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

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

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.

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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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Education Committee for the sole purpose of creating the Florida Guide to a Healthy Marriage. Except as otherwise provided in this section, the committee shall operate in a manner consistent with s. 20.052. The committee shall consist of six marriage education and family advocates, one of whom shall be appointed by the Florida Chapter of the National Association of Social Workers, one of whom shall be appointed by the Florida Family Therapy Association, and one of whom shall be appointed by the Florida Mental Health Counseling Association, one of whom shall be appointed by the Governor, one of whom shall be appointed by the President of the Senate, and one of whom shall be appointed by the Speaker of the House of Representatives. Members of the committee shall reflect the ethnic and gender diversity of the state. 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 reconstituted committee shall consist of six marriage education and family advocates, one of whom shall be appointed by the Florida Chapter of the National Association of Social Workers, one of whom shall be appointed by the Florida Family Therapy Association, and one of whom shall be appointed by the Florida Mental Health Counseling Association, one of whom shall be appointed by the Governor, one of whom shall be appointed by the


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

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

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

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

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

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

(3) The Marriage Education Committee shall oversee the design and layout of the guide. The committee shall 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. If adequate funds are not raised to cover the costs of printing and distribution, the committee will not be required to print or distribute copies of the guide.

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


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shall post an electronic copy of the guide on its website. Additionally, 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.

(5) 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. Subsection (4) of section 741.04, Florida Statutes, is amended to read

741.04 Issuance of marriage license.—

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

~~(b) 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.~~

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

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contained in the Florida Guide to a Healthy Marriage, as created under s. 741.0307, 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. Section 741.0306, F.S., is repealed.

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

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to the Florida Guide to a Healthy Marriage; creating s. 741.0307, F.S.; creating the Marriage Education Committee within the Department of Children and Families for the purpose of creating the Florida Guide to a Healthy Marriage; providing for committee operation; providing for appointment of committee members and terms of office; requiring the committee to submit the completed guide to the Governor and the Legislature; providing for committee termination; providing for periodic reconstitution of the committee to review and update the guide; providing requirements for filling vacancies; providing requirements for the guide's content; requiring the committee to oversee the design and layout of the guide and obtain private funds to cover


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associated costs; authorizing the committee to obtain private funds for the costs of printing and distributing copies of the guide; authorizing the committee to distribute printed copies of the guide under certain circumstances; 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; encouraging clerks of court to provide a list of certain course providers and websites where certain classes are available; providing for periodic review and revision of the guide; requiring the committee to periodically submit a report to the Governor and the Legislature detailing its revisions to the guide and recommendations for further updates; amending s. 741.04, F.S.; 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; removing the requirement related to the family law handbook; repealing s. 741.0306, F.S.; providing an effective date.

By Senator Baxley

12-00646A-20 2020682__

A bill to be entitled

An act relating to the Florida Guide to a Healthy Marriage; creating s. 741.0307, F.S.; creating the Marriage Education Committee within the Department of Children and Families for the purpose of creating the Florida Guide to a Healthy Marriage; providing for committee operation; providing for appointment of committee members and terms of office; requiring the committee to submit the completed guide to the Governor and the Legislature; providing for committee termination; providing for periodic reconstitution of the committee to review and update the guide; providing requirements for filling vacancies; providing requirements for the guide's content; requiring the committee to oversee the design and layout of the guide and obtain private funds to cover associated costs; authorizing the committee to obtain private funds for the costs of printing and distributing copies of the guide; authorizing the committee to distribute printed copies of the guide under certain circumstances; 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; encouraging clerks of court to provide a list of certain course providers and websites where certain classes are available; providing for periodic review and revision of the guide; requiring the committee to periodically submit a report to the Governor and the

Legislature detailing its revisions to the guide and recommendations for further updates; amending s. 741.04, F.S.; 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; providing an effective date.

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

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 Education Committee for the sole purpose of creating the Florida Guide to a Healthy Marriage. Except as otherwise provided in this section, the committee shall operate in a manner consistent with s. 20.052. 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. A vacancy on the committee shall be filled for the unexpired portion of the term in the same manner as the original appointment.

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

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

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

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

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

(3) The Marriage Education Committee shall oversee the design and layout of the guide. The committee shall 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. If adequate funds are not raised to cover the costs of printing and distribution, the committee will not be required to print or distribute copies of the guide.

(4) The clerk of the circuit court in each judicial circuit shall post an electronic copy of the guide on its website. Additionally, 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.

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

741.04 Issuance of marriage license.—

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

(c) A statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the Florida Guide to a Healthy Marriage, as created under s. 741.0307, 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. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

1-28-20 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 682

Meeting Date *Bill Number (if applicable)*

Topic Healthy Marriage Handbook *Amendment Barcode (if applicable)*

Name Pam Olsen

Job Title Legislative Lead

Address PO Box 14017 Phone

Street

Tallahassee FL 32317 Email

City *State* *Zip*

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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

28 Jan 2020
Meeting Date

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

SB682
Bill Number (if applicable)

Topic FL Guide to a Healthy Marriage

Amendment Barcode (if applicable)

Name Melina Rayna Svanhild Farley-Barratt

Job Title Legislative Director

Address 8689 SE 69 Ter
Street

Phone 352-226-7477

Trenton FL 32693
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1-28-20 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 682

Meeting Date *Bill Number (if applicable)*

Topic Bridge to Healthy Marriage *Amendment Barcode (if applicable)*

Name Barbara DeVane

Job Title Ms

Address 625 E. Brevard St Phone 251-4282

Street

Tallahassee FL 32308 Email barbaradevane1@yahoo.com

City *State* *Zip*

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

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[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-occuring-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 critera.

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 to 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 idenified.

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 llows 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.

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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 (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:

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

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

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

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

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

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

394.459 Rights of patients.—

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

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

394.4598 Guardian advocate.—

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

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

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

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

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


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1. Notice that the petition for:

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

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

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

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

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

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

Section 5. Subsection (2) of section 394.461, Florida Statutes, is amended to read:

394.461 Designation of receiving and treatment facilities and receiving systems.—The department is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designation

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

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

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

394.4615 Clinical records; confidentiality.—

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

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

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

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

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

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

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


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

(1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

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

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


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

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

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

b. From the person receiving the transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) TRANSPORTATION TO A TREATMENT FACILITY.—

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

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


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

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

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

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

394.4625 Voluntary admissions.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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involuntary status.

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

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

394.463 Involuntary examination.—

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

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

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

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

2. There is a substantial likelihood that in the near

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

(2) INVOLUNTARY EXAMINATION.—

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

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

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

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

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

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

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

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

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

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

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

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


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

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


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

(5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND TREATMENT; PENALTIES.—

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

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

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

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

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

394.4655 Involuntary outpatient services.—

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

1. Has been jailed or incarcerated, has been involuntarily

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

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

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

a. Can be appropriately treated on an outpatient basis; and

b. Can follow a prescribed treatment plan.

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

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

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

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


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Statutes, are amended to read:

394.467 Involuntary inpatient placement.—

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

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

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

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

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

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

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

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

(6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

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

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

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

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

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

(b) If the court concludes that the patient meets the criteria for involuntary inpatient placement, it may order that the patient be transferred to a treatment facility or, if the patient is at a treatment facility, that the patient be retained there or be treated at any other appropriate facility, or that the patient receive services, on an involuntary basis, for up to ~~90 days. However, any order for involuntary mental health services in a treatment facility may be for up to~~ 6 months. The order shall specify the nature and extent of the patient's mental illness and, unless the patient has transferred to a voluntary status, the facility must discharge the patient at any time he or she no longer meets the criteria for involuntary inpatient treatment. The court may not order an individual with a developmental disability as defined in s. 393.063, traumatic brain injury, or dementia who lacks a co-occurring mental illness to be involuntarily placed in a state treatment facility. Such individuals must be referred to the Agency for Persons with Disabilities or the Department of Elderly 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

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chapter 744 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. ~~The facility shall discharge a patient any time the patient no longer meets the criteria for involuntary inpatient placement, unless the patient has transferred to voluntary status.~~

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

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

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

(3) Assessments must be performed by:

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


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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

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

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

394.9085 Behavioral provider liability.—

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

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

397.305 Legislative findings, intent, and purpose.—

(3) 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 which promotes long-term recovery while protecting and respecting the rights of individuals, primarily through community-based private not-for-profit providers working with local governmental programs involving a wide range of agencies from both the public and private sectors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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


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

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

397.6751 Service provider responsibilities regarding involuntary admissions.—

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

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

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

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

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

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

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


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

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

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

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

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


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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

397.695 Involuntary treatment services; persons who may petition.—

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


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

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

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

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

397.6951 Contents of petition for involuntary treatment services.—

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

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

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


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

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

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

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

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

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


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

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

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

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

397.6955 Duties of court upon filing of petition for involuntary treatment services.—

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


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

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

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

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

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for treatment is pending. The court may further order a law enforcement officer or other designated agent of the court to:

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

2. Serve the respondent with the notice of hearing and a copy of the petition.

(b) The service provider must promptly inform the court and parties of the respondent's arrival and may not hold the respondent for longer than 72 hours of observation thereafter, unless:

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

2. The respondent shows signs of withdrawal, or a need to be either detoxified or treated for a medical condition, which shall extend the amount of time the respondent may be held for observation until the issue is resolved; or

3. The original or extended observation period ends on a weekend or holiday, in which case the provider may hold the respondent until the next court working day.

(c) If the ex parte order was not executed by the initial hearing date, it shall be deemed void. However, should the respondent not appear at the hearing for any reason, including lack of service, and upon reviewing the petition, testimony, and evidence presented, the court reasonably believes the respondent meets this chapter's commitment criteria and that a substance abuse emergency exists, the court may issue or reissue an ex parte assessment and stabilization order that is valid for 90


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

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

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

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

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

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

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

397.6957 Hearing on petition for involuntary treatment services.—

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


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

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


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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

original order.

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

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

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

397.6971 Early release from involuntary treatment services.—

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

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

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

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

1. Such inability no longer exists; or

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

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

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

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

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

397.6975 Extension of involuntary treatment services period.—

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


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

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

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


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

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

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

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

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

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

397.6977 Disposition of individual upon completion of involuntary <u>treatment</u> services.—At the conclusion of the 90-day period of court-ordered involuntary <u>treatment</u> services, the respondent is automatically discharged unless a motion for


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

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

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

And the title is amended as follows:

Delete lines 2 - 192

and insert:

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


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the hearing; amending s. 394.4615, F.S.; conforming provisions to changes made by the act; amending s. 394.462, F.S.; conforming cross-references; amending s. 394.4625, F.S.; providing requirements relating to the voluntariness of admissions to a facility for examination and treatment; providing requirements for verifying the assent of a minor admitted to a facility; requiring the appointment of a public defender to review the voluntariness of a minor's admission to a facility; requiring the filing of a petition for involuntary placement or release of a minor to his or her parent or legal guardian under certain circumstances; conforming provisions to changes made by the act; amending s. 394.463, F.S.; revising the requirements for when a person may be taken to a receiving facility for involuntary examination; requiring a facility to inform the department of certain persons who have been examined or committed under certain circumstances; conforming provisions to changes made by the act; providing criminal and civil penalties; amending s. 394.4655, F.S.; revising the requirements for involuntary outpatient treatment; amending s. 394.467, F.S.; revising the requirements for when a person may be ordered for involuntary inpatient placement; revising requirements for continuances of hearings; revising the conditions under which a court may waive the requirement for a patient to be present at an involuntary inpatient placement hearing; authorizing


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the court to permit all witnesses to remotely attend and testify at the hearing through certain means; authorizing the state attorney to access certain persons and records for certain purposes; specifying such records remain confidential; revising when the court may appoint a magistrate; revising the amount of time a court may require a patient to receive services; providing an exception to the prohibition on a court ordering certain individuals to be involuntarily placed in a state treatment facility; conforming a cross-reference; amending ss. 394.495 and 394.496, F.S.; conforming cross-references; amending s. 394.499, F.S.; making technical and conforming changes; amending s. 394.9085, F.S.; conforming cross-references; amending s. 397.305, F.S.; revising the purposes of ch. 397, F.S.; amending s. 397.311, F.S.; revising the definition of the terms “impaired” and “substance abuse impaired”; defining the terms “involuntary treatment services,” “neglect or refuse to care for himself or herself,” and “real and present threat of substantial harm”; amending s. 397.416, F.S.; conforming a cross-reference; amending s. 397.501, F.S.; requiring that respondents with serious substance abuse addictions be informed of the essential elements of recovery and provided assistance with accessing a continuum of care regimen; authorizing the department to adopt certain rules; amending s. 397.675, F.S.; revising the criteria for involuntary admissions; amending s. 397.6751, F.S.;


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revising the responsibilities of a service provider; amending s. 397.681, F.S.; requiring that the state attorney represent the state as the real party of interest in an involuntary proceeding, subject to legislative appropriation; authorizing the state attorney to access certain persons and records; conforming provisions to changes made by the act; repealing s. 397.6811, F.S., relating to involuntary assessment and stabilization; repealing s. 397.6814, F.S., relating to petitions for involuntary assessment and stabilization; repealing s. 397.6815, F.S., relating to involuntary assessment and stabilization procedures; repealing s. 397.6818, F.S., relating to court determinations for petitions for involuntary assessment and stabilization; repealing s. 397.6819, F.S., relating to the responsibilities of licensed service providers with regard to involuntary assessment and stabilization; repealing s. 397.6821, F.S., relating to extensions of time for completion of involuntary assessment and stabilization; repealing s. 397.6822, F.S., relating to the disposition of individuals after involuntary assessments; amending s. 397.693, F.S.; revising the circumstances under which a person is eligible for court-ordered involuntary treatment; amending s. 397.695, F.S.; authorizing the court or clerk of the court to waive or prohibit any service of process fees for an indigent petitioner; amending s. 397.6951, F.S.; revising the requirements for the contents of a petition for involuntary

treatment services; providing that a petitioner may include a certificate or report of a qualified professional with the petition; requiring the certificate or report to contain certain information; requiring that certain additional information must be included if an emergency exists; amending s. 397.6955, F.S.; requiring the clerk of the court to notify the state attorney's office upon the receipt of a petition filed for involuntary treatment services; revising when a hearing must be held on the petition; providing requirements for when a petitioner asserts that emergency circumstances exist or the court determines that an emergency exists; amending s. 397.6957, F.S.; expanding the exemption from the requirement that a respondent be present at a hearing on a petition for involuntary treatment services; authorizing the court to order drug tests and permit all witnesses to remotely attend and testify at the hearing through certain means; deleting a provision requiring the court to appoint a guardian advocate under certain circumstances; prohibiting a respondent from being involuntarily ordered into treatment unless certain requirements are met; providing requirements relating to involuntary assessment and stabilization orders; providing requirements relating to involuntary treatment hearings; requiring that the assessment of a respondent occur before a specified time unless certain requirements are met; requiring the service provider to discharge the respondent after a specified


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time unless certain requirements are met; requiring a qualified professional to provide copies of his or her report to the court and all relevant parties and counsel; providing requirements for the report; authorizing certain entities to take specified actions based upon the involuntary assessment; authorizing a court to order certain persons to take a respondent into custody and transport him or her to or from certain service providers and the court; revising the petitioner's burden of proof in the hearing; authorizing the court to initiate involuntary proceedings under certain circumstances; requiring that, if a treatment order is issued, it must include certain findings; amending s. 397.697, F.S.; requiring that an individual meet certain requirements to qualify for involuntary outpatient treatment; specifying that certain hearings may be set by the motion of a party or under the court's own authority; specifying that a service provider's authority is separate and distinct from the court's jurisdiction; amending s. 397.6971, F.S.; conforming provisions to changes made by the act; amending s. 397.6975, F.S.; authorizing certain entities to file a petition for renewal of involuntary treatment; revising the timeframe during which the court is required to schedule a hearing; conforming provisions to changes made by the act; amending s. 397.6977, F.S.; conforming provisions to changes made by the act; repealing s. 397.6978, F.S., relating to the

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

By Senator Book

32-00049A-20 2020870__

A bill to be entitled

An act relating to mental health; amending s. 394.455, F.S.; conforming a cross-reference; revising the definition of the term "mental illness"; defining the terms "neglect or refuse to care for himself or herself" and "real and present threat of substantial harm"; amending s. 394.459, F.S.; requiring that respondents with a serious mental illness be afforded essential elements of recovery and be placed in a continuum of care regimen; requiring the Department of Children and Families to adopt certain rules; amending s. 394.4598, F.S.; conforming a cross-reference; amending s. 394.4599, F.S.; 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; providing rights for attorneys who represent such minors; requiring that certain hearings be conducted in the physical presence of the minor; providing criminal penalties; conforming provisions to changes made by the act; amending s. 394.461, F.S.; authorizing the state to establish that a transfer evaluation was performed by providing the court with a copy of the evaluation before the close of the state's case in chief; prohibiting the court from considering substantive information in the transfer evaluation unless the evaluator testifies at the hearing; amending s. 394.4615, F.S.; conforming provisions to changes made by the act; amending s. 394.462, F.S.; conforming

cross-references; amending s. 394.4625, F.S.; making technical changes; providing requirements relating to voluntariness hearings for minors; prohibiting a fee from being charged for filing certain petitions; providing requirements for transfers to voluntary status for minors; amending s. 394.463, F.S.; revising the requirements for when a person may be taken to a receiving facility for involuntary examination; requiring a facility to inform the department of a minor's admission and case outcome at the close of an examination period; conforming provisions to changes made by the act; providing criminal and civil penalties; amending s. 394.4655, F.S.; revising the requirements for involuntary outpatient treatment; amending s. 394.467, F.S.; revising the requirements for when a person may be ordered for involuntary inpatient placement; revising requirements for continuances of hearings; revising the timeframe during which a court is required to hold a hearing on involuntary inpatient placement; revising the conditions under which a court may waive the requirement for a patient to be present at an involuntary inpatient placement hearing; authorizing the court to permit all witnesses to remotely attend and testify at the hearing through certain means; authorizing the state attorney to access certain persons and records for certain purposes; specifying such records remain confidential; revising when the court may appoint a magistrate; revising the amount of

time a court may require a patient to receive services; providing an exception to the prohibition on a court ordering certain individuals to be involuntarily placed in a state treatment facility; conforming a cross-reference; authorizing the court to refer certain cases to the department; amending s. 394.4785, F.S.; requiring facility administrators to refer certain cases to the clerk of the court; providing requirements relating to the representation of minors admitted to certain facilities; requiring that certain hearings be conducted in the presence of the child; providing criminal penalties; amending ss. 394.495 and 394.496, F.S.; conforming cross-references; amending s. 394.499, F.S.; making technical and conforming changes; amending s. 394.9085, F.S.; conforming cross-references; amending s. 397.305, F.S.; revising the purposes of ch. 397, F.S.; amending s. 397.311, F.S.; revising the definition of the terms "impaired" and "substance abuse impaired"; defining the terms "involuntary treatment," "neglect or refuse to care for himself or herself," and "real and present threat of substantial harm"; amending s. 397.416, F.S.; conforming cross-references; amending s. 397.501, F.S.; requiring that respondents with serious substance abuse addictions be afforded essential elements of recovery and placed in a continuum of care regimen; requiring the department to adopt certain rules; amending s. 397.675, F.S.; revising the criteria for involuntary admissions;

amending s. 397.6751, F.S.; revising the responsibilities of a service provider; amending s. 397.681, F.S.; requiring that the state attorney represent the state as the real party of interest in an involuntary proceeding, subject to legislative appropriation; authorizing the state attorney to access certain persons and records; conforming provisions to changes made by the act; repealing s. 397.6811, F.S., relating to involuntary assessment and stabilization; repealing s. 397.6814, F.S., relating to petitions for involuntary assessment and stabilization; repealing s. 397.6815, F.S., relating to involuntary assessment and stabilization procedures; repealing s. 397.6818, F.S., relating to court determinations for petitions for involuntary assessment and stabilization; repealing s. 397.6819, F.S., relating to the responsibilities of licensed service providers with regard to involuntary assessment and stabilization; repealing s. 397.6821, F.S., relating to extensions of time for completion of involuntary assessment and stabilization; repealing s. 397.6822, F.S., relating to the disposition of individuals after involuntary assessments; amending s. 397.693, F.S.; revising the circumstances under which a person is eligible for court-ordered involuntary treatment; amending s. 397.695, F.S.; authorizing the court or clerk of the court to waive or prohibit any service of process fees for an indigent petitioner; amending s. 397.6951, F.S.; revising the requirements

