

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Sobel, Chair
Senator Hays, Vice Chair

MEETING DATE: Wednesday, March 6, 2013
TIME: 2:00 —4:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Hays, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Detert, Diaz de la Portilla, Grimsley, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 56 Hays (Similar CS/H 83)	Infant Death; Revising legislative findings and intent with respect to the sudden unexpected death of an infant under a specified age; defining the term "sudden unexpected infant death"; revising provisions relating to training requirements for first responders; revising requirements relating to autopsies performed by medical examiners; requiring the Medical Examiners Commission to provide for the development and implementation of a protocol for the medicolegal investigation of sudden unexpected infant deaths; deleting references to the SIDS hotline and local SIDS alliances, etc. HP 01/23/2013 Favorable CF 02/19/2013 Not Considered CF 03/06/2013 Temporarily Postponed	Temporarily Postponed
2	SB 142 Altman (Identical H 1119)	Intellectual Disabilities; Substituting the Arc of Florida for the Association for Retarded Citizens for purposes of certain proceedings relating to children; substituting the term "intellectual disability" for the term "mental retardation"; clarifying in specified provisions that the meaning of the terms "intellectual disability" or "intellectually disabled" is the same as the meaning of the terms "mental retardation," "retarded," and "mentally retarded" for purposes of matters relating to the criminal laws and court rules, etc. CF 03/06/2013 Favorable CJ RC	Favorable Yeas 9 Nays 0
3	SB 416 Ring (Identical H 917)	Inspection of Licensed Child Care Facilities; Requiring that the Department of Children and Families or a local licensing agency give a copy of the inspection report to each parent whose child attends that licensed child care facility; requiring that the department or local licensing agency give a copy of the report, at no cost, to the parent within 72 hours after the report is completed and accepted by the department or local licensing agency, etc. CF 03/06/2013 Fav/CS CA AHS AP	Fav/CS Yeas 8 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Wednesday, March 6, 2013, 2:00 —4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 630 Clemens (Identical H 591)	Regulation of Summer Camps; Providing that Department of Children and Families license requirements apply to summer day camps and summer 24-hour camps; prohibiting a governmental agency from regulating the religious curriculum of a summer day camp or summer 24-hour camp; providing an exception; providing procedure for application for a license to operate a summer day camp or summer 24-hour camp; providing screening requirements for camp personnel, etc. CF 03/06/2013 Temporarily Postponed RC	Temporarily Postponed
5	SB 794 Brandes (Similar H 535)	Medicaid Eligibility; Providing conditions for the Department of Children and Families to evaluate an applicant's life insurance policy when determining eligibility for Medicaid services; authorizing the Agency for Health Care Administration to use federal or state funds under the Medicaid program to pay life insurance premiums of an applicant or recipient under certain circumstances; providing conditions for the owner of a life insurance policy to enter into a viatical settlement contract with a health care services provider for coverage of Medicaid long-term care services, etc. CF 03/06/2013 Fav/CS HP AHS AP	Fav/CS Yeas 9 Nays 0
6	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 56
 INTRODUCER: Senator Hays
 SUBJECT: Infant Death
 DATE: February 12, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Favorable
2.	Hendon	Hendon	CF	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 56 replaces the concept of Sudden Infant Death Syndrome (SIDS) with Sudden Unexplained Infant Death (SUID). Accordingly, requirements for training first responders and protocols for medical examiners are revised to reflect this change in emphasis. The changes reflect the current practices of medical examiners and coroners in the identification of the SUID classification for infant deaths.

References to the SIDS hotline and local SIDS alliances are deleted. The bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 383.3362, Florida Statutes.

II. Present Situation:

Sudden Infant Death Syndrome (SIDS)

Subsection 383.3362(2), F.S., defines SIDS as the “sudden unexpected death of an infant under 1 year of age which remains unexplained after a complete autopsy, death-scene investigation, and review of case history. The term includes only those deaths for which, currently, there is no known cause or cure.”

Subsection 383.3362(3), F.S., acknowledges that first responders, such as emergency medical technicians, paramedics, firefighters and law enforcement officers, should be trained in how to respond to sudden infant death as the likely first responders to a request for assistance. Basic training programs for certification for certain first responders include instruction on SIDS. The

Department of Health (DOH) is responsible for the training curriculum in consultation with the Emergency Medical Services Advisory Council, the Firefighters Employment Standards, and Training Council and the Criminal Justice Standards and Training Commission. This curriculum is adopted by rule¹.

A medical examiner is required to perform an autopsy on any infant under age 1 who is suspected to have died of Sudden Infant Death Syndrome.² Furthermore, the autopsy must be performed within 24 hours after the death or as soon thereafter as is feasible. If the medical examiner's findings are consistent with SIDS, this condition must be listed as the cause of death on the death certificate.

The Medical Examiners Commission is required to develop a protocol for dealing with suspected SIDS.³ The law requires that all medical examiners follow the protocol and provides the contents and requirements for the protocol.

A medical examiner is not liable for damages for any act or omission done in compliance with s. 383.3362, F.S.

The DOH is responsible for:

- Developing and presenting SIDS training programs for first responders;
- Maintaining a database of statistