives in support
4:40:26 PM Lisa Henning, Legislative Director, Fraternal Order of Police, waives in support
4:40:42 PM Debate?
4:40:45 PM Senator Torres
4:41:39 PM Gavel to Vice Chair Mayfield
4:41:44 PM Debate? None
4:41:48 PM Senator Hooper to close
4:42:05 PM Roll Call on CS/SB 1586 - Favorable
4:42:42 PM Gavel back to Chair Book
4:42:52 PM Tab 4 - SB 1218 by Senator Diaz - Anti-Bullying and Anti-harassment in Schools
4:44:06 PM Questions?
4:44:09 PM Senator Torres
4:44:47 PM Senator Diaz
4:45:58 PM Appearance Forms?
4:46:05 PM Dr. Daniel Thomas, Florida PTA, waives in support
4:46:10 PM Mary Lynn Cullin, Advocacy Inst. for Children, waives in support
4:46:17 PM James Herzog, Associate Director for Education, FL Conference of Catholic Bishops speaking for
information
4:48:07 PM Debate? None
4:48:10 PM Senator Diaz to close
4:49:06 PM Roll Call SB 1218 - Favorable
4:49:40 PM TP following bills Tab 6 - SB 1548 and Tab 8 - SB 1748
4:49:56 PM Tab 3 - SB 1120 by Senator Harrell - Substance Abuse Services
4:52:17 PM Chair Book, Introduces Florida Youth Shine group
4:53:37 PM Questions? None
4:53:42 PM Amendment 360180 by Senator Harrell
4:54:09 PM Questions on amendment? None
4:54:12 PM Appearance Forms on amendment? None
4:54:17 PM Debate on amendment? None
4:54:23 PM Amendment 360180 is adopted
4:54:26 PM Back on the bill as amended
4:54:33 PM Questions? None
4:54:39 PM Mark Fontaine, Executive Advisor, FL Behavioral Health Assoc. Member - SOBER Homes Task Force,
waives in support
4:54:43 PM Josh Aubuchon, Attorney, FL Bar, Health Law Section, waives in support
4:54:50 PM Natalie Kelly, CEO, FL Association of Managing Entities, waives in support
4:55:19 PM Nyoma Hurray, Student, speaking for information
4:56:00 PM Rebecca DeLaRosa, Legislative Affairs Director, Palm Beach County, waives in support
4:56:07 PM Debate? None
4:56:11 PM Senator Harrell to close
4:57:12 PM Roll Call CS/SB 1120 - Favorable
4:57:32 PM Tab 5 - SB 1482 by Senator Bean - Domestic Violence Services
5:00:18 PM Questions?
5:01:17 PM Senator Harrell
5:01:58 PM Senator Bean
5:02:34 PM Senator Harrell
5:02:45 PM Senator Bean
5:03:36 PM Senator Harrell
5:03:42 PM Senator Bean
5:05:22 PM Senator Mayfield
5:05:31 PM Senator Bean
5:05:43 PM Senator Mayfield
5:05:46 PM Senator Bean
5:07:05 PM Michael Wickersheim, Legislative Affairs Director, Fla. Dept. of Children and Families speaking for
information and answer questions
5:08:00 PM Senator Harrell
5:09:48 PM Michael Wickersheim
5:11:09 PM Chair
5:11:13 PM Amendment 202566 by Senator Bean
5:11:36 PM Questions on amendment? None
5:11:38 PM Appearance Forms on amendment? None

5:11:42 PM Debate on amendment? None
5:11:47 PM Senator Bean waives close
5:11:52 PM Amendment is adopted
5:11:56 PM Back on bill as amended
5:12:02 PM Appearance Forms?
5:12:19 PM Scott Howell, VP, External Affairs, FL Coalition Against Domestic Violence, speaking for information
5:12:55 PM Debate?
5:12:57 PM Senator Harrell
5:13:39 PM Senator Bean to close
5:14:39 PM Roll Call CS/SB 1482 - Favorable
5:15:02 PM Gavel to Vice Chair Mayfield
5:15:14 PM Tab 2 - SB 870 by Senator Book, Mental Health
5:18:56 PM Chair
5:19:58 PM Amendment 745770 by Senator Book
5:21:11 PM Questions on amendment?
5:22:02 PM Senator Harrell
5:22:07 PM Senator Book
5:22:34 PM Appearance Cards for amendment? None
5:22:38 PM Debate on amendment? None
5:22:41 PM Senator Book to close on amendment
5:22:49 PM Amendment 745770 is adopted
5:22:54 PM Back on bill as amended
5:22:59 PM Questions?
5:23:02 PM Senator Harrell
5:23:26 PM Senator Book
5:23:50 PM Judge Steve Leifman, Miami - Dade
5:24:42 PM Senator Harrell
5:24:58 PM Judge Leifman
5:25:01 PM Senator Harrell
5:25:40 PM Judge Leifman
5:26:01 PM Senator Harrell
5:26:14 PM Judge Leifman
5:27:16 PM Senator Book
5:28:26 PM Judge Leifman
5:29:03 PM Senator Harrell
5:29:32 PM Judge Leifman
5:30:01 PM Senator Torres
5:30:18 PM Senator Book
5:30:27 PM Senator Torres
5:31:08 PM Judge Leifman
5:31:16 PM Chair
5:32:10 PM Judge Leifman presentation
5:36:30 PM Chair
5:36:36 PM Dr. Danielle Thomas, Legislative Chair, Florida PTA, waives in support
5:37:12 PM Nyema Murray, speaking for information
5:38:02 PM Chair
5:38:04 PM Natalie Kelly, CEO, FL Assoc. of Managing Entities - waives in support
5:39:05 PM Karen Woodall, Southern Poverty Law Center Action Fund, speaking for
5:39:34 PM Debate? None
5:39:38 PM Senator Book to close
5:40:15 PM Roll Call CS/SB 870 - Favorable
5:40:30 PM Gavel to Chair Book
5:40:53 PM Tab 9 - Presentation on Child Welfare Research by Robert Latham, Children and Youth Law Clinic, U of
Miami
5:41:18 PM Senator Bean recognized for a yes vote on SB 1586 and SB 1218.
6:00:05 PM Seeing no other business before the committee, Senator Mayfield moves we adjourn. Motion is adopted.
We are adjourned