for the contents of a petition for involuntary treatment; providing that a petitioner may include a certificate or report of a qualified professional with the petition; requiring the certificate or report to contain certain information; requiring that certain additional information must be included if an emergency exists; amending s. 397.6955, F.S.; requiring the clerk of the court to notify the state attorney's office upon the receipt of a petition filed for involuntary treatment; revising when a hearing must be held on the petition; providing requirements for when a petitioner asserts that emergency circumstances exist or the court determines that an emergency exists; amending s. 397.6957, F.S.; expanding the exemption from the requirement that a respondent be present at a hearing on a petition for involuntary treatment; authorizing the court to permit all witnesses to remotely attend and testify at the hearing through certain means; deleting a provision requiring the court to appoint a guardian advocate under certain circumstances; prohibiting a respondent from being involuntarily ordered into treatment unless certain requirements are met; providing requirements relating to involuntary assessment and stabilization orders; providing requirements relating to involuntary treatment hearings; requiring that the assessment of a respondent occur before a specified time unless certain requirements are met; requiring the service provider to discharge the respondent after a specified

time unless certain requirements are met; requiring a qualified professional to provide copies of his or her report to the court and all relevant parties and counsel; providing requirements for the report; authorizing certain entities to take specified actions based upon the involuntary assessment; authorizing a court to order certain persons to take a respondent into custody and transport him or her to or from certain service providers and the court; revising the petitioner's burden of proof in the hearing; authorizing the court to initiate involuntary proceedings under certain circumstances; authorizing the court to refer the case to the department under certain circumstances; requiring that, if a treatment order is issued, it must include certain findings; providing that a treatment order may designate a specific service provider; amending s. 397.697, F.S.; requiring that an individual meet certain requirements to qualify for involuntary outpatient treatment; specifying that certain hearings may be set by the motion of a party or under the court's own authority; specifying that a service provider's authority is separate and distinct from the court's jurisdiction; amending s. 397.6971, F.S.; conforming provisions to changes made by the act; amending s. 397.6975, F.S.; authorizing certain entities to file a petition for renewal of involuntary treatment; revising the timeframe during which the court is required to schedule a hearing; conforming provisions to changes

made by the act; creating s. 397.6976, F.S.; authorizing the court to commit certain persons to inpatient or outpatient treatment, or a combination thereof, without an assessment under certain circumstances; limiting the treatment period to a specified number of days unless the period is extended; defining the term "habitual abuser"; amending s. 397.6977, F.S.; conforming provisions to changes made by the act; repealing s. 397.6978, F.S., relating to the appointment of guardian advocates; amending s. 397.706, F.S.; revising whom the court may require to participate in substance abuse assessment and treatment services; providing requirements for holding a minor in contempt of court in cases that involve a minor violating an involuntary treatment order; requiring service providers to prioritize a minor's placement into treatment under certain circumstances; amending ss. 409.972, 464.012, 744.2007, and 790.065, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (31) through (38) and (39) through (48) of section 394.455, Florida Statutes, are redesignated as subsections (32) through (39) and (41) through (50), respectively, subsections (22) and (28) of that section are amended, and new subsections (31) and (40) are added to that section, to read:

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

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

(28) "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, unless an individual has a co-occurring mental illness, is displaying behavioral disturbances, or evaluations show he or she may benefit from behavioral health treatment, 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:

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

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

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

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

safety; or

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

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

394.459 Rights of patients.—

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

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

394.4598 Guardian advocate.—

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

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

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

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

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

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

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

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

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

1. Notice that the petition for:

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

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

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

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

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

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

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

Statutes, is amended to read:

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

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

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

394.4615 Clinical records; confidentiality.—

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

the following circumstances:

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

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

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

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

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

(1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

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

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

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

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

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

b. From the person receiving the transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) TRANSPORTATION TO A TREATMENT FACILITY.—

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

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

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

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

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

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

Section 8. Paragraph (a) of subsection (1) and subsection (4) of section 394.4625, Florida Statutes, are amended to read:

394.4625 Voluntary admissions.—

(1) AUTHORITY TO RECEIVE PATIENTS.—

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

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

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

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

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

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

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

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

394.463 Involuntary examination.—

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

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

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

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

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

(2) INVOLUNTARY EXAMINATION.—

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

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

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

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

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

the facility administrator.

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

(5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND TREATMENT; PENALTIES.—

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

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

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

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

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

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

394.4655 Involuntary outpatient services.—

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

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

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

3. And the respondent’s treating physician certifies,

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

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

b. Can follow a prescribed treatment plan; and

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

(b) 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, or 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.

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

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

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

394.467 Involuntary inpatient placement.—

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

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

her mental illness:

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

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

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

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

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

(5) CONTINUANCE OF HEARING.—The patient and the state are independently entitled ~~is entitled, with the concurrence of the patient's counsel,~~ to at least one continuance of the hearing. The patient's continuance may be for a period of ~~for~~ up to 4 weeks and requires the concurrence of his or her 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 requesting the continuance. The state's failure to timely review any readily available document or failure to attempt to contact a known witness does not warrant a continuance.

(6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

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

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

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

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

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

the patient be transferred to a treatment facility or, if the patient is at a treatment facility, that the patient be retained there or be treated at any other appropriate facility, or that the patient receive services, on an involuntary basis, for up to ~~90 days. However, any order for involuntary mental health services in a treatment facility may be for up to~~ 6 months. The order shall specify the nature and extent of the patient's mental illness and, unless the patient has transferred to a voluntary status, the facility must discharge the patient at any time he or she no longer meets the criteria for involuntary inpatient treatment. The court may not order an individual with traumatic brain injury or dementia who lacks a co-occurring mental illness or is displaying behavioral disturbances to be involuntarily placed in a state treatment facility unless evaluations show that the individual may benefit from behavioral health treatment. Such individuals must be referred to the Agency for Persons with Disabilities or the Department of Elderly Affairs for further evaluation and placement in a medical rehabilitation facility or supportive residential placement that addresses 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 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. ~~The facility shall discharge a patient any time the patient no longer meets the criteria for involuntary inpatient placement, unless the patient has transferred to voluntary status.~~

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

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

394.4785 Children and adolescents; admission and placement in mental health facilities.—

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

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

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

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

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

Statutes, is amended to read:

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

(3) Assessments must be performed by:

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

(b) A professional licensed under chapter 491; or

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

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

394.496 Service planning.—

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

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

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

(2) Children eligible to receive integrated children's

crisis stabilization unit/juvenile addictions receiving facility services include:

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

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

394.9085 Behavioral provider liability.—

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

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

397.305 Legislative findings, intent, and purpose.—

(3) 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 which promotes long-term recovery while protecting and respecting the rights of individuals, primarily through community-based private not-for-profit providers working with local governmental programs involving a wide range of agencies from both the public and private sectors.

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

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

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

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

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

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

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

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

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

safety; or

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

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

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

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

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

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

entitle a respondent to such services.

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

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

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

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

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

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

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

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

397.6751 Service provider responsibilities regarding involuntary admissions.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 26. Section 397.6815, Florida Statutes, is

repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

397.695 Involuntary treatment ~~services~~; persons who may petition.—

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

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

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

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

397.6951 Contents of petition for involuntary treatment ~~services~~.—

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

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

~~respondent is substance abuse impaired;~~

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

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

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

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

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

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

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

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

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

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

397.6955 Duties of court upon filing of petition for involuntary treatment ~~services~~.—

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

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

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

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

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

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

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

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

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

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

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

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

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

working days;

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

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

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

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

397.6957 Hearing on petition for involuntary treatment ~~services~~.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Such inability no longer exists; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 39. Section 397.6976, Florida Statutes, is created to read:

397.6976 Involuntary treatment of habitual abusers.—Upon petition by any person authorized under s. 397.695, a person who meets the involuntary treatment criteria of this chapter who is also determined to be a habitual abuser may be committed by the court, after notice and hearing as provided in this chapter, to inpatient or outpatient treatment, or some combination thereof, without an assessment. Such commitment may not be for longer than 90 days, unless extended pursuant to s. 397.6975. For purposes of this section, "habitual abuser" means any person who has been involuntarily treated for substance abuse under this

chapter 3 or more times during the 24 months before the date of the hearing, if each prior commitment order was initially for a period of 90 days.

Section 40. Section 397.6977, Florida Statutes, is amended to read:

397.6977 Disposition of individual upon completion of involuntary treatment ~~services~~.—At the conclusion of the 90-day period of court-ordered involuntary treatment ~~services~~, the respondent is automatically discharged unless a motion for renewal of the involuntary treatment ~~services~~ order has been filed with the court pursuant to s. 397.6975.

Section 41. Section 397.6978, Florida Statutes, is repealed.

Section 42. Section 397.706, Florida Statutes, is amended to read:

397.706 Screening, assessment, and disposition of minors and juvenile offenders.—

(1) The substance abuse treatment needs of juvenile offenders and their families must be identified and addressed through diversionary programs and adjudicatory proceedings pursuant to chapter 984 or chapter 985.

(2) The juvenile and circuit courts, in conjunction with department substate entity administration, shall establish policies and procedures to ensure that juvenile offenders are appropriately screened for substance abuse problems and that diversionary and adjudicatory proceedings include appropriate conditions and sanctions to address substance abuse problems. Policies and procedures must address:

(a) The designation of local service providers responsible

for screening and assessment services and dispositional recommendations to the department and the court.

(b) The means by which juvenile offenders are processed to ensure participation in screening and assessment services.

(c) The role of the court in securing assessments when juvenile offenders or their families are noncompliant.

(d) Safeguards to ensure that information derived through screening and assessment is used solely to assist in dispositional decisions and not for purposes of determining innocence or guilt.

(3) Because resources available to support screening and assessment services are limited, the judicial circuits and department substate entity administration must develop those capabilities to the extent possible within available resources according to the following priorities:

(a) Juvenile substance abuse offenders.

(b) Juvenile offenders who are substance abuse impaired at the time of the offense.

(c) Second or subsequent juvenile offenders.

(d) Minors taken into custody.

(4) The court may require minors found to be substance abuse impaired under s. 397.6957, juvenile offenders, and the families of such minors or juvenile offenders ~~and their families~~ to participate in substance abuse assessment and treatment services in accordance with ~~the provisions of~~ chapter 984 or chapter 985, and the court may use its contempt powers to enforce its orders. If a minor violates an involuntary treatment order and there is a substantial risk of overdose or danger to self or others, the court's civil contempt powers are exempt

from the time limitations of chapters 984 and 985, and the court may instead hold the minor in contempt for the same amount of time as his or her court-ordered treatment, if the court clearly informs the minor that he or she may immediately purge the contempt finding by complying with the treatment order. If the contempt order results in incarceration, the minor must be placed in a juvenile addictions receiving facility or, if no such facility is available, a facility for juveniles. The court must also hold a status conference every 1 to 2 weeks to assess the minor's well-being and inquire as to whether he or she will go to, and remain in, treatment. If the incarcerated minor agrees to comply with the court's involuntary treatment order, service providers must prioritize his or her placement into treatment.

Section 43. Paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(1) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or a treatment facility as defined in s. 394.455 ~~s. 394.455(47)~~.

Section 44. Paragraph (e) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

464.012 Licensure of advanced practice registered nurses; fees; controlled substance prescribing.—

(4) In addition to the general functions specified in

subsection (3), an advanced practice registered nurse may perform the following acts within his or her specialty:

(e) A psychiatric nurse, who meets the requirements in s. 394.455(36) ~~s. 394.455(35)~~, within the framework of an established protocol with a psychiatrist, may prescribe psychotropic controlled substances for the treatment of mental disorders.

Section 45. Subsection (7) of section 744.2007, Florida Statutes, is amended to read:

744.2007 Powers and duties.—

(7) A public guardian may not commit a ward to a treatment facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an involuntary placement proceeding as provided by law.

Section 46. Paragraph (a) of subsection (2) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(a) Review any records available to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;

2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;

3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or

expunction has occurred; or

4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.

a. As used in this subparagraph, "adjudicated mentally defective" means a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.

b. As used in this subparagraph, "committed to a mental institution" means:

(I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement under ~~as defined in~~ s. 394.467, involuntary outpatient placement as defined in s. 394.4655, ~~involuntary assessment and stabilization under s. 397.6818,~~ and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution; or

(II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient

treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:

(A) An examining physician found that the person is an imminent danger to himself or herself or others.

(B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(g)4., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.

(C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons

or firearms license until I apply for and receive relief from that restriction under Florida law."

(D) A judge or a magistrate has, pursuant to sub-sub-subparagraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

(I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.

(II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to

a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in this paragraph, may petition the court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-sub-subparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and cross-examine witnesses called by the state attorney. A record of the hearing shall be made by a certified court reporter or by court-approved electronic means. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented

with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of

Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

Section 47. This act shall take effect July 1, 2020.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 870
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 28, 2020
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE			1/28/2020 1 Amendment 745770					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

SB 870

Bill Number (if applicable)

Topic SB 870 BAKER/MARCHMAN ACT

Amendment Barcode (if applicable)

Name STEVE LEIFMAN

Job Title JUDGE - MIAMI-DADE

Address 1351 NW 12TH ST. RM 617

Street

Phone 305 803 3181

MIAMI FL 33125

City State Zip

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.

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)

11/28/20
Meeting Date

870
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Mental Health

Name Dr. Danielle Thomas

Job Title Legislation Chair

Address 1747 Orlando Central Pkwy
Street

Orlando FL 32809
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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/28/20
Meeting Date

SB 870
Bill Number (if applicable)

Topic SB 870

Amendment Barcode (if applicable)

Name Nyemci Murray

Job Title Full time Student/ The Therapy assist.

Address 2833 S Adams St Tallahassee
Street

Phone 407-502-9729

City *State* 32301 *Zip*

Email murraynyemci@yahoo.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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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)

1/28/20
Meeting Date

[redacted] 870
Bill Number (if applicable)

Topic MENTAL HEALTH

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title CEO

Address 122 S. CALHOUN STREET
Street

Phone 850 5705747

TALLAHASSEE 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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	SB 870

Amendment Barcode (if applicable)

Topic Mental Health

Name Karen Woodall

Job Title

Address 579 E. Call St. Phone 850-321-9386

Street

Tallahassee, FL 32301 Email fcfep@yahoo.com

City State Zip

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.

S-001 (10/14/14)

2020 AGENCY LEGISLATIVE BILL ANALYSIS
Department of Children and Families

BILL INFORMATION	
BILL NUMBER:	SB 870
BILL TITLE:	Mental Health
BILL SPONSOR:	Senator Lauren Book
EFFECTIVE DATE:	July 1, 2020

COMMITTEES OF REFERENCE
1) Children, Families, and Elder Affairs
2) Judiciary
3) Appropriations
4)
5)

CURRENT COMMITTEE
Children, Families, and Elder Affairs

SIMILAR BILLS	
BILL NUMBER:	HB 1229
SPONSOR:	Representative Gottlieb

PREVIOUS LEGISLATION	
BILL NUMBER:	2019: SB 818
SPONSOR:	
YEAR:	
LAST ACTION:	2019 SB 818: Indefinitely postponed and withdrawn from consideration • Died in Judiciary

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?
No.

BILL ANALYSIS INFORMATION	
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, or 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, is 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:	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. The Department's Office of Administrative Services cannot determine the increase in expenditures for individuals that will be generated by this bill.

	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.

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.

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.	Delia	Hendon	CF	**Fav/CS**
2.			AHS	
3.			AP	

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]

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[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 employer[10] may not hire, select, or otherwise allow an employee to have contact with a vulnerable person[11] 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 agency[12] 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 contender 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.

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[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.

360180

LEGISLATIVE ACTION

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

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

prohibitions; penalties.—

(1) A service provider licensed under this part may not make a referral of a prospective, current, or discharged patient to, or accept a referral of such a patient from, a recovery residence unless the recovery residence holds a valid certificate of compliance as provided in s. 397.487 and is actively managed by a certified recovery residence administrator as provided in s. 397.4871.

(4) In addition to any other punishment provided by law, any person who willfully and knowingly violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

And the title is amended as follows:

Delete line 15

and insert:

recovery residences; amending s. 397.4873, F.S.; providing criminal penalties for violations relating to recovery residence patient referrals; amending s. 817.505, F.S.;

By Senator Harrell

25-00938A-20 20201120__

A bill to be entitled

An act relating to substance abuse services; amending s. 397.4073, F.S.; 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; amending s. 397.487, F.S.; deleting a provision relating to background screenings for certain persons associated with applicant recovery residences; amending s. 397.4872, F.S.; deleting provisions relating to exemptions from disqualification for certain persons associated with recovery residences; amending s. 817.505, F.S.; revising provisions relating to payment practices exempt from prohibitions on patient brokering; amending ss. 397.4871 and 435.07, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) and paragraph (b) of subsection (4) of section 397.4073, Florida Statutes, are amended to read:

397.4073 Background checks of service provider personnel.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—

(a) For all individuals screened on or after July 1, 2020 ~~2019~~, background checks shall apply as follows:

1. All owners, directors, chief financial officers, and clinical supervisors of service providers are subject to level 2 background screening as provided under s. 408.809 and chapter 435. Inmate substance abuse programs operated directly or under contract with the Department of Corrections are exempt from this requirement.

2. All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

3. All peer specialists who have direct contact with individuals receiving services are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

4. All 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 and chapter 435.

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) Since rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of individuals with substance use disorders, for service providers which treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt, solicitation, or conspiracy under s. 777.04,

shall ~~may~~ be exempted from disqualification from employment pursuant to this paragraph.

Section 2. Subsection (6) of section 397.487, Florida Statutes, is amended to read:

397.487 Voluntary certification of recovery residences.—

~~(6) All owners, directors, and chief financial officers of an applicant recovery residence are subject to level 2 background screening as provided under s. 408.809 and chapter 435. A recovery residence is ineligible for certification, and a credentialing entity shall deny a recovery residence's application, if any owner, director, or chief financial officer has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809(4) or s. 435.04(2) unless the department has issued an exemption under s. 397.4073 or s. 397.4872. In accordance with s. 435.04, the department shall notify the credentialing agency of an owner's, director's, or chief financial officer's eligibility based on the results of his or her background screening.~~

Section 3. Section 397.4872, Florida Statutes, is amended to read:

397.4872 ~~Exemption from disqualification;~~ Publication.—

~~(1) 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 the department within 20 days after the denial by the credentialing entity and must include a justification for the exemption.~~

~~(2) The department may exempt a person from ss. 397.487(6)~~

~~and 397.4871(5) 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. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:~~

~~(a) Sexual predator pursuant to s. 775.21;~~

~~(b) Career offender pursuant to s. 775.261; or~~

~~(c) Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.~~

~~(3)~~ By April 1, 2016, each credentialing entity shall submit a list to the department of all recovery residences and recovery residence administrators certified by the credentialing entity that hold a valid certificate of compliance. Thereafter, the credentialing entity must notify the department within 3 business days after a new recovery residence or recovery residence administrator is certified or a recovery residence or recovery residence administrator's certificate expires or is terminated. The department shall publish on its website a list of all recovery residences that hold a valid certificate of compliance. The department shall also publish on its website a list of all recovery residence administrators who hold a valid certificate of compliance. A recovery residence or recovery residence administrator shall be excluded from the list upon written request to the department by the listed individual or entity.

Section 4. Paragraph (a) of subsection (3) of section 817.505, Florida Statutes, is amended to read:

817.505 Patient brokering prohibited; exceptions;

penalties.—

(3) This section shall not apply to the following payment practices:

(a) Any discount, payment, waiver of payment, or payment practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s. 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b)(3)~~ 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 health care programs as defined in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July 1, 2020.

Section 5. Subsection (5) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

(5) All applicants are subject to level 2 background screening as provided under chapter 435. An applicant is ineligible, and a credentialing entity shall deny the application, if the applicant has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809 or s. 435.04(2) unless the department has issued an exemption under s. 397.4073 or s. 435.07 ~~s. 397.4872~~. In accordance with s. 435.04, the department shall notify the credentialing agency of the applicant's eligibility based on the results of his or her background screening.

Section 6. Subsection (2) of section 435.07, Florida Statutes, is amended to read:

435.07 Exemptions from disqualification.—Unless otherwise

provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(2) Persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any related criminal attempt, solicitation, or conspiracy under s. 777.04, shall ~~may~~ be exempted from disqualification from employment pursuant to this chapter without application of the waiting period in subparagraph (1)(a)1.

Section 7. This act shall take effect July 1, 2020.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 1120
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 28, 2020
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE			1/28/2020 1 Amendment 360180					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

THE FLORIDA SENATE

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 Mark Fontaine

Job Title Executive Advisor

Address 2568 Mahan Drive
Street

Tallahassee, FL 32308
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Phone 878-2196

Email mark@floridabha.org

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

Waive Speaking: [X] 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: [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)

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/28/20
Meeting Date

SB 1120
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SUBSTANCE ABUSE SERVICES

Name NATALIE KELLY

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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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

SB1120
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 1120

Name Nyoma Murray

Job Title Full time Student

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Tallahassee FL 32301
City State Zip

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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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/28/2020
Meeting Date

SB 1120
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Substance Abuse Services

Name Rebecca DeLaRosa

Job Title Legislative Affairs Director

Address 301 N Olive Ave, #701
Street
West Palm Beach, FL 33401
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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Palm Beach County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

2020 AGENCY LEGISLATIVE BILL ANALYSIS
Department of Children and Families

BILL INFORMATION	
BILL NUMBER:	HB 649
BILL TITLE:	Substance Abuse Services
BILL SPONSOR:	Representative Caruso
EFFECTIVE DATE:	July 1, 2020

COMMITTEES OF REFERENCE
1) Children, Families & Seniors Subcommittee
2) Civil Justice Subcommittee
3) Health & Human Services Committee
4)
5)

CURRENT COMMITTEE
Children, Families & Seniors Subcommittee

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	SB 1120
SPONSOR:	Senator Harrell

Is this bill part of an agency package?

BILL ANALYSIS INFORMATION	
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 renumeration (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 renumerations]. 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 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)

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.	Brick	Sikes	ED	**Favorable**
2.	Delia	Hendon	CF	**Favorable**
3.			RC	

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 institution[4]; 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 <u>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.</u>

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.

By Senator Diaz

36-00873-20 20201218__

A bill to be entitled

An act relating to anti-bullying and anti-harassment in schools; amending s. 1002.421, F.S.; 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; requiring the department to include reported incidents in annual accountability reports; requiring private school principals or their designees to meet and share specified information with students and parents prior to student enrollment in the school; providing an effective date.

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

Section 1. Paragraph (j) of subsection (1) of section 1002.421, Florida Statutes, is amended, and paragraphs (r) and (s) are added to that subsection, to read:

1002.421 State school choice scholarship program accountability and oversight.—

(1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private school participating in an educational scholarship program established pursuant to this chapter must be a private school as defined in s. 1002.01(2) in this state, be registered, and be in compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific

requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(j) Publish on the school's website and~~, 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, the code of student conduct, the ethical conduct policies required by paragraph (n), and the bullying and harassment policies required by paragraph (r).

(r) Notwithstanding the school's status as a private school, adopt policies that comply with the bullying and harassment definitions, responsibilities, and protections required pursuant to s. 1006.147. The school shall comply with the incident reporting requirements of s. 1006.147(4)(k) according to procedures specified by the department. Such reporting must be made annually by the department in both the report required pursuant to s. 1006.147(8) and the annual private school accountability report required under subsection (2).

(s) Require the school principal or the principal's designee to meet with any student and his or her parent or guardian before the student's enrollment to review information about the school, including, but not limited to, 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 department shall suspend the payment of funds to a private

school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Section 2. This act shall take effect upon becoming a law.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 1218
FINAL ACTION: Favorable
MEETING DATE: Tuesday, January 28, 2020
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	**TOTALS**						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable, UNF=Unfavorable, -R=Reconsidered, RCS=Replaced by Committee Substitute, RE=Replaced by Engrossed Amendment, RS=Replaced by Substitute Amendment, TP=Temporarily Postponed, VA=Vote After Roll Call, VC=Vote Change After Roll Call, WD=Withdrawn, OO=Out of Order, AV=Abstain from Voting

REPORTING INSTRUCTION: Publish
01292020.0800

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)

Amendment Barcode (if applicable)

Topic Anti-Bullying + Anti-Harassment

Name Dr. Danielle Thomas

Job Title Legislation Chair

Address 1747 Orlando Central Pkwy
Street

Orlando FL 32809
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.

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/'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: ☑ 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: ☑ 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)

1/28/20
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
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850 2056823

Email jherzog@flaccb.org

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on 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]

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[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 million [14]
- 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.

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[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.

202566

LEGISLATIVE ACTION

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

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__

A bill to be entitled

An act relating to domestic violence services; amending s. 39.902, F.S.; deleting the definition of the term "coalition"; amending s. 39.903, F.S.; revising the duties of the Department of Children and Families in relation to the domestic violence program; repealing s. 39.9035, F.S., relating to the duties and functions of the Florida Coalition Against Domestic Violence with respect to domestic violence; amending s. 39.904, F.S.; requiring the department to provide a specified report; amending s. 39.905, F.S.; revising the requirements of domestic violence centers; amending s. 39.9055, F.S.; removing the coalition from the capital improvement grant program process; amending ss. 39.8296, 381.006, 381.0072, 383.402, 402.40, 741.316, 753.03, 943.0542, 943.1701, and 1004.615, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (1) of section 39.902, Florida Statutes, is amended to read:

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

~~(1) "Coalition" means the Florida Coalition Against Domestic Violence.~~

Section 2. Subsections (1), (2), (7), and (8) of section 39.903, Florida Statutes, are amended to read:

39.903 Duties and functions of the department with respect

to domestic violence.—The department shall:

(1) Operate the domestic violence program and~~, in collaboration with the coalition, shall~~ coordinate and administer statewide activities related to the prevention of domestic violence.

(2) Receive and approve or reject applications for initial certification of domestic violence centers, and~~. The department shall~~ annually renew the certification thereafter ~~upon receipt of a favorable monitoring report by the coalition~~.

(7) Contract with an entity or entities ~~the coalition~~ for the delivery and management of services for the state's domestic violence program if the department determines that doing so is in the best interest of the state. ~~Services under this contract include, but are not limited to, the administration of contracts and grants.~~

(8) Consider applications from certified domestic violence centers for capital improvement grants and award those grants in accordance with ~~pursuant to~~ s. 39.9055.

Section 3. Section 39.9035, Florida Statutes, is repealed.

Section 4. Section 39.904, Florida Statutes, is amended to read:

39.904 Report to the Legislature on the status of domestic violence cases.—On or before January 1 of each year, the department ~~coalition~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which must include, but need not be limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where

domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state which assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who receive services from local certified domestic violence programs that receive funding through the department ~~coalition~~.

(5) The incidence of domestic violence homicides in the state, including information and data collected from state and local domestic violence fatality review teams.

Section 5. Paragraphs (f) and (g) of subsection (1), subsections (2) and (4), paragraph (a) of subsection (6), and subsections (7) and (8) of section 39.905, Florida Statutes, are amended to read:

39.905 Domestic violence centers.—

(1) Domestic violence centers certified under this part must:

(f) Comply with rules adopted under ~~pursuant to~~ this part.

(g) File with the department ~~coalition~~ a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by

the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(2) If the department finds that there is failure by a center to comply with the requirements established, or rules adopted, under this part ~~or with the rules adopted pursuant thereto~~, the department may deny, suspend, or revoke the certification of the center.

(4) The domestic violence centers shall establish procedures to facilitate ~~pursuant to which~~ persons subject to domestic violence to ~~may~~ seek services from these centers voluntarily.

(6) In order to receive state funds, a center must:

(a) Obtain certification under ~~pursuant to~~ this part. However, the issuance of a certificate does not obligate the department ~~coalition~~ to provide funding.

(7)(a) All funds collected and appropriated to the domestic violence program for certified domestic violence centers shall be distributed annually according to an allocation formula approved by the department. In developing the formula, the factors of population, rural characteristics, geographical area, and the incidence of domestic violence must ~~shall~~ be considered.

(b) A contract between the department ~~coalition~~ and a certified domestic violence center shall contain provisions ensuring the availability and geographic accessibility of services throughout the service area. For this purpose, a center may distribute funds through subcontracts or to center satellites, if such arrangements and any subcontracts are approved by the department ~~coalition~~.

~~(8) If any of the required services are exempted from certification by the department under this section, the center may not receive funding from the coalition for those services.~~

Section 6. Section 39.9055, Florida Statutes, is amended to read:

39.9055 Certified domestic violence centers; capital improvement grant program.—There is established a certified domestic violence center capital improvement grant program.

(1) A certified domestic violence center as defined in s. 39.905 may apply to the department ~~of Children and Families~~ for a capital improvement grant. The grant application must provide information that includes:

(a) A statement specifying the capital improvement that the certified domestic violence center proposes to make with the grant funds.

(b) The proposed strategy for making the capital improvement.

(c) The organizational structure that will carry out the capital improvement.

(d) Evidence that the certified domestic violence center has difficulty in obtaining funding or that funds available for the proposed improvement are inadequate.

(e) Evidence that the funds will assist in meeting the needs of victims of domestic violence and their children in the certified domestic violence center service area.

(f) Evidence of a satisfactory recordkeeping system to account for fund expenditures.

(g) Evidence of ability to generate local match.

(2) Certified domestic violence centers as defined in s.

39.905 may receive funding subject to legislative appropriation, upon application to the department ~~of Children and Families~~, for projects to construct, acquire, repair, improve, or upgrade systems, facilities, or equipment, subject to availability of funds. An award of funds under this section must be made in accordance with a needs assessment developed by the ~~Florida Coalition Against Domestic Violence and the~~ department ~~of Children and Families~~. The department annually shall perform this needs assessment and shall rank in order of need those centers that are requesting funds for capital improvement.

(3) The department ~~of Children and Families~~ shall~~, in collaboration with the Florida Coalition Against Domestic Violence,~~ establish criteria for awarding the capital improvement funds that must be used exclusively for support and assistance with the capital improvement needs of the certified domestic violence centers, as defined in s. 39.905.

(4) The department ~~of Children and Families~~ shall ensure that the funds awarded under this section are used solely for the purposes specified in this section. The department will also ensure that the grant process maintains the confidentiality of the location of the certified domestic violence centers, as required under ~~pursuant to~~ s. 39.908. The total amount of grant moneys awarded under this section may not exceed the amount appropriated for this program.

Section 7. Paragraph (b) of subsection (2) of section 39.8296, Florida Statutes, is amended to read:

39.8296 Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian Ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian Ad Litem Office shall not be subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office shall be governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(b) The Statewide Guardian Ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem programs in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop a guardian ad litem training program. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health

professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group ~~the Florida Coalition Against Domestic Violence~~, and a social worker experienced in working with victims and perpetrators of child abuse.

5. The office shall review the various methods of funding guardian ad litem programs, shall maximize the use of those funding sources to the extent possible, and shall review the kinds of services being provided by circuit guardian ad litem programs.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. In an effort to promote normalcy and establish trust between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's

guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.

Section 8. Subsection (18) of section 381.006, Florida Statutes, is amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(18) A food service inspection function for domestic violence centers that are certified and monitored by the Department of Children and Families ~~and monitored by the Florida Coalition Against Domestic Violence~~ under part XII of chapter 39 and group care homes as described in subsection (16), which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 9. Paragraph (c) of subsection (2) of section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—

(2) DEFINITIONS.—As used in this section, the term:

(c) "Food service establishment" means detention facilities, public or private schools, migrant labor camps, assisted living facilities, facilities participating in the United States Department of Agriculture Afterschool Meal Program that are located at a facility or site that is not inspected by another state agency for compliance with sanitation standards, adult family-care homes, adult day care centers, short-term residential treatment centers, residential treatment facilities, homes for special services, transitional living facilities, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental disabilities, boarding schools, civic or fraternal organizations, bars and lounges, vending machines that dispense potentially hazardous foods at facilities expressly named in this paragraph, and facilities used as temporary food events or mobile food units at any facility expressly named in this paragraph, where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes a culinary education program where food is prepared and intended for individual portion service, regardless of whether there is a charge for the food or whether the program is inspected by another state agency for compliance with sanitation standards. The term does not include any entity not expressly named in this paragraph; nor does the term include a domestic violence center certified and monitored by the Department of Children and

Families ~~and monitored by the Florida Coalition Against Domestic Violence~~ under part XII of chapter 39 if the center does not prepare and serve food to its residents and does not advertise food or drink for public consumption.

Section 10. Subsection (2) of section 383.402, Florida Statutes, is amended to read:

383.402 Child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committees.—

(2) STATE CHILD ABUSE DEATH REVIEW COMMITTEE.—

(a) *Membership.*—

1. The State Child Abuse Death Review Committee is established within the Department of Health and shall consist of a representative of the Department of Health, appointed by the State Surgeon General, who shall serve as the state committee coordinator. The head of each of the following agencies or organizations shall also appoint a representative to the state committee:

a. The Department of Legal Affairs.

b. The Department of Children and Families.

c. The Department of Law Enforcement.

d. The Department of Education.

e. The Florida Prosecuting Attorneys Association, Inc.

f. The Florida Medical Examiners Commission, whose representative must be a forensic pathologist.

2. In addition, the State Surgeon General shall appoint the following members to the state committee, based on recommendations from the Department of Health and the agencies listed in subparagraph 1., and ensuring that the committee represents the regional, gender, and ethnic diversity of the

state to the greatest extent possible:

a. The Department of Health Statewide Child Protection Team Medical Director.

b. A public health nurse.

c. A mental health professional who treats children or adolescents.

d. An employee of the Department of Children and Families who supervises family services counselors and who has at least 5 years of experience in child protective investigations.

e. The medical director of a Child Protection Team.

f. A member of a child advocacy organization.

g. A social worker who has experience in working with victims and perpetrators of child abuse.

h. A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.

i. A law enforcement officer who has at least 5 years of experience in children's issues.

j. A representative of a domestic violence advocacy group ~~the Florida Coalition Against Domestic Violence~~.

k. A representative from a private provider of programs on preventing child abuse and neglect.

l. A substance abuse treatment professional.

3. The members of the state committee shall be appointed to staggered terms not to exceed 2 years each, as determined by the State Surgeon General. Members may be appointed to no more than three consecutive terms. The state committee shall elect a chairperson from among its members to serve for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.

4. Members of the state committee shall serve without compensation but may receive reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(b) *Duties.*—The State Child Abuse Death Review Committee shall:

1. Develop a system for collecting data from local committees on deaths that are reported to the central abuse hotline. The system must include a protocol for the uniform collection of data statewide, which must, at a minimum, use the National Child Death Review Case Reporting System administered by the National Center for the Review and Prevention of Child Deaths.

2. Provide training to cooperating agencies, individuals, and local child abuse death review committees on the use of the child abuse death data system.

3. Provide training to local child abuse death review committee members on the dynamics and impact of domestic violence, substance abuse, or mental health disorders when there is a co-occurrence of child abuse. Training must be provided by the Department of Children and Families ~~Florida Coalition Against Domestic Violence~~, the Florida Alcohol and Drug Abuse Association, and the Florida Council for Community Mental Health in each entity's respective area of expertise.

4. Develop statewide uniform guidelines, standards, and protocols, including a protocol for standardized data collection and reporting, for local child abuse death review committees and provide training and technical assistance to local committees.

5. Develop statewide uniform guidelines for reviewing deaths that are the result of child abuse, including guidelines to be used by law enforcement agencies, prosecutors, medical examiners, health care practitioners, health care facilities, and social service agencies.

6. Study the adequacy of laws, rules, training, and services to determine what changes are needed to decrease the incidence of child abuse deaths and develop strategies and recruit partners to implement these changes.

7. Provide consultation on individual cases to local committees upon request.

8. Educate the public regarding the provisions of chapter 99-168, Laws of Florida, the incidence and causes of child abuse death, and ways by which such deaths may be prevented.

9. Promote continuing education for professionals who investigate, treat, and prevent child abuse or neglect.

10. Recommend, when appropriate, the review of the death certificate of a child who died as a result of abuse or neglect.

Section 11. Paragraph (b) of subsection (5) of section 402.40, Florida Statutes, is amended to read:

402.40 Child welfare training and certification.—

(5) CORE COMPETENCIES AND SPECIALIZATIONS.—

(b) The identification of these core competencies and development of preservice curricula shall be a collaborative effort that includes professionals who have expertise in child welfare services, department-approved third-party credentialing entities, and providers that will be affected by the curriculum, including, but not limited to, representatives from the community-based care lead agencies, ~~the Florida Coalition~~

~~Against Domestic Violence,~~ the Florida Alcohol and Drug Abuse Association, the Florida Council for Community Mental Health, sheriffs' offices conducting child protection investigations, and child welfare legal services providers.

Section 12. Subsection (5) of section 741.316, Florida Statutes, is amended to read:

741.316 Domestic violence fatality review teams; definition; membership; duties.—

(5) The domestic violence fatality review teams are assigned to the Department of Children and Families ~~Florida Coalition Against Domestic Violence~~ for administrative purposes.

Section 13. Paragraph (d) of subsection (2) of section 753.03, Florida Statutes, is amended to read:

753.03 Standards for supervised visitation and supervised exchange programs.—

(2) The clearinghouse shall use an advisory board to assist in developing the standards. The advisory board must include:

~~(d) A representative of the Florida Coalition Against Domestic Violence, appointed by the executive director of the Florida Coalition Against Domestic Violence.~~

Section 14. Paragraph (a) of subsection (1) and subsection (5) of section 943.0542, Florida Statutes, are amended to read:

943.0542 Access to criminal history information provided by the department to qualified entities.—

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

(a) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, victims of domestic violence, or individuals with disabilities.

(5) The determination whether the criminal history record shows that the employee or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, victims of domestic violence, or disabled persons shall solely be made by the qualified entity. This section does not require the department to make such a determination on behalf of any qualified entity.

Section 15. Section 943.1701, Florida Statutes, is amended to read:

943.1701 Uniform statewide policies and procedures; duty of the commission.—The commission, with the advice and cooperation of the Department of Children and Families ~~Florida Coalition Against Domestic Violence~~, the Florida Sheriffs Association, the Florida Police Chiefs Association, and other agencies that verify, serve, and enforce injunctions for protection against domestic violence, shall develop by rule uniform statewide policies and procedures to be incorporated into required courses of basic law enforcement training and continuing education. These statewide policies and procedures shall include:

(1) The duties and responsibilities of law enforcement in response to domestic violence calls, enforcement of injunctions, and data collection.

(2) The legal duties imposed on law enforcement officers to make arrests and offer protection and assistance, including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that

promote safety of the victim.

(4) The dynamics of domestic violence and the magnitude of the problem.

(5) The legal rights of, and remedies available to, victims of domestic violence.

(6) Documentation, report writing, and evidence collection.

(7) Tenancy issues and domestic violence.

(8) The impact of law enforcement intervention in preventing future violence.

(9) Special needs of children at the scene of domestic violence and the subsequent impact on their lives.

(10) The services and facilities available to victims and batterers.

(11) The use and application of sections of the Florida Statutes as they relate to domestic violence situations.

(12) Verification, enforcement, and service of injunctions for protection when the suspect is present and when the suspect has fled.

(13) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

(14) Working with uncooperative victims, when the officer becomes the complainant.

Section 16. Subsection (3) of section 1004.615, Florida Statutes, is amended to read:

1004.615 Florida Institute for Child Welfare.—

(3) The institute shall work with the department, sheriffs providing child protective investigative services, community-based care lead agencies, community-based care provider organizations, the court system, the Department of Juvenile

Justice, ~~the Florida Coalition Against Domestic Violence,~~ and other partners who contribute to and participate in providing child protection and child welfare services.

Section 17. This act shall take effect July 1, 2020.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 1482
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 28, 2020
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE			1/28/2020 1 Amendment 202566					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

THE FLORIDA SENATE

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)

Amendment Barcode (if applicable)

Topic Domestic Violence Services

Name Michael Wickersheim

Job Title Legislative Affairs Director

Address 1317 Winewood
Street

Phone (850) 488-9410

Tallahassee — FL — 32399
City — *State* — *Zip*

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)

Amendment Barcode (if applicable)

Topic Domestic Violence

Name Scott Howell

Job Title VP for External Affairs

Address 425 Office Plaza Dr. *Street*

Phone (850) 325-3721

Tallahassee *City* FL *State* 32301 *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 establishes 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.

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[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 goes 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.

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LEGISLATIVE ACTION

Senate . 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

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have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this section:

(a) The term "domestic violence" has the meaning set forth in s. 741.28.

(b) "Family or household member" has the meaning set forth in s. 741.28.

(2) The Florida Court Educational Council shall 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, with emphasis on ensuring that a permanent placement is achieved as soon as possible and that a child should not remain in foster care for longer than 1 year. This instruction must be provided on a periodic and timely basis and may be provided by or in consultation with current or retired judges, the Department of Children and Families, or the Statewide Guardian Ad Litem Office established in s. 39.8296.

Section 2. Subsection (7) of section 39.205, Florida Statutes, is amended to read:

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

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency ~~and shall report annually to the Legislature the number of reports referred~~.

Section 3. Subsection (7) of section 39.302, Florida

Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When 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, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(a) However, if such a person is a licensee of the department and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~those reports~~ and determine whether the information contained in the report ~~reports~~ is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~all reports~~ for the purposes of the employment screening as defined in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

Section 4. Subsection (6) of section 39.407, Florida

Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only as provided in ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

(a) As used in this subsection, the term:

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the department ~~Agency for Health Care Administration~~. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the

treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must

include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment

program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 5. Section 39.5035, Florida Statutes, is created to

read:

39.5035 Deceased parents; special procedures.—

(1)(a)1. If both parents of a child are deceased and a legal custodian has not been appointed for the child through a probate or guardianship proceeding, then an attorney for the department or any other person, who has knowledge of the facts whether alleged or is informed of the alleged facts and believes them to be true, may initiate a proceeding by filing a petition for adjudication and permanent commitment.

2. If a child has been placed in shelter status by order of the court but has not yet been 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 first becomes aware of the facts that support the petition for adjudication and permanent commitment.

(b) If both parents or the last living parent dies after a child has already been adjudicated dependent, an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts and believes them to be true may file a petition for permanent commitment.

(2) The petition:

(a) Must be in writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

(b) Must be signed by the petitioner under oath stating the

petitioner's good faith in filing the petition.

(3) 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. The adjudicatory hearing must be held as soon as practicable after the petition is filed, but no later than 30 days after the filing date.

(4) Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on the following persons:

(a) Any person who has physical custody of the child.

(b) A living relative of each parent of the child, unless a living relative cannot be found after a diligent search and inquiry.

(c) The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

(5) 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. At the hearing, the judge must determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of proof of the parents' deaths.

(6) Within 30 days after an adjudicatory hearing on a petition for adjudication and permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order adjudicating the child dependent. A disposition hearing shall be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

(c) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding and that a

preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order so finding and dismissing the petition.

(7) Within 30 days after an adjudicatory hearing on a petition for permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide an amended case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, the court shall enter a written order denying the petition. The order has no effect on the child's prior adjudication. The order does not bar the petitioner from filing a subsequent petition for permanent commitment based on newly discovered evidence that establishes that both parents of a child are deceased and that a legal

custodian has not been appointed for the child through a probate or guardianship proceeding.

Section 6. Paragraph (c) of subsection (1) and subsections (3) and (7) of section 39.521, Florida Statutes, are amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also

require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(35)(g) demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department

in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. ~~Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. 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.~~

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(a) If the court determines that the child can safely remain in the home with the parent with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court and that remaining in this home is in the best interest of the child,

then the court shall order conditions under which the child may remain or return to the home and that this placement be under the protective supervision of the department for not less than 6 months.

(b) If there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child, the court shall place the child with that parent upon completion of a home study, unless the court finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

1. Order that the parent assume sole custodial responsibilities for the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may then terminate its jurisdiction over the child.

2. Order that the parent assume custody subject to the jurisdiction of the circuit court hearing dependency matters. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the

child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child.

(c) If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department may ~~shall~~ not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

~~Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is~~

~~first. 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 shall set forth the powers of the custodian of the child and shall 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, no further judicial reviews are required, so long as permanency has been established for the child.~~

~~(7) The court may enter an order ending its jurisdiction over a child when a child has been returned to the parents, provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. The department shall supervise the placement of the child after reunification for at least 6 months with each parent or legal custodian from whom the child was removed. The court shall determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.~~

Section 7. Section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may

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change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing. If a child has been returned to the parent and is under protective supervision by the department and the child is later removed again from the parent's custody, any modifications of placement shall be done under this section.

(1) 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 there is probable cause as required in s. 39.401(1)(b). The department shall file a motion to modify placement within 1 business day after the child is taken into custody. Unless all parties agree to the change of placement, the court must set a hearing within 24 hours after the filing of the motion. At the hearing, the court shall determine whether the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral or written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. If the court finds that probable cause is not established to support the removal of the child from the placement, the court shall order that the child be returned to his or her current placement. If the caregiver admits to a need for a change of placement or probable cause is established to support the removal, the court shall enter an

order changing the placement of the child. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria in chapter 39. If the child's placement is modified based on a probable cause finding, the court must conduct a subsequent evidentiary hearing, unless waived by all parties, on the motion to determine whether the department has established by a preponderance of the evidence that maintaining the new placement of the child is in the best interest of the child. 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.

(2) ~~(1)~~ At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other party ~~interested person~~, upon the filing of a petition ~~motion~~ alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child is determined by a preponderance of the evidence that establishes that a change is in ~~shall be~~ the best interest of the child. When applying this

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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. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria and court approval under ~~pursuant to~~ this chapter.

(3) ~~(2)~~ In cases where the issue before the court is whether a child should be reunited with a parent, the court shall review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(4) ~~(3)~~ In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the standard shall be that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

Section 8. Subsection (8) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(8) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate:~~,~~ ~~not less than 3 business days before the disposition hearing.~~

(a) 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; or

(b) 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 under this subsection, or if the court does not approve the case plan at the disposition hearing.

Section 9. Paragraph (a) of subsection (3) of section 39.801, Florida Statutes, is amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

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4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified and located under s. 39.503 or s. 39.803, unless a court order has been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified and located by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND

TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 10. Paragraph (e) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; ~~or~~

2. The parent or parents have materially breached the case plan by their action or inaction. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case

plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires; or.

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(3) ~~s. 39.522(2)~~ unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

(2) 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 paragraphs (1)(b)-(d) or paragraphs (1)(f)-(n) ~~(1)(f)-(m)~~ have occurred.

Section 11. Subsection (9) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(9) After termination of parental rights or a written order of permanent commitment entered under s. 39.5035, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, 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. The department's decision to deny an application to adopt a child who is under the court's jurisdiction is reviewable only through

a motion to file a chapter 63 petition as provided in s. 39.812(4), and is not subject to chapter 120.

Section 12. Subsections (1), (4), and (5) of section 39.812, Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

(1) If the department is given custody of a child for subsequent adoption in accordance with this chapter, the department may place the child with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or in a family home for prospective subsequent adoption without the need for a court order unless otherwise required under this section. The department may allow prospective adoptive parents to visit with a child in the department's custody without a court order to determine whether the adoptive placement would be appropriate. The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption, and that consent alone shall in all cases be sufficient.

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the case is closed as provided in s. 39.63 ~~the child is adopted~~. 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, 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.

(a) If the department has denied a person's application to adopt a child, the denied applicant may file a motion with the court within 30 days after the issuance of the written notification of denial to allow him or her to file a chapter 63 petition to adopt a child without the department's consent. The denied applicant must allege in its motion that the department unreasonably withheld its consent to the adoption. The court, as part of its continuing jurisdiction, may review and rule on the motion.

1. The denied applicant only has standing in the chapter 39 proceeding to file the motion in paragraph (a) and to present evidence in support of the motion at a hearing, which must be held within 30 days after the filing of the motion.

2. At the hearing on the motion, the court may only consider whether the department's review of the application was consistent with its policies and made in an expeditious manner. The standard of review by the court is whether the department's denial of the application is an abuse of discretion. The court may not compare the denied applicant against another applicant to determine which placement is in the best interests of the child.

3. If the denied applicant establishes by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order authorizing the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

4. If the denied applicant does not prove by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order so finding

and dismiss the motion.

5. The standing of the denied applicant in the chapter 39 proceeding is terminated upon entry of the court's order.

(b) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

1.~~(a)~~ There is probable cause to believe that the child is at imminent risk of abuse or neglect;

2.~~(b)~~ Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed; ~~or~~

3.~~(c)~~ The foster parent or custodian agrees to the child's removal; or~~.~~

4. The department has selected another prospective adoptive parent to adopt the child and either the foster parent or custodian has not filed a motion with the court to allow him or her to file a chapter 63 petition to adopt a child without the department's consent, as provided under paragraph (a), or the court has denied such a motion.

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted under ~~pursuant to~~ s. 47.122. A copy of the consent executed by

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the department must be attached to the petition, unless such consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

Section 13. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.—

(7) If parental rights to the minor have previously been terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. If the minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or, in the alternative, the court order entered under s. 39.812(4) finding that the department ~~The consent of the department shall be waived upon a determination by the court that such consent is being~~ unreasonably withheld its consent must be attached to the petition to adopt, and ~~if~~ the petitioner must file ~~has filed with the court~~ a favorable preliminary adoptive home study as required under s. 63.092.


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Section 14. Paragraph (b) of subsection (6) of section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; revocation of consent.—

(6)

(b) Upon execution of the consent of the parent, the adoption entity must ~~shall~~ be permitted to intervene in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the minor, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has intervened under ~~pursuant to~~ this section. The exemption in s. 63.092(3) from the home study for a stepparent or relative does not apply if a minor is under the supervision of the department or is otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, dependency petition, or termination of parental rights petition under chapter 39. 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, the home study provided by the adoption entity is ~~shall be deemed to be~~ sufficient and no additional home study needs to be performed by the department.


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Section 15. Subsections (8) and (9) of section 402.302, Florida Statutes, are amended to read:

402.302 Definitions.—As used in this chapter, the term:

(8) "Family day care home" means an occupied primary residence leased or owned by the operator in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, are ~~shall be~~ included in the overall capacity of the licensed home. A family day care home is ~~shall be~~ allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

(9) "Household children" means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of

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the operator's household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program under ~~pursuant to~~ s. 1002.92 to be in the home.

Section 16. Paragraph (a) of subsection (7), paragraphs (b) and (c) of subsection (9), and subsection (10) of section 402.305, Florida Statutes, are amended to read:

402.305 Licensing standards; child care facilities.—

(7) SANITATION AND SAFETY.—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained and certified in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(9) ADMISSIONS AND RECORDKEEPING.—

(b) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each facility shall provide parents of


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children enrolled in the facility information regarding the potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The child care facility shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which child care facilities may choose to reproduce and provide to parents to satisfy the requirements of this paragraph.

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards for child care facilities, family day care homes, and large family child care homes ~~shall~~ include all of the following:

1. Requirements for child restraints or seat belts in vehicles used by ~~child care~~ facilities and ~~large family child care~~ homes to transport children.~~,~~

2. Requirements for annual inspections of such ~~the~~ vehicles.~~,~~

3. Limitations on the number of children which may be transported in such ~~the~~ vehicles.~~, procedures to avoid leaving children in vehicles when transported by the facility, and accountability for children transported by the child care facility~~.

(b) Before providing transportation services or reinstating transportation services after a lapse or discontinuation of longer than 30 days, a child care facility, family day care home, or large family child care home must be approved by the department to transport children. Approval by the department is


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based on the provider's demonstration of compliance with all current rules and standards for transportation.

(c) A child care facility, family day care home, or large family child care home is not responsible for the safe transport of children when they are being transported by a parent or guardian.

Section 17. Subsections (14) and (15) of section 402.313, Florida Statutes, are amended to read:

402.313 Family day care homes.—

(14) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(15) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each family day care home shall provide parents of children attending the family day care home information regarding the potential for a distracted adult to fail to drop off a child at the family day care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The family day care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the

department's website, which family day care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 18. Subsections (8), (9), and (10) of section 402.3131, Florida Statutes, are amended to read:

402.3131 Large family child care homes.—

(8) Before ~~Prior to~~ being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each large family child care home shall provide parents of children attending the large family child care home information regarding the potential for a distracted adult to fail to drop off a child at the large family child care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The large family child care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall


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develop a flyer or brochure with this information that shall be posted to the department's website, which large family child care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 19. Subsection (6) and paragraphs (b) and (e) of subsection (7) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(6) ACCOUNTABILITY.—The department shall develop outcome measures for the program and other performance measures ~~in order~~ to maintain oversight of the program. ~~No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:~~

~~(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.~~

~~(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.~~

~~(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.~~


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(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6251 and the Road-to-Independence Program. The advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

~~(b) The advisory council shall report to the secretary on the status of the implementation of the Road-to-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services, problems identified, recommendations for department or legislative action, and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2013. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.~~

~~(c) The advisory council report required under paragraph (b) must include an analysis of the system of independent living~~

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~~transition services for young adults who reach 18 years of age while in foster care before completing high school or its equivalent and recommendations for department or legislative action. The council shall assess and report on the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.~~

Section 20. This act shall take effect October 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to child welfare; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; amending s. 39.205, F.S.; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; amending s. 39.302, F.S.; requiring the department to review certain reports under certain circumstances; amending s. 39.407, F.S.; transferring certain duties to the department from the Agency for Health Care Administration; creating s. 39.5035, F.S.; providing court procedures and requirements relating to deceased parents of a dependent child; providing requirements for petitions for adjudication and permanent commitment for certain children; amending s.

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39.521, F.S.; deleting provisions relating to protective supervision; deleting provisions relating to the court's authority to enter an order ending its jurisdiction over a child under certain circumstances; amending s. 39.522, F.S.; providing requirements for a modification of placement of a child under the supervision of the department; amending s. 39.6011, F.S.; providing timeframes in which case plans must be filed with the court and be provided to specified parties; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.806, F.S.; conforming cross-references; amending s. 39.811, F.S.; expanding conditions under which a court retains jurisdiction; providing when certain decisions relating to adoption are reviewable; amending s. 39.812, F.S.; authorizing the department to take certain actions without a court order; authorizing certain persons to file a petition to adopt a child without the department's consent; providing standing requirements; providing a standard of proof; providing responsibilities of the court in such cases; amending s. 63.062, F.S.; requiring the department to consent to certain adoptions; providing exceptions; amending s. 63.082, F.S.; providing construction; amending s. 402.302, F.S.; revising definitions; amending s. 402.305, F.S.; requiring a certain number of staff persons at child care facilities to be certified in certain safety techniques; requiring child care facilities to provide certain information to parents

at the time of initial enrollment and annually thereafter; revising minimum standards for child care facilities, family day care homes, and large family child care homes relating to transportation; requiring child care facilities, family day care homes, and large family child care homes to be approved by the department to transport children in certain situations; amending s. 402.313, F.S.; requiring family day care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 402.3131, F.S.; requiring large family child care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 409.1451, F.S.; deleting a reporting requirement of the department and the Independent Living Services Advisory Council; providing an effective date.

By Senator Perry

8-01040A-20 20201548__

A bill to be entitled

An act relating to child welfare; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of specified circuit court judges; amending s. 39.01, F.S.; revising the definition of the term "parent"; amending s. 39.205, F.S.; deleting a requirement for the Department of Children and Families to report certain information to the Legislature; amending s. 39.302, F.S.; requiring the department to review certain reports under certain circumstances; amending s. 39.402, F.S.; providing requirements for the court when establishing paternity at a shelter hearing; amending s. 39.407, F.S.; transferring certain duties to the department from the Agency for Health Care Administration; amending s. 39.503, F.S.; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing that a person does not have standing under certain circumstances; creating s. 39.5035, F.S.; providing court procedures and requirements relating to deceased parents of a dependent child; providing requirements for petitions for adjudication and permanent commitment for certain children; amending s. 39.521, F.S.; deleting provisions relating to protective supervision; deleting provisions relating to the court's authority to enter an order ending its jurisdiction over a child under certain circumstances; amending s. 39.522, F.S.; providing requirements for a

modification of placement of a child under the supervision of the department; amending s. 39.6011, F.S.; providing timeframes in which case plans must be filed with the court and be provided to specified parties; creating s. 39.63, F.S.; providing procedures and requirements for closing a case under chapter 39; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.803, F.S.; revising procedures and requirements relating to the unknown identity or location of a parent of a dependent child; providing that a person does not have standing under certain circumstances; amending s. 39.806, F.S.; conforming cross-references; amending s. 39.811, F.S.; expanding conditions under which a court retains jurisdiction; providing when certain decisions relating to adoption are reviewable; amending s. 39.812, F.S.; authorizing the department to take certain actions without a court order; authorizing certain persons to file a petition to adopt a child without the department's consent; providing standing requirements; providing a standard of proof; providing responsibilities of the court in such cases; amending s. 63.062, F.S.; requiring the department to consent to certain adoptions; providing exceptions; amending s. 63.082, F.S.; providing construction; amending s. 402.302, F.S.; revising definitions; amending s. 402.305, F.S.; requiring a certain number of staff persons at child care facilities to be certified in certain safety techniques; requiring child care

facilities to provide certain information to parents at the time of initial enrollment and annually thereafter; revising minimum standards for child care facilities, family day care homes, and large family child care homes relating to transportation; requiring child care facilities, family day care homes, and large family child care homes to be approved by the department to transport children in certain situations; amending s. 402.313, F.S.; requiring family day care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 402.3131, F.S.; requiring large family child care homes to provide certain information to parents at the time of enrollment and annually thereafter; amending s. 409.1451, F.S.; deleting a reporting requirement of the department and the Independent Living Services Advisory Council; creating s. 742.0211, F.S.; defining the term "dependent child"; providing requirements and procedures for the determination of paternity when a child is dependent; providing the burden of proof for certain paternity complaints; providing applicability; providing an effective date.

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

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 have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this section:

(a) The term "domestic violence" has the meaning set forth in s. 741.28.

(b) "Family or household member" has the meaning set forth in s. 741.28.

(2) The Florida Court Educational Council shall 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, with emphasis on ensuring that a permanent placement is achieved as soon as possible and that a child should not remain in foster care for longer than 1 year. This instruction must be provided on a periodic and timely basis and may be provided by or in consultation with current or retired judges, the Department of Children and Families, or the Statewide Guardian Ad Litem Office established in s. 39.8296.

Section 2. Subsection (56) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(56) "Parent" means 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 as defined in this section. If a child has been legally

adopted, the term "parent" means the adoptive mother or father of the child. For purposes of this chapter only, when the phrase "parent or legal custodian" is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless~~:~~

~~(a) The parental status falls within the terms of s. 39.503(1) or s. 63.062(1); or~~

~~(b)~~ parental status is applied for the purpose of determining whether the child has been abandoned.

Section 3. Subsection (7) of section 39.205, Florida Statutes, is amended to read:

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

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency ~~and shall report annually to the Legislature the number of reports referred~~.

Section 4. Subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When 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, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(a) However, if such a person is a licensee of the department and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~those reports~~ and determine whether the information contained in the report ~~reports~~ is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed pursuant to s. 409.175 and is named in any capacity in a report ~~three or more reports~~ within a 5-year period, the department must ~~may~~ review the report ~~all reports~~ for the purposes of the employment screening as defined in s. 409.175(2)(m) ~~required pursuant to s. 409.145(2)(c)~~.

Section 5. Paragraph (c) of subsection (8) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(8)

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the best

interest of the child, unless the court finds that such representation is unnecessary.~~;~~

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.~~;~~

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.~~;~~ ~~and~~

4. Inquire of those present at the shelter hearing as to the identity and location of the legal father. In determining who the legal father of the child may be, the court shall inquire under oath of those present at the shelter hearing whether they have any of the following information:

a. 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.

b. Whether the mother was cohabiting with a male at the probable time of conception of the child.

c. 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.

d. 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.

e. 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.

f. Whether a man is named on the birth certificate of the child under ~~pursuant to~~ s. 382.013(2).

g. Whether a man has been determined by a court order to be the father of the child.

h. Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

5. If the inquiry under subparagraph 4. identifies a person as a legal father, as defined in s. 39.01, enter an order establishing the paternity of the child. Once an order establishing paternity has been entered, the court may not take any action to disestablish paternity in the absence of an action filed under chapter 742. An action filed under chapter 742 concerning a child who is the subject in a dependence proceeding must comply with s. 742.0211.

Section 6. Subsection (6) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only as provided in ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection

must have a guardian ad litem appointed.

(a) As used in this subsection, the term:

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the department ~~Agency for Health Care Administration~~. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified

evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report

of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 7. Section 39.503, Florida Statutes, is amended to read:

39.503 Identity or location of parent unknown; special procedures.—

(1) If the identity or location of a parent is unknown and a petition for dependency ~~or shelter~~ is filed, the court shall conduct under oath an ~~the following~~ inquiry of the parent or legal custodian who is available, or, if no parent or legal custodian is available, of any relative or custodian of the child who is present at the hearing and likely to have any of the following information:

(a) 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.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) 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.

(d) 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.

(e) 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.

(f) Whether a man is named on the birth certificate of the child under ~~pursuant to~~ s. 382.013(2).

(g) Whether a man has been determined by a court order to be the father of the child.

(h) Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person. However, notice is not required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(4) If the inquiry under subsection (1) identifies a person

as a legal father, as defined in s. 39.01, the court shall enter an order establishing the paternity of the father. Once an order establishing paternity has been entered, the court may not take any action to disestablish this paternity in the absence of an action filed under chapter 742. An action filed under chapter 742 concerning a child who is the subject in a dependence proceeding must comply with s. 742.0211.

(5) ~~(4)~~ If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice and the petitioner is relieved of performing any further search.

(6) ~~(5)~~ If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the petitioner to conduct a diligent search for that person before scheduling a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown. However, a diligent search is not required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(7) ~~(6)~~ The diligent search required by subsection (6) ~~(5)~~ must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, a

thorough search of at least one electronic database specifically designed for locating persons, a search of the Florida Putative Father Registry, and inquiries of appropriate law enforcement agencies. Pursuant to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.

(8) ~~(7)~~ Any agency contacted by a petitioner with a request for information under ~~pursuant to~~ subsection (7) must ~~(6) shall~~ release the requested information to the petitioner without the necessity of a subpoena or court order.

(9) If the inquiry and diligent search identifies and locates a parent, that person is considered a parent for all purposes under this chapter and must be provided notice of all hearings.

(10) ~~(8)~~ 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. 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 chapter ~~section~~ unless the other parent contests the determination of parenthood. A person does not 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 for a 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 a determination of parentage under chapter 742. The prospective parent may not be recognized as a parent until proceedings to determine maternity or paternity ~~under chapter 742~~ have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the ~~chapter 742~~ proceedings to determine maternity or paternity.

(11)~~(9)~~ If the diligent search under subsection (6) ~~(5)~~ fails to ~~identify and~~ locate a parent or prospective parent who was identified during the inquiry under subsection (1), the court shall so find and may proceed without further notice and the petitioner is relieved from performing any further search.

Section 8. Section 39.5035, Florida Statutes, is created to read:

39.5035 Deceased parents; special procedures.—

(1)(a)1. If both parents of a child are deceased and a legal custodian has not been appointed for the child through a probate or guardianship proceeding, then an attorney for the department or any other person, who has knowledge of the facts whether alleged or is informed of the alleged facts and believes them to be true, may initiate a proceeding by filing a petition for adjudication and permanent commitment.

2. If a child has been placed in shelter status by order of the court but has not yet been 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 first becomes aware of the facts that support the petition for adjudication and permanent commitment.

(b) If both parents or the last living parent dies after a child has already been adjudicated dependent, an attorney for the department or any other person who has knowledge of the facts alleged or is informed of the alleged facts and believes them to be true may file a petition for permanent commitment.

(2) The petition:

(a) Must be in writing, identify the alleged deceased parents, and provide facts that establish that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

(b) Must be signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) 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. The adjudicatory hearing must be held as soon as practicable after the petition is filed, but no later than 30 days after the filing date.

(4) Notice of the date, time, and place of the adjudicatory hearing and a copy of the petition must be served on the following persons:

(a) Any person who has physical custody of the child.

(b) A living relative of each parent of the child, unless a living relative cannot be found after a diligent search and

inquiry.

(c) The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

(5) 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. At the hearing, the judge must determine whether the petitioner has established by clear and convincing evidence that both parents of the child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding. A certified copy of the death certificate for each parent is sufficient evidence of proof of the parents' deaths.

(6) Within 30 days after an adjudicatory hearing on a petition for adjudication and permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order adjudicating the child dependent and permanently committing the child to the custody of the department for the purpose of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide a case plan that identifies the permanency goal for the child to the court. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold

hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, but that a preponderance of the evidence establishes that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order adjudicating the child dependent. A disposition hearing shall be scheduled no later than 30 days after the entry of the order as provided in s. 39.521.

(c) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding and that a preponderance of the evidence does not establish that the child does not have a parent or legal custodian capable of providing supervision or care, the court shall enter a written order so finding and dismissing the petition.

(7) Within 30 days after an adjudicatory hearing on a petition for permanent commitment:

(a) If the court finds that the petitioner has met the clear and convincing standard, the court shall enter a written order permanently committing the child to the custody of the department for purposes of adoption. A disposition hearing shall be scheduled no later than 30 days after the entry of the order, in which the department shall provide an amended case plan that identifies the permanency goal for the child to the court.

Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete all steps necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings every 6 months to review the progress being made toward permanency for the child.

(b) If the court finds that clear and convincing evidence does not establish that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding, the court shall enter a written order denying the petition. The order has no effect on the child's prior adjudication. The order does not bar the petitioner from filing a subsequent petition for permanent commitment based on newly discovered evidence that establishes that both parents of a child are deceased and that a legal custodian has not been appointed for the child through a probate or guardianship proceeding.

Section 9. Paragraph (c) of subsection (1) and subsections (3) and (7) of section 39.521, Florida Statutes, are amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search

having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(35)(g) demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based

drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. ~~Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. 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.~~

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(a) If the court determines that the child can safely remain in the home with the parent with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court and that remaining in this home is in the best interest of the child, then the court shall order conditions under which the child may remain or return to the home and that this placement be under the protective supervision of the department for not less than 6 months.

(b) If there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child, the court shall place the child with that parent upon completion of a home study, unless the court finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the

safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

1. Order that the parent assume sole custodial responsibilities for the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may then terminate its jurisdiction over the child.

2. Order that the parent assume custody subject to the jurisdiction of the circuit court hearing dependency matters. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child.

(c) If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department may ~~shall~~ not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

~~Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. 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 shall set forth the powers of the custodian of the child and shall 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, no further judicial reviews are required, so long as permanency has been established for the~~

~~child.~~

~~(7) The court may enter an order ending its jurisdiction over a child when a child has been returned to the parents, provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. The department shall supervise the placement of the child after reunification for at least 6 months with each parent or legal custodian from whom the child was removed. The court shall determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.~~

Section 10. Section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing. If a child has been returned to the parent and is under protective supervision by the department and the child is later removed again from the parent's custody, any modifications of placement shall be done under this section.

(1) 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 there is probable cause as required in s. 39.401(1)(b). The department shall file a motion to modify placement within 1

business day after the child is taken into custody. Unless all parties agree to the change of placement, the court must set a hearing within 24 hours after the filing of the motion. At the hearing, the court shall determine whether the department has established probable cause to support the immediate removal of the child from his or her current placement. The court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral or written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. If the court finds that probable cause is not established to support the removal of the child from the placement, the court shall order that the child be returned to his or her current placement. If the caregiver admits to a need for a change of placement or probable cause is established to support the removal, the court shall enter an order changing the placement of the child. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria in chapter 39. If the child's placement is modified based on a probable cause finding, the court must conduct a subsequent evidentiary hearing, unless waived by all parties, on the motion to determine whether the department has established by a preponderance of the evidence that maintaining the new placement of the child is in the best interest of the child. 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.

(2) ~~(1)~~ At any time before a child is residing in the permanent placement approved at the permanency hearing, a child

who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other party ~~interested person~~, upon the filing of a petition ~~motion~~ alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child is determined by a preponderance of the evidence that establishes that a change is in ~~shall be~~ 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. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria and court approval under ~~pursuant to~~ this chapter.

(3)~~(2)~~ In cases where the issue before the court is whether a child should be reunited with a parent, the court shall review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental

to the child's safety, well-being, and physical, mental, and emotional health.

(4)~~(3)~~ In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the standard shall be that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

Section 11. Subsection (8) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(8) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate:~~,~~ ~~not less than 3 business days before the disposition hearing.~~

(a) 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; or

(b) 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 under this subsection, or if the court does not approve the case plan at the disposition hearing.

Section 12. Section 39.63, Florida Statutes, is created to

read:

39.63 Case closure.—Unless s. 39.6251 applies, the court shall close the judicial case for all proceedings under this chapter by terminating protective supervision and its jurisdiction as provided in this section.

(1) If a child is placed under the protective supervision of the department, the protective supervision continues until such supervision is terminated by the court or until the child reaches the age of 18, whichever occurs first. The court shall terminate protective supervision when it determines that permanency has been achieved for the child and supervision is no longer needed. If the court adopts a permanency goal of reunification with a parent or legal custodian from whom the child was initially removed, the court must retain jurisdiction and the department must supervise the placement for a minimum of 6 months after reunification. The court shall determine whether its jurisdiction should be continued or terminated based on a report of the department or the child's guardian ad litem. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion.

(2) The order terminating protective supervision must set forth the powers of the legal custodian of the child and include the powers originally granted to a guardian of the person of a minor unless otherwise specified.

(3) Upon the court's termination of supervision by the department, further judicial reviews are not required.

(4) The court must enter a written order terminating its jurisdiction over a child when the child is returned to his or her parent. However, the court must retain jurisdiction over the

child for a minimum of 6 months after reunification and may not terminate its jurisdiction until the court determines that protective supervision is no longer needed.

(5) If a child was not removed from the home, the court must enter a written order terminating its jurisdiction over the child when the court determines that permanency has been achieved.

(6) If a child is placed in the custody of a parent and the court determines that reasonable efforts to reunify the child with the other parent are not required, the court may, at any time, order that the custodial parent assume sole custodial responsibilities for the child, provide for reasonable visitation by the noncustodial parent, and terminate its jurisdiction over the child. If the court previously approved a case plan that requires services to be provided to the noncustodial parent, the court may not terminate its jurisdiction before the case plan expires unless the court finds by a preponderance of the evidence that it is not likely that the child will be reunified with the noncustodial parent within 12 months after the child was removed from the home.

(7) When a child has been adopted under a chapter 63 proceeding, the court must enter a written order terminating its jurisdiction over the child in the chapter 39 proceeding.

Section 13. Paragraph (a) of subsection (3) of section 39.801, Florida Statutes, is amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the

following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified and located under s. 39.503 or s. 39.803, unless a court order has been entered under s. 39.503(5) or (11) or s. 39.803(5) or (11) ~~pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9)~~ which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified and located by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best

interests of the child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 14. Section 39.803, Florida Statutes, is amended to read:

39.803 Identity or location of parent unknown after filing of termination of parental rights petition; special procedures.—

(1) If the identity or location of a parent is unknown, ~~and~~ a petition for termination of parental rights is filed, and the court has not previously conducted an inquiry or entered an order relieving the petitioner of further search or notice under s. 39.503, the court shall conduct under oath the following inquiry of the parent who is available, or, if no parent is available, of any relative, caregiver, or legal custodian of the child who is present at the hearing and likely to have the information:

(a) 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.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) 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.

(d) 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.

(e) 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.

(f) Whether a man is named on the birth certificate of the child under ~~pursuant to~~ s. 382.013(2).

(g) Whether a man has been determined by a court order to be the father of the child.

(h) Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent and that person's location is known, the court shall require notice of the hearing to be provided to that person. However, notice is not required to be provided to a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(4) If the inquiry under subsection (1) identifies a person as a legal father, as defined in s. 39.01, the court shall enter an order establishing the paternity of the father. Once an order establishing paternity has been entered, the court may not take any action to disestablish this paternity in the absence of an action filed under chapter 742. An action filed under chapter 742 concerning a child who is the subject in a dependence proceeding must comply with s. 742.0211.

(5)~~(4)~~ If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice and the petitioner is relieved of performing any further search.

(6)~~(5)~~ If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the petitioner to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the petition for termination of parental rights to the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown. However, a diligent search is not required to be conducted for a prospective parent if there is an identified legal father, as defined in s. 39.01, of the child.

(7)~~(6)~~ The diligent search required by subsection (6) ~~(5)~~ must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or

prospective parent, inquiries of appropriate utility and postal providers, a thorough search of at least one electronic database specifically designed for locating persons, a search of the Florida Putative Father Registry, and inquiries of appropriate law enforcement agencies. Pursuant to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.

(8) ~~(7)~~ Any agency contacted by petitioner with a request for information under ~~pursuant to~~ subsection (7) ~~(6)~~ shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(9) If the inquiry and diligent search identifies and locates a parent, that person is considered a parent for all purposes under this chapter and must be provided notice of all hearings.

(10) ~~(8)~~ 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. 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 the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this chapter ~~section~~. A person does not have standing to file a sworn affidavit of parenthood or otherwise establish parenthood, except through adoption, after the entry

of a judgment terminating the parental rights of the legal father for a 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 a determination of parentage proceeding under chapter 742. The prospective parent may not be recognized as a parent until proceedings to determine maternity or paternity have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the proceedings to determine maternity or paternity.

(11) ~~(9)~~ If the diligent search under subsection (6) ~~(5)~~ fails to ~~identify and~~ locate a parent or prospective parent who was identified during the inquiry under subsection (1), the court shall so find and may proceed without further notice and the petitioner is relieved from performing any further search.

Section 15. Paragraph (e) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with

the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; ~~or~~

2. The parent or parents have materially breached the case plan by their action or inaction. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires; or~~.~~

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(3) ~~s. 39.522(2)~~ unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

(2) 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 paragraphs (1)(b)-(d) or paragraphs (1)(f)-(n) ~~(1)(f)-(m)~~ have occurred.

Section 16. Subsection (9) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(9) After termination of parental rights or a written order of permanent commitment entered under s. 39.5035, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, 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. The department's decision to deny an application to adopt a child who is under the court's jurisdiction is reviewable only through a motion to file a chapter 63 petition as provided in s. 39.812(4), and is not subject to chapter 120.

Section 17. Subsections (1), (4), and (5) of section 39.812, Florida Statutes, are amended to read:

39.812 Postdisposition relief; petition for adoption.—

(1) If the department is given custody of a child for subsequent adoption in accordance with this chapter, the department may place the child with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or in a family home for prospective subsequent adoption without the need for a court order unless otherwise required under this section. The department may allow prospective adoptive parents to visit with a child in the department's custody without a court order to determine whether the adoptive placement would be appropriate. The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to

the adoption, and that consent alone shall in all cases be sufficient.

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the case is closed as provided in s. 39.63 ~~the child is adopted~~. 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, 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.

(a) If the department has denied a person's application to adopt a child, the denied applicant may file a motion with the court within 30 days after the issuance of the written notification of denial to allow him or her to file a chapter 63 petition to adopt a child without the department's consent. The denied applicant must allege in its motion that the department unreasonably withheld its consent to the adoption. The court, as part of its continuing jurisdiction, may review and rule on the motion.

1. The denied applicant only has standing in the chapter 39 proceeding to file the motion in paragraph (a) and to present evidence in support of the motion at a hearing, which must be held within 30 days after the filing of the motion.

2. At the hearing on the motion, the court may only consider whether the department's review of the application was consistent with its policies and made in an expeditious manner. The standard of review by the court is whether the department's

denial of the application is an abuse of discretion. The court may not compare the denied applicant against another applicant to determine which placement is in the best interests of the child.

3. If the denied applicant establishes by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order authorizing the denied applicant to file a petition to adopt the child under chapter 63 without the department's consent.

4. If the denied applicant does not prove by a preponderance of the evidence that the department unreasonably withheld its consent, the court shall enter an order so finding and dismiss the motion.

5. The standing of the denied applicant in the chapter 39 proceeding is terminated upon entry of the court's order.

(b) When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

1.~~(a)~~ There is probable cause to believe that the child is at imminent risk of abuse or neglect;

2.~~(b)~~ Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed; ~~or~~

3.~~(c)~~ The foster parent or custodian agrees to the child's removal; or~~.~~

4. The department has selected another prospective adoptive parent to adopt the child and either the foster parent or custodian has not filed a motion with the court to allow him or her to file a chapter 63 petition to adopt a child without the department's consent, as provided under paragraph (a), or the court has denied such a motion.

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted under ~~pursuant to~~ s. 47.122. A copy of the consent executed by the department must be attached to the petition, unless such consent is waived under subsection (4) ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

Section 18. Subsection (7) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.—

(7) If parental rights to the minor have previously been

terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. If the minor has been permanently committed to the department for subsequent adoption, the department must consent to the adoption or, in the alternative, the court order entered under s. 39.812(4) finding that the department ~~The consent of the department shall be waived upon a determination by the court that such consent is being~~ unreasonably withheld its consent must be attached to the petition to adopt, and ~~if~~ the petitioner must file ~~has filed with the court~~ a favorable preliminary adoptive home study as required under s. 63.092.

Section 19. Paragraph (b) of subsection (6) of section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; revocation of consent.—

(6)

(b) Upon execution of the consent of the parent, the adoption entity is ~~shall be~~ permitted to intervene in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the minor, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has

intervened under ~~pursuant to~~ this section. The exemption in s. 63.092(3) from the home study for a stepparent or relative does not apply if a minor is under the supervision of the department or is otherwise subject to the jurisdiction of the dependency court as a result of the filing of a shelter petition, dependency petition, or termination of parental rights petition under chapter 39. 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, the home study provided by the adoption entity is ~~shall be deemed to be~~ sufficient and no additional home study needs to be performed by the department.

Section 20. Subsections (8) and (9) of section 402.302, Florida Statutes, are amended to read:

402.302 Definitions.—As used in this chapter, the term:

(8) "Family day care home" means an occupied primary residence leased or owned by the operator in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, are ~~shall be~~ included in the overall capacity of the licensed home. A family day care home is ~~shall be~~ allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

(9) "Household children" means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of the operator's household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program under ~~pursuant to~~ s. 1002.92 to be in the home.

Section 21. Paragraph (a) of subsection (7), paragraphs (b) and (c) of subsection (9), and subsection (10) of section 402.305, Florida Statutes, are amended to read:

402.305 Licensing standards; child care facilities.—

(7) SANITATION AND SAFETY.—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained and certified in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(9) ADMISSIONS AND RECORDKEEPING.—

(b) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each facility shall provide parents of children enrolled in the facility information regarding the potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The child care facility shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which child care facilities may choose to reproduce and provide to parents to satisfy the requirements of this paragraph.

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards for child care facilities, family day care homes, and large family child care homes ~~shall~~ include all of the following:

1. Requirements for child restraints or seat belts in vehicles used by ~~child care~~ facilities and ~~large family child care~~ homes to transport children.~~,~~

2. Requirements for annual inspections of such ~~the~~ vehicles.~~,~~

3. Limitations on the number of children which may be transported in such ~~the~~ vehicles.~~,~~

4. Procedures to ensure that ~~avoid leaving~~ children are not inadvertently left in vehicles when transported by a ~~the~~ facility or home, and that systems are in place to ensure accountability for children transported by such facilities or homes ~~the child care facility~~.

(b) Before providing transportation services or reinstating transportation services after a lapse or discontinuation of longer than 30 days, a child care facility, family day care home, or large family child care home must be approved by the department to transport children. Approval by the department is based on the provider's demonstration of compliance with all current rules and standards for transportation.

(c) A child care facility, family day care home, or large family child care home is not responsible for the safe transport of children when they are being transported by a parent or guardian.

Section 22. Subsections (14) and (15) of section 402.313, Florida Statutes, are amended to read:

402.313 Family day care homes.—

(14) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of

immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(15) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each family day care home shall provide parents of children attending the family day care home information regarding the potential for a distracted adult to fail to drop off a child at the family day care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The family day care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which family day care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 23. Subsections (8), (9), and (10) of section 402.3131, Florida Statutes, are amended to read:

402.3131 Large family child care homes.—

(8) Before ~~Prior to~~ being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) At the time of initial enrollment and annually thereafter ~~During the months of August and September of each year~~, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an

effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) At the time of initial enrollment and annually thereafter ~~During the months of April and September of each year~~, at a minimum, each large family child care home shall provide parents of children attending the large family child care home information regarding the potential for a distracted adult to fail to drop off a child at the large family child care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The large family child care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which large family child care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

Section 24. Subsection (6) and paragraphs (b) and (e) of subsection (7) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(6) ACCOUNTABILITY.—The department shall develop outcome measures for the program and other performance measures ~~in order~~ to maintain oversight of the program. ~~No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with~~

~~jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:~~

~~(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.~~

~~(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.~~

~~(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.~~

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6251 and the Road-to-Independence Program. The advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

~~(b) The advisory council shall report to the secretary on the status of the implementation of the Road-to-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services, problems identified, recommendations for department or legislative~~

~~action, and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2013. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes a summary of the factors reported on by the council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or provides the department's rationale for not implementing the recommendations.~~

~~(c) The advisory council report required under paragraph (b) must include an analysis of the system of independent living transition services for young adults who reach 18 years of age while in foster care before completing high school or its equivalent and recommendations for department or legislative action. The council shall assess and report on the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.~~

Section 25. Section 742.0211, Florida Statutes, is created to read:

742.0211 Proceedings applicable to dependent children.—

(1) As used in this section, the term "dependent child" means a child who is the subject of any proceeding under chapter 39.

(2) In addition to the other requirements of this chapter, any paternity proceeding filed under this chapter that concerns

a dependent child must also comply with the requirements of this section.

(3) Notwithstanding s. 742.021(1), a paternity proceeding filed under this chapter that concerns 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 defendant do not reside in that county.

(4) The court having jurisdiction over the dependency matter may conduct any paternity proceeding filed under this chapter either as part of the chapter 39 proceeding or as a separate action under this chapter.

(5) A person does not have standing to file a complaint under this chapter after the entry of a judgment terminating the parental rights of the legal father, as defined in s. 39.01, for the dependent child in the chapter 39 proceeding.

(6) The court must hold a hearing on the complaint concerning a dependent child as required under s. 742.031 within 30 days after the complaint is filed.

(7)(a) If the dependent child has a legal father, as defined in s. 39.01, and a different man, who has reason to believe that he is the father of the dependent child, has filed a complaint to establish paternity under this chapter and disestablish the paternity of the legal father, the alleged father must prove at the hearing held under s. 742.031 that:

1. He has acted with diligence in seeking the establishment of paternity.

2. He is the father of the dependent child.

3. He has manifested a substantial and continuing concern for the welfare of the dependent child.

(b) If the alleged father establishes the facts under paragraph (a), he must then prove by clear and convincing evidence that there is a clear and compelling reason to disestablish the legal father's paternity and instead establish paternity with him by considering the best interest of the dependent child.

(c) There is a rebuttable presumption that it is not in the dependent child's best interest to disestablish the legal father's paternity if:

1. The dependent child has been the subject of a chapter 39 proceeding for 12 months or more before the alleged father files a complaint under this chapter.

2. The alleged father does not pass a preliminary home study as required under s. 63.092 to be a placement for the dependent child.

(8) The court must enter a written order on the paternity complaint within 30 days after the conclusion of the hearing.

(9) If the court enters an order disestablishing the paternity of the legal father and establishing the paternity of the alleged father, then that person shall be considered a parent, as defined in s. 39.01, for all purposes of the chapter 39 proceeding.

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__

A bill to be entitled

An act relating to the First Responders Suicide Deterrence Task Force; amending s. 14.2019, F.S.; establishing the task force adjunct to the Statewide Office for Suicide Prevention of the Department of Children and Families; specifying the task force's purpose; providing for the composition and the duties of the task force; requiring the task force to submit reports to the Governor and the Legislature on an annual basis; providing for future repeal; providing an effective date.

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

Section 1. Subsection (5) is added to section 14.2019, Florida Statutes, to read:

14.2019 Statewide Office for Suicide Prevention.—

(5) The First Responders Suicide Deterrence Task Force, a task force as defined in s. 20.03(8), is created adjunct to the Statewide Office for Suicide Prevention.

(a) The purpose of the task force is to make recommendations on how to reduce the incidence of suicide and attempted suicide among employed or retired first responders in this state.

(b) The task force is composed of a representative of the statewide office and a representative of each of the following first responder organizations, nominated by the organization and appointed by the Secretary of Children and Families:

1. The Florida Professional Firefighters.

2. The Florida Police Benevolent Association: Florida Highway Patrol Bargaining Unit.

3. The Florida Police Benevolent Association: Law Enforcement Bargaining Unit.

4. The Florida Sheriffs Association.

5. The Florida Police Chiefs Association.

(c) The task force shall elect a chair from among its membership. Except as otherwise provided, the task force shall operate in a manner consistent with s. 20.052.

(d) The task force shall identify or make recommendations on developing training programs and materials that would better enable first responders to cope with personal life stressors and stress related to their profession and foster an organizational culture that:

1. Promotes mutual support and solidarity among active and retired first responders;

2. Trains agency supervisors and managers to identify suicidal risk among active and retired first responders;

3. Improves the use and awareness of existing resources among active and retired first responders; and

4. Educates active and retired first responders on suicide awareness and help-seeking.

(e) The task force shall identify state and federal public resources, funding and grants, first responder association resources, and private resources to implement identified training programs and materials.

(f) The task force shall report on its findings and recommendations for training programs and materials to deter suicide among active and retired first responders to the

Governor, the President of the Senate, and the Speaker of the House of Representatives by each July 1, beginning in 2021, and through 2023.

(g) This subsection is repealed July 1, 2023.

Section 2. This act shall take effect July 1, 2020.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 1586
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 28, 2020
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE			1/28/2020 1 Amendment 424344		1/28/2020 2 Amendment 526956			
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
		Wright						
X		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	**TOTALS**	RCS	-	RCS	-		
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

THE FLORIDA SENATE

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 343 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.

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

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.
Street

Phone 407-468-6622

Melbourne Beach, FL 32951
City *State* *Zip*

Email ray@ffca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Fire Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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)

Amendment Barcode (if applicable)

Topic First Responders Suicide Prevention

Name Gary Bradford

Job Title Lobbyist

Address 300 East Brevard St
Street

Talla FL 32301
City *State* *Zip*

Phone 222-3329

Email gary@flpba.org

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)

Meeting Date

1586
Bill Number (if applicable)

424344
Amendment Barcode (if applicable)

Topic PTSD / Suicide

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza
Street

Phone 850-766-8808

Tallahassee FL 32301
City State Zip

Email foplegislative@aol.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 in 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__

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; revising definitions; amending s. 39.0135, F.S.; requiring that child support payments be deposited into specified trust funds; amending s. 39.202, F.S.; authorizing the Agency for Health Care Administration to access certain records; amending s. 39.407, F.S.; authorizing the Department of Children and Families to place children in a specified program without court approval; defining the term "qualifying assessment" and revising definitions; providing applicability; requiring an assessment by a specified professional in order to be placed in a program; requiring assessment within a specified timeframe; requiring that an assessment be provided to certain persons; requiring the department to submit a specified report to the court; requiring the court to approve program placement for a child; authorizing the department to adopt rules relating to the program; amending s. 39.6011, F.S.; requiring certain documentation in the case plan when a child is placed in a qualified residential treatment program; amending s. 39.6221, F.S.; revising the conditions under which a court determines permanent guardian placement for a child; amending s. 39.6251, F.S.; specifying certain facilities that are not considered a supervised living arrangement; requiring a supervised living arrangement to be voluntary; amending s. 61.30, F.S.; providing a presumption for child support in proceedings under

chapter 39; amending s. 409.145, F.S.; requiring certain screening requirements for residential group home employees and caregivers; requiring a written agreement to modify foster care room and board rates; providing an exception; repealing s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs; creating s. 409.16765, F.S.; defining the term "qualified residential treatment program"; providing requirements for qualified residential treatment programs; providing responsibilities for community-based care lead agencies; providing placement timeframes for the qualified residential treatment program; requiring the department to adopt rules; amending s. 409.1678, F.S.; revising a requirement and an authorization for safe houses; repealing s. 409.1679, F.S., relating to comprehensive residential group care requirements and reimbursement; amending s. 409.175, F.S.; revising definitions; amending ss. 39.301, 39.302, 39.402, 39.501, and 39.6013, F.S.; making technical and conforming changes; providing an effective date.

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

Section 1. Subsections (11) and (67) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(11) "Case plan" means a document, as described in s. 39.6011, prepared by the department with input from all parties. The case plan follows the child from the provision of preventive ~~voluntary~~ services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(67) "Preventive services" means social services and other supportive and rehabilitative services provided, either voluntarily or by court order, to the parent or legal custodian of the child and to the child or on behalf of the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's developmental needs and need for physical, mental, and emotional health and a safe, stable, living environment; shall promote family autonomy; and shall strengthen family life, whenever possible.

Section 2. Section 39.0135, Florida Statutes, is amended to read:

39.0135 Federal Grants and Operations and Maintenance Trust Funds ~~Fund~~.—The department shall deposit all child support payments made to the department, equaling the cost of care, under ~~pursuant to~~ this chapter into the Federal Grants Trust Fund for Title IV-E eligible children and the Operations and Maintenance Trust Fund for children ineligible for Title IV-E. If the child support payment does not equal the cost of care, the total amount of the payment shall be deposited into the appropriate trust fund. The purpose of this funding is to care

for children who are committed to the temporary legal custody of the department.

Section 3. Paragraphs (a) and (h) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

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

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapters 393 and 394 ~~chapter 393~~, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for employees ~~caregivers~~ in residential group homes licensed by the department, the Agency for Persons with Disabilities, or the Agency for Health Care

Administration; or

7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, under ~~pursuant to~~ chapters 984 and 985.

(h) Any appropriate official of the department, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

Section 4. Subsection (6) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the

court, in a residential treatment center licensed under s. 394.875, a qualified residential treatment program as defined in s. 409.16765, or a hospital licensed under chapter 395 for residential mental health treatment only under ~~pursuant to~~ this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered under ~~pursuant to~~ s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

(a) As used in this subsection, the term:

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875, a qualified residential treatment program defined in s. 409.16765, or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to

residential treatment is unavailable.

4. "Qualifying assessment" means a determination by a department-approved functional assessment concerning a child or adolescent who has an emotional disturbance or a serious emotional disturbance or mental illness, as those terms are defined in s. 394.492, for recommended placement in a qualified residential treatment program under s. 409.16765.

(b)1. If ~~Whenever~~ the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the Agency for Health Care Administration. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program. This paragraph does not apply to a child who may need placement in a qualified residential treatment program.

2.~~(c)~~ Before a child is admitted under this paragraph ~~subsection~~, the child must ~~shall~~ be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

a.~~1.~~ The child appears to have an emotional disturbance serious enough to require residential treatment and is

reasonably likely to benefit from the treatment.

b.~~2.~~ The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

c.~~3.~~ All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

3. A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(c)1. If the department believes that a child in its legal custody has a serious emotional or behavioral disorder or disturbance and may need placement in a qualified residential treatment program, a qualifying assessment must be conducted by a qualified evaluator who is a trained professional with a master's degree in human services, has at least 3 years' experience working with children or adolescents involved in the child welfare system of care, and has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program. The qualifying assessment must be completed no later than 30 days after placement of the child in a qualified residential treatment program.

2. A copy of the qualifying assessment must be provided to the department; to the guardian ad litem; and, if the child is a

member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the placement recommendations with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the suitability or qualifying assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and

suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department and the guardian ad litem. The department must submit the report to the court. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held under ~~pursuant to~~ s. 39.701, the child's continued placement in residential treatment must be a subject

of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) In addition to the requirements of paragraphs (g) and (h), within 60 days after initial placement in a qualified residential treatment program, the court must approve or disapprove the placement based on the qualified assessment, determination, and documentation made by the qualified evaluator, as well as any other factors the court deems fit.

(j)1.~~(i)~~ The department must adopt rules for implementing timeframes for the completion of suitability and qualifying assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

2. The department may adopt rules relating to the assessment tool, the placement recommendations from the

assessment, and the training criteria for qualified evaluators in order to administer this section.

Section 5. Subsections (6) through (9) of section 39.6011, Florida Statutes, are redesignated as subsections (7) through (10), respectively, and a new subsection (6) is added to that section, to read:

39.6011 Case plan development.—

(6) When a child is placed in a qualified residential treatment program, the case plan must include documentation outlining the most recent assessment for a qualified residential treatment program, the date of the most recent placement in a qualified residential treatment program, the treatment or service needs of the child, and preparation for the child to return home or be in an out-of-home placement. If a child is placed in a qualified residential treatment program for longer than the timeframes described in s. 409.16765, a copy of the signed approval of such placement by the department must be included in the case plan.

Section 6. Paragraph (a) of subsection (1) of section 39.6221, Florida Statutes, is amended to read:

39.6221 Permanent guardianship of a dependent child.—

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

(a) The child has been in the placement for not less than the preceding 6 months, or the preceding 3 months if the caregiver has been named as the successor guardian on the

child's Guardianship Assistance Agreement.

Section 7. Paragraph (a) of subsection (4) of section 39.6251, Florida Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(4)(a) The young adult must reside in a supervised living environment that is approved by the department or a community-based care lead agency. The young adult shall live independently, but in an environment in which he or she is provided supervision, case management, and supportive services by the department or lead agency. Such an environment must offer developmentally appropriate freedom and responsibility to prepare the young adult for adulthood. For the purposes of this subsection, a supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement if the arrangement is approved by the community-based care lead agency and is acceptable to the young adult. A young adult may continue to reside with the same licensed foster family or group care provider with whom he or she was residing at the time he or she reached the age of 18 years. A supervised living arrangement may not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children or young adults who are determined to be delinquent. A young adult may not reside in any setting in which the young adult is involuntarily placed.

Section 8. Paragraph (a) of subsection (1) of section 61.30, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

61.30 Child support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter, except as provided in paragraph (d). The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

(d) In a proceeding under chapter 39, if the child is in an out-of-home placement, the presumptively correct amount of periodic support is 10 percent of the obligor's actual or imputed gross income. The court may deviate from this presumption as provided in paragraph (a).

Section 9. Paragraph (e) of subsection (2) and paragraph (f) of subsection (4) of section 409.145, Florida Statutes, are

amended, and a new paragraph (h) is added to subsection (4) of that section, to read:

409.145 Care of children; quality parenting; "reasonable and prudent parent" standard.—The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment using the "reasonable and prudent parent" standard.

(2) QUALITY PARENTING.—A child in foster care shall be placed only with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion and ethnicity, special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies shall provide such caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

(e) *Employees* ~~*caregivers*~~ *employed by residential group homes.*—All employees, including persons who do not work directly with children, of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 standards for screening under chapter 435. All caregivers in residential group homes must ~~shall~~ meet, at a minimum, the same education and~~,~~ training~~, and background and other screening~~ requirements as foster parents.

(4) FOSTER CARE ROOM AND BOARD RATES.—

(f) Excluding level I family foster homes, the amount of the monthly foster care room and board rate may be increased upon agreement among the department, the community-based care lead agency, and the foster parent.

(h) All room and board rate increases, excluding increases under paragraph (b), must be outlined in a written agreement between the department and the community-based care lead agency.

Section 10. Section 409.1676, Florida Statutes, is repealed.

Section 11. Section 409.16765, Florida Statutes, is created to read:

409.16765 Qualified residential treatment programs.—

(1) As used in this section, the term "qualified residential treatment program" means a residential group home environment that provides care for a child who has an emotional disturbance or a serious emotional disturbance or mental illness, as those terms are defined in s. 394.492.

(2) A qualified residential treatment program shall, subject to available resources, meet the following requirements:

(a) Provide a safe and therapeutic environment tailored to the needs of children with emotional or behavioral health problems.

(b) Use a model of treatment that includes a strength-based and trauma-informed approach.

(c) Be licensed as a residential child-caring agency as defined in s. 409.175.

(d) Be accredited by an accrediting organization under s. 472(k)(4)(g) of the Social Security Act.

(e) Have available, 24 hours a day, registered or licensed nursing and clinical staff based on the child's treatment plan.

(f) Provide aftercare services or supports to all children who are discharged from the program.

(3) The community-based care lead agency shall:

(a) Ensure each child who is placed in a qualified residential treatment program receives a qualifying assessment, as defined in s. 39.407, no later than 30 days after placement in the program.

(b) Maintain documentation of a child's placement in a qualified residential treatment program as specified in s. 39.6011(6).

(c) Not place a child in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or if the child is under the age of 13 years, for more than 6 months, whether consecutive or nonconsecutive, without the signed approval of the department for the continued placement.

(4) The department shall adopt rules necessary to administer this section.

Section 12. Paragraph (c) of subsection (2) of section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.—

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must

also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group child victims of commercial sexual exploitation by age or maturity level.

4. If a safe house, care for child victims of commercial sexual exploitation ~~in a manner that separates those children from children with other needs~~. ~~Safe houses and~~ Safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

5. Have awake staff members on duty 24 hours a day, if a safe house.

6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

Section 13. Section 409.1679, Florida Statutes, is repealed.

Section 14. Paragraphs (l) and (m) of subsection (2) of section 409.175, Florida Statutes, are amended to read:

409.175 Licensure of family foster homes, residential

child-caring agencies, and child-placing agencies; public records exemption.—

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

(l) "Residential child-caring agency" means any person, corporation, or agency, public or private, other than the child's parent or legal guardian, that provides staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such residential child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in private residences, qualified residential treatment programs as defined in s. 409.16765, human trafficking safe houses as defined in s. 409.1678, at-risk homes, and wilderness camps. Residential child-caring agencies do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth, or facilities licensed under s. 393.067 or s. 394.875 or chapter 397.

(m) "Screening" means the act of assessing the background of personnel or level II through level V family foster homes and includes, but is not limited to, criminal history checks as provided in s. 39.0138 and employment history checks as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.

Section 15. Paragraph (a) of subsection (14) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(14)(a) If the department or its agent determines that a child requires immediate or long-term protection through medical or other health care or homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program, such services shall first be offered for voluntary acceptance unless:

1. There are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Such factors may include the parents' or legal custodians' young age or history of substance abuse, mental illness, or domestic violence; or

2. There is a high likelihood of lack of compliance with <u>preventive</u> ~~voluntary~~ services, and such noncompliance would result in the child being unsafe.

Section 16. Paragraph (b) of subsection (7) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(7) When 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, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers.

(b) Likewise, if a person is employed as a caregiver in a

residential group home licensed under ~~pursuant to~~ s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all reports for the purposes of the employment screening required under s. 409.175(2)(m) ~~pursuant to s. 409.145(2)(c)~~.

Section 17. Subsection (15) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(15) The department, at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking preventive ~~voluntary~~ services any referral information necessary for participation in such identified services to allow the parents or legal custodians to begin the services as soon as possible. The parents' or legal custodians' participation in the services may not be considered an admission or other acknowledgment of the allegations in the shelter petition.

Section 18. Paragraph (d) of subsection (3) of section 39.501, Florida Statutes, is amended to read:

39.501 Petition for dependency.—

(3)

(d) The petitioner must state in the petition, if known, whether:

1. A parent or legal custodian named in the petition has previously unsuccessfully participated in preventive ~~voluntary~~ services offered by the department;

2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent or legal custodian has rejected the preventive

~~voluntary~~ services offered by the department;

4. A parent or legal custodian named in the petition has not fully complied with a safety plan; or

5. The department has determined that preventive ~~voluntary~~ services are not appropriate for the parent or legal custodian and the reasons for such determination.

If the department is the petitioner, it shall provide all safety plans as defined in s. 39.01 involving the parent or legal custodian to the court.

Section 19. Subsection (8) of section 39.6013, Florida Statutes, is amended to read:

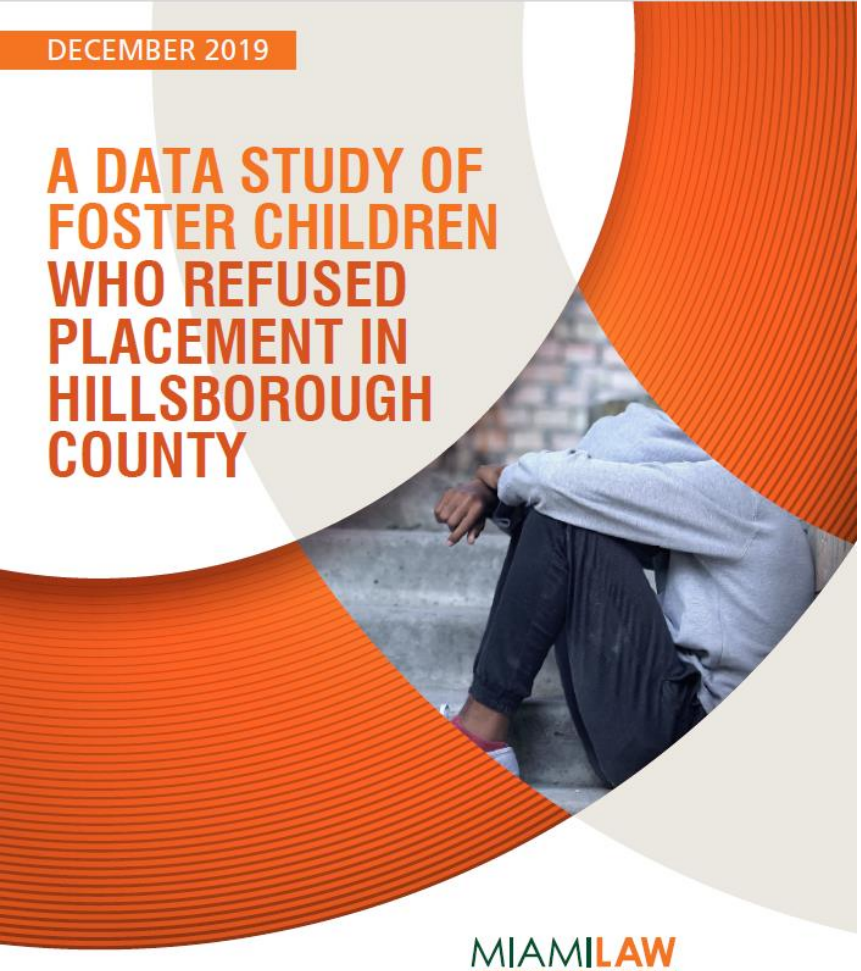
39.6013 Case plan amendments.—

(8) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.6011(8)(c) ~~s. 39.6011(7)(c)~~.

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

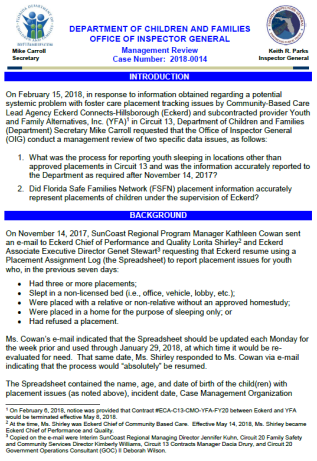
Children refusing placement in foster care system

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)



DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF INSPECTOR GENERAL
Management Review
Case Number: 2018-0014

Mike Carroll
Secretary

Keith R. Parks
Inspector General

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)[1] in Circuit 13, Department of Children and Families (Department) Secretary Mike Carroll 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 Lonita Shirley[2] and Eckerd Associate Executive Director Genet Stewart[3] 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.

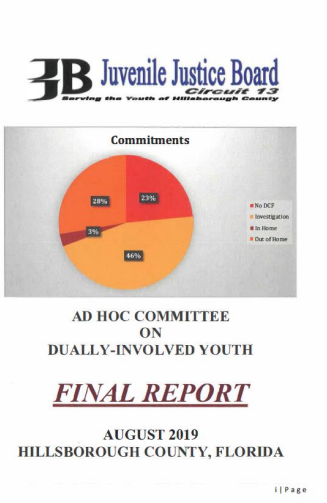
Ms. Cowan's e-mail indicated that the Spreadsheet should be updated each Monday for the week prior and used through January 29, 2018, at which time it would be re-evaluated for need. That same date, Ms. Shirley responded to Ms. Cowan via e-mail indicating that the process would "absolutely" be resumed.

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 6, 2018, notice was provided that Contract #ECA-C13-CMO-YFA-FY20 between Eckerd and YFA would be terminated effective May 8, 2018.
[2] Lonita Shirley became effective May 14, 2018, Chief of Community Based Care. Effective May 14, 2018, Ms. Shirley became Eckerd Chief of Performance and Quality.
[3] Copied on the e-mail were Interim SunCoast Regional Managing Director Jennifer Kuhn, Circuit 20 Family Safety and Community Services Director Kimberly Williams, Circuit 13 Contracts Manager Dacia Drury, and Circuit 20 Government Operations Consultant (GOC) II Deborah Wilson.

1

REPORT OF THE AD HOC COMMITTEE ON DUALLY INVOLVED YOUTH, CIRCUIT 13 JUVENILE JUSTICE BOARD (2019)



JB Juvenile Justice Board
Circuit 13
Serving the Youth of Hillsborough County

AD HOC COMMITTEE
ON
DUALLY-INVOLVED YOUTH

FINAL REPORT

AUGUST 2019
HILLSBOROUGH COUNTY, FLORIDA

i | Page

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.*

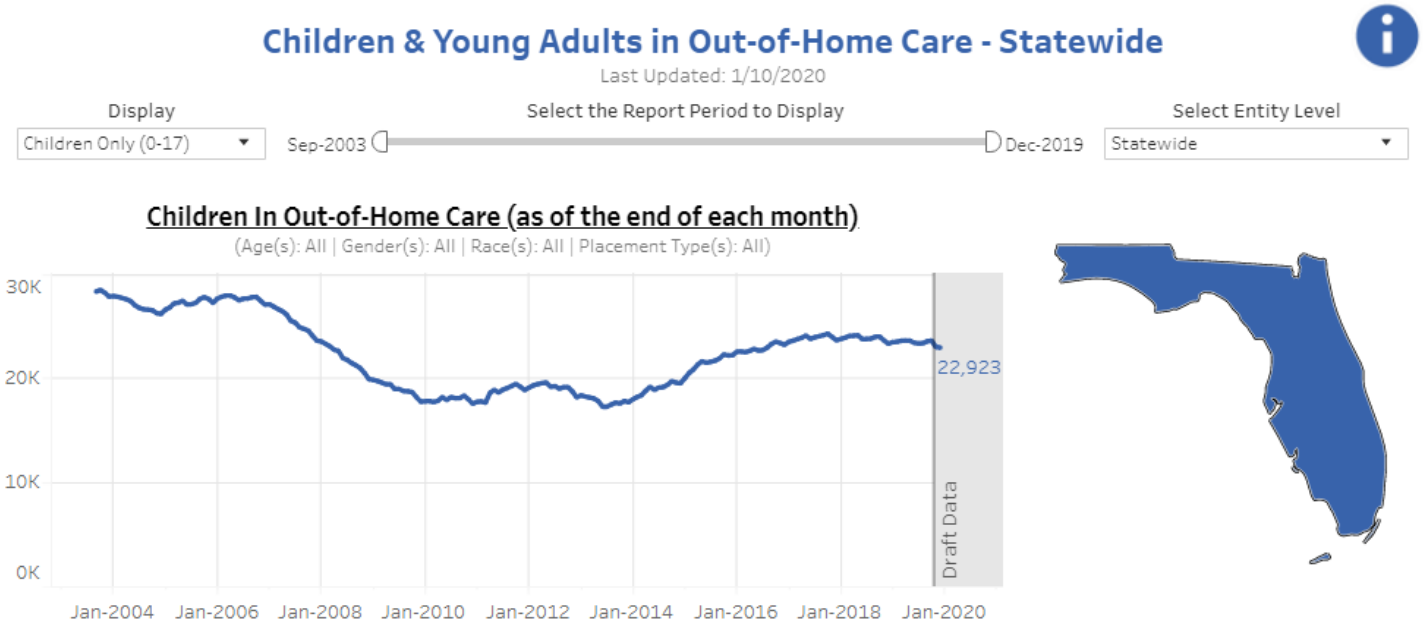
Ad Hoc Committee Recommendations

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



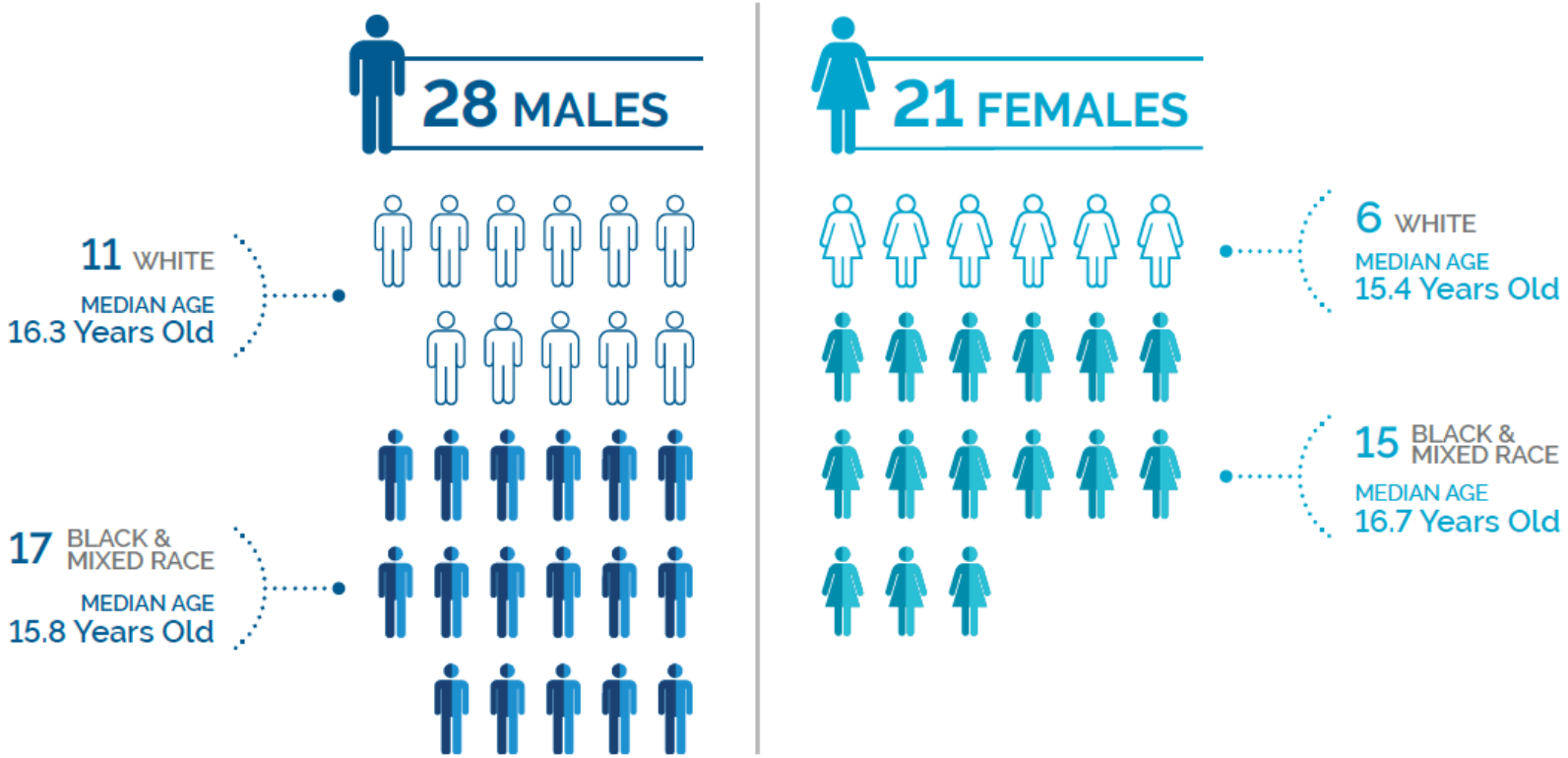
The Placement Public Data: 210,000 children & 1,155,000 data entries

#	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	Placement Refusal	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

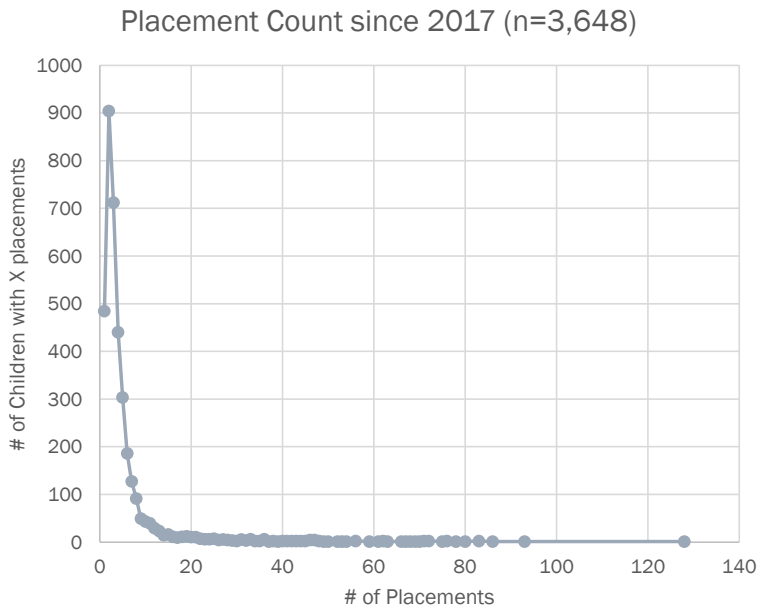
2X FARTHER THAN OTHER UNSTABLE CHILDREN
15X FARTHER THAN TYPICAL TEENAGERS

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

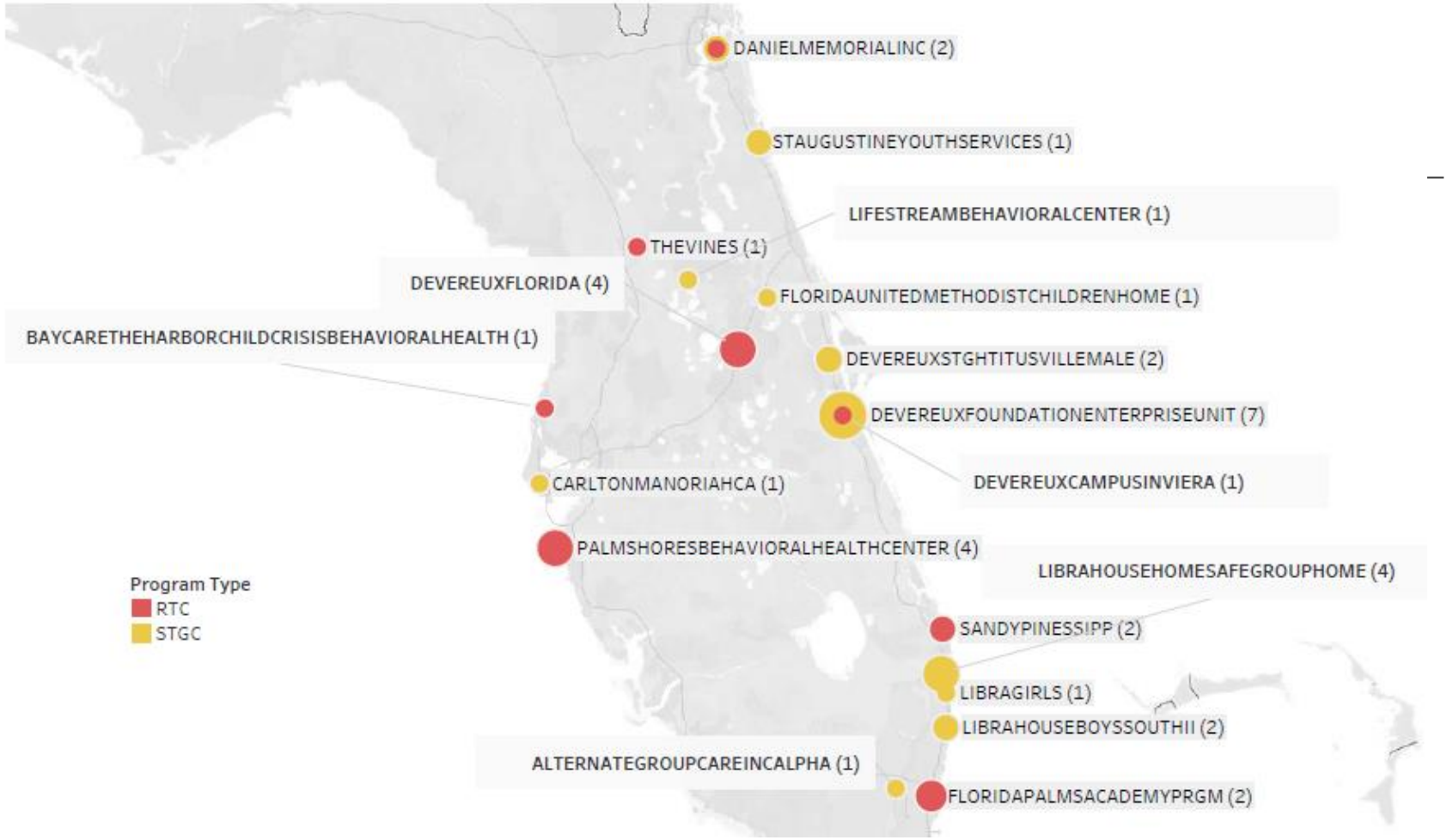
Extremely Unstable Placement Patterns

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
[illegible]	17	9.9	65.4%		

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

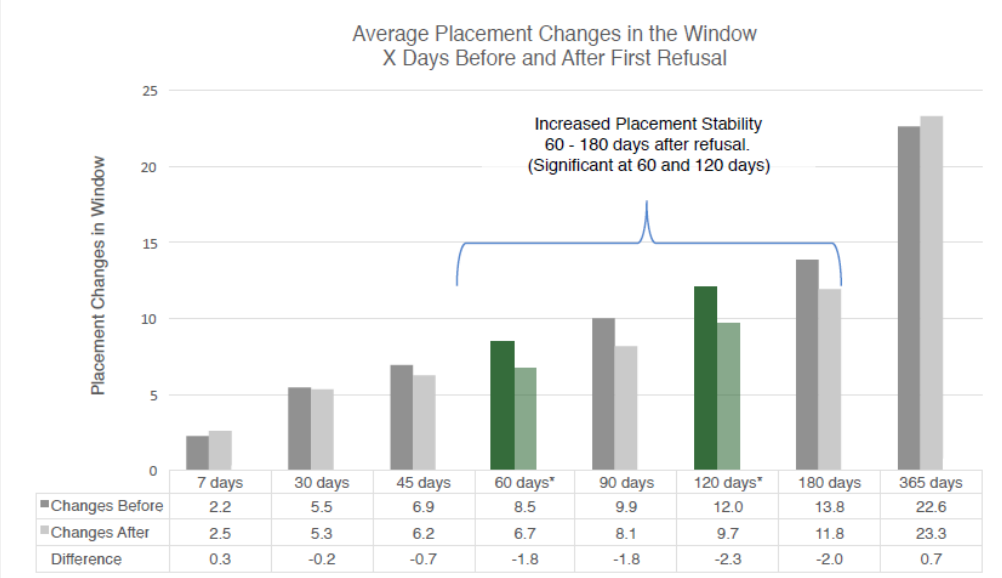
Daily Behavior Problems

+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.



	7 days	30 days	45 days	60 days*	90 days	120 days*	180 days	365 days
Changes Before	2.2	5.5	6.9	8.5	9.9	12.0	13.8	22.6
Changes After	2.5	5.3	6.2	6.7	8.1	9.7	11.8	23.3
Difference	0.3	-0.2	-0.7	-1.8	-1.8	-2.3	-2.0	0.7

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%

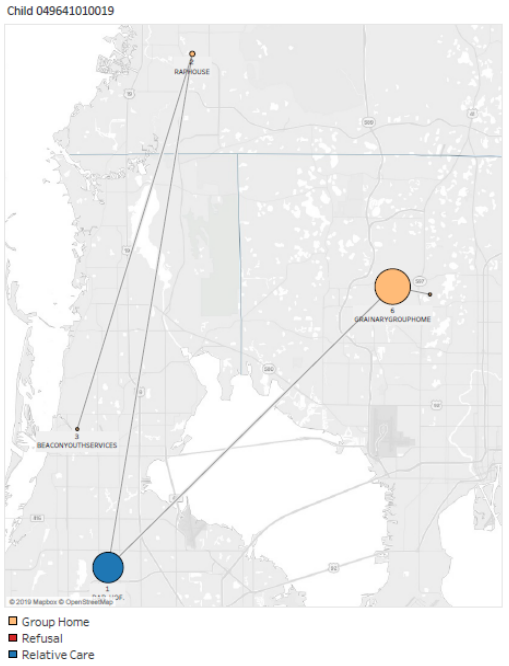
Child 49641010019, a black male child, came into care at five years old. He was immediately placed in a relative placement that lasted 232 days before ending with a guardianship.

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.

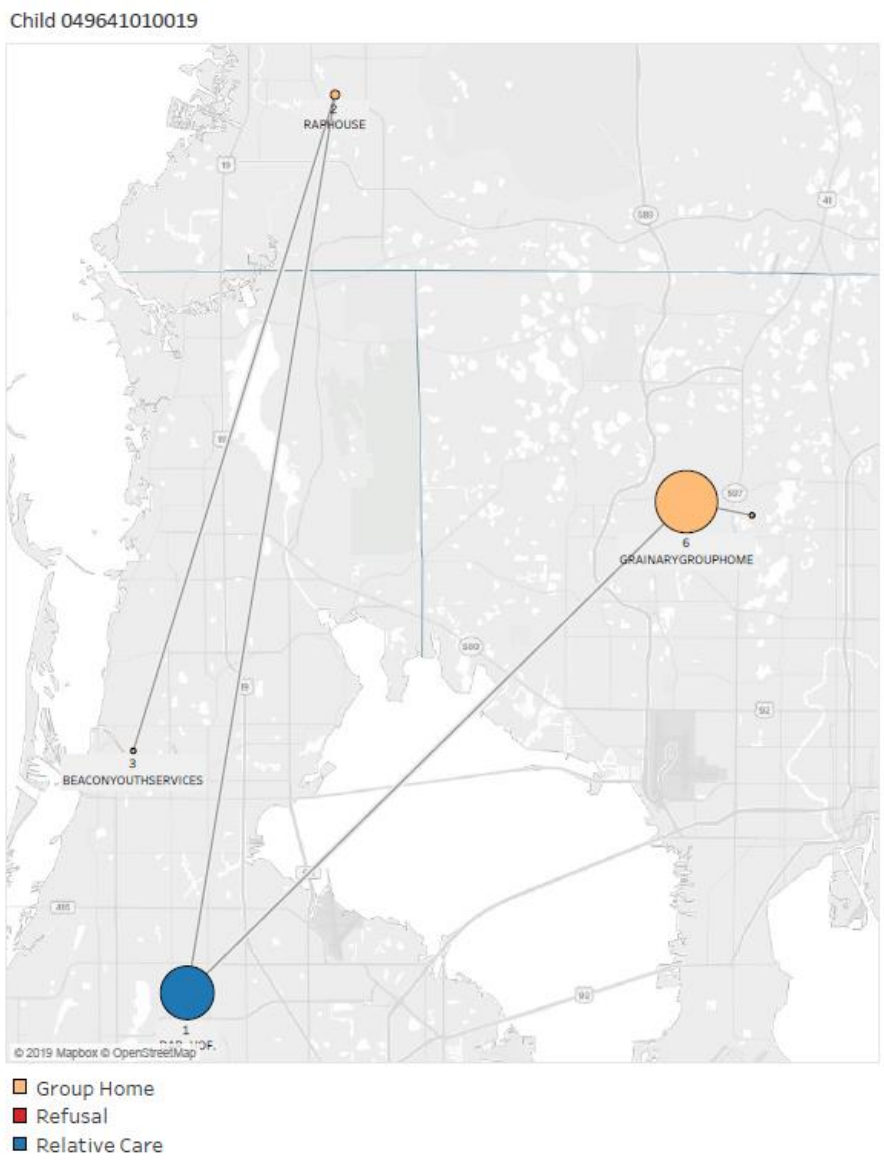


An APD Kid

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.



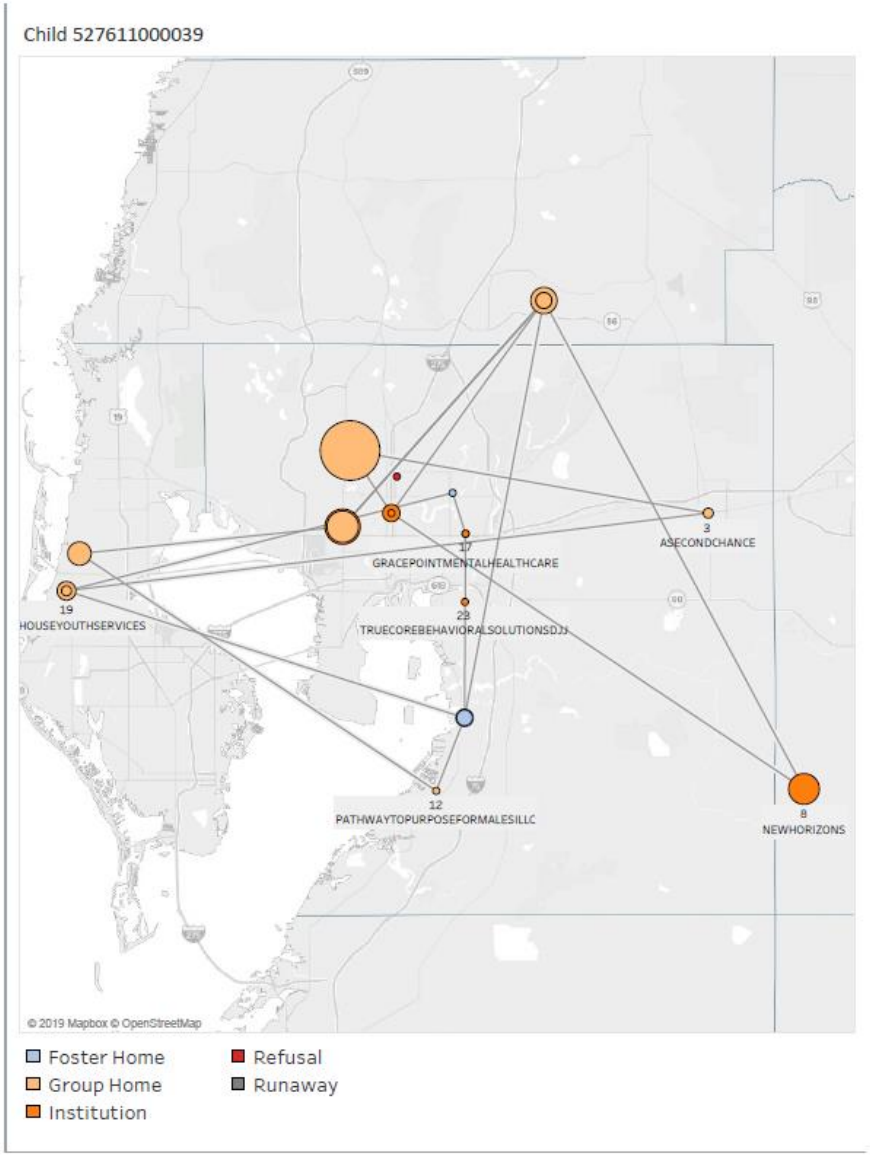
Day One and Homeless

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.

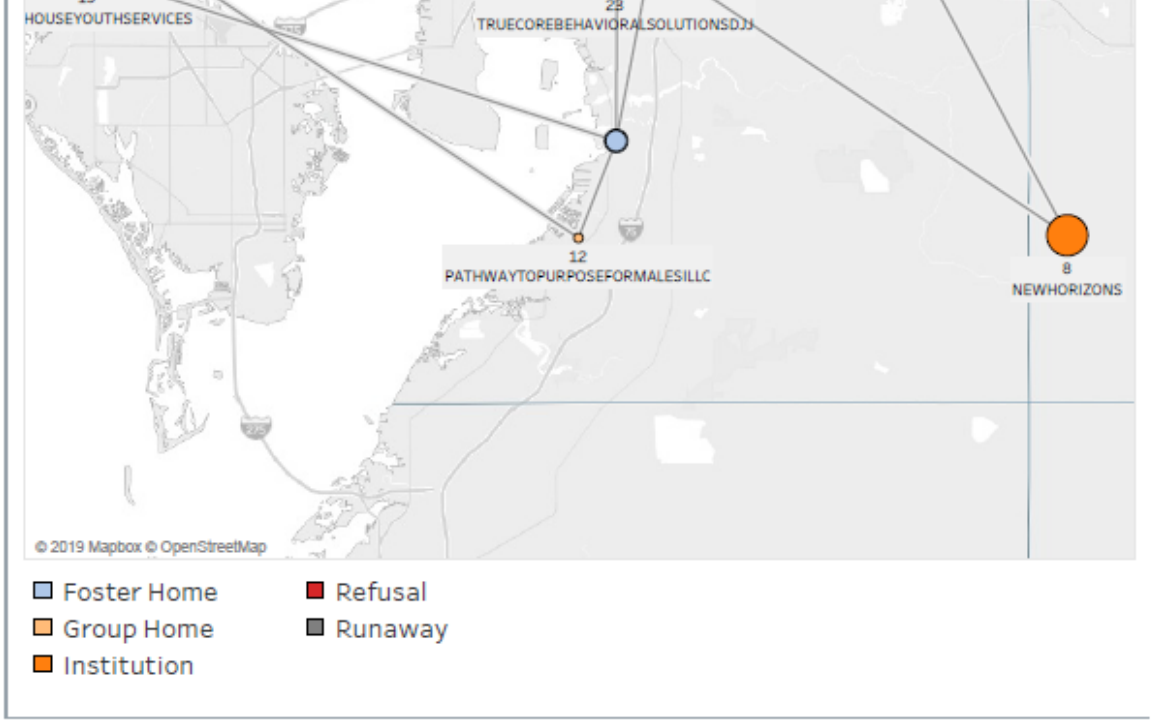
Never in a therapeutic placement.



#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.

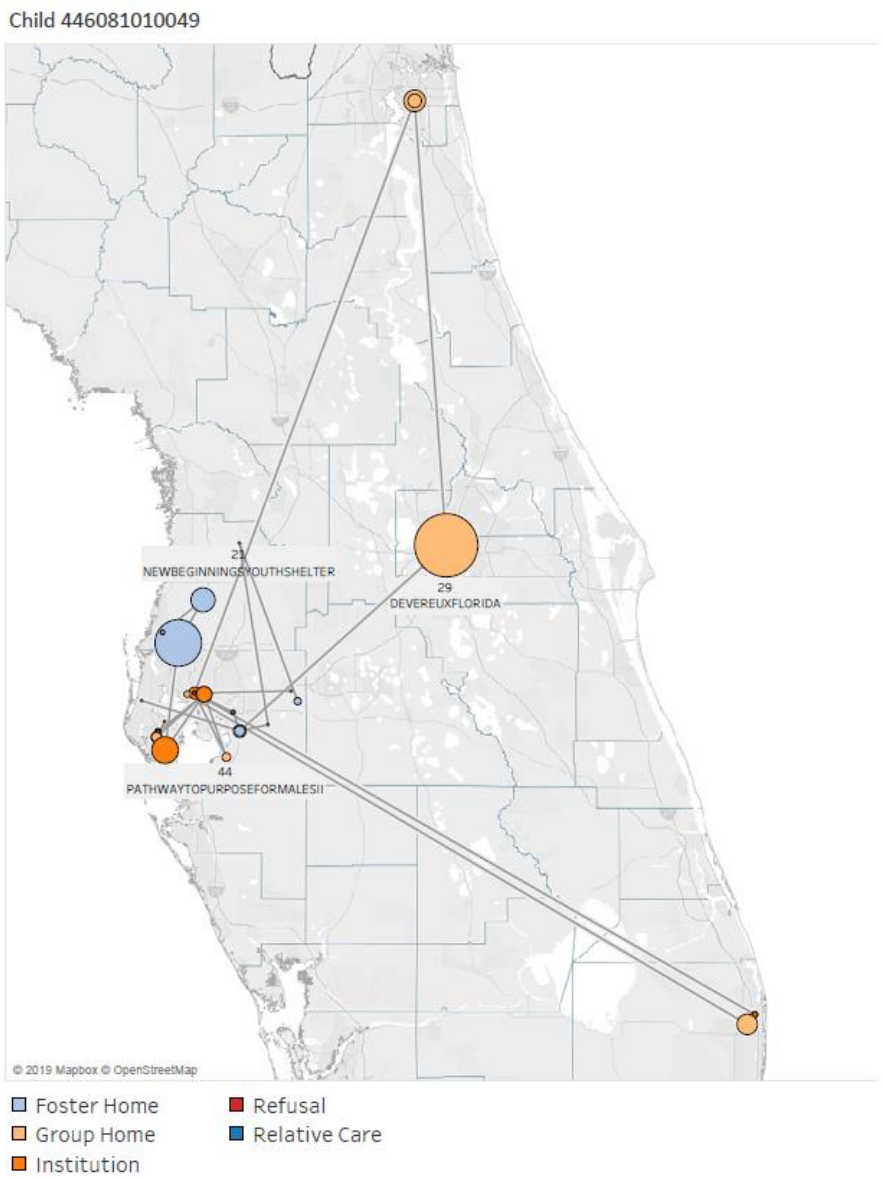
The next day he went on run for 28 days. He was recovered, placed in juvenile detention, and released back to the group home in Pasco. He ran again for 2 days and was arrested again. This time for 25 days. He was released

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 <u>one day</u>.



FSFN Case ID #	Child	Date and Time	Case Note ID #	Case Note Information	Placement Tab Information
100579176	Child 1	January 20, 2018 2:30 a.m. January 20, 2018 4:40 a.m. January 20, 2018 8:00 a.m.	160919940 160903169 160598773	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..." Child 1 refused placement at Joshua House and "wanted to go to an Aunt." 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..."	Joshua House January 19, 2018 through January 22, 2018

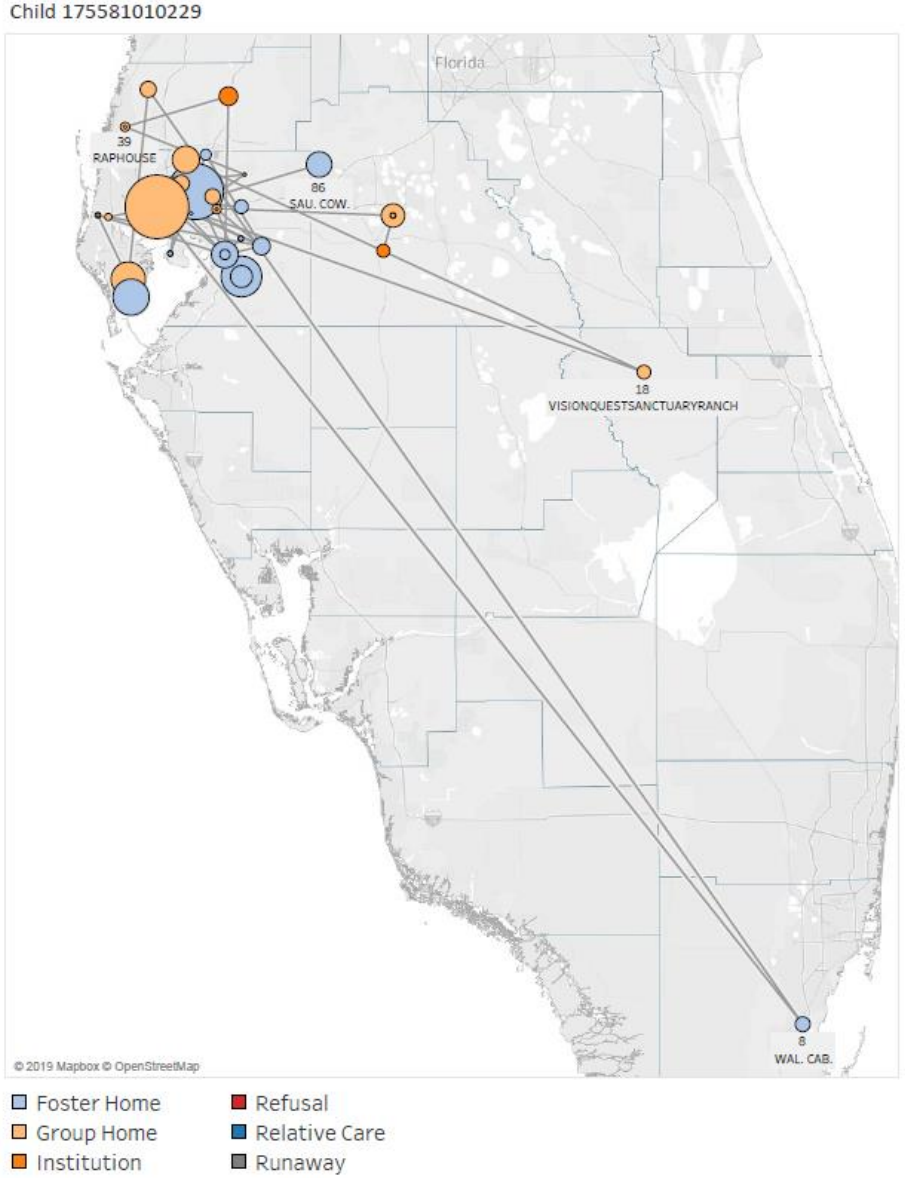
Sanctuary

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.



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 **Case:** **Type:**
Caption: Senate Committee on Children, Families, and Elder Affairs **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-Bulling 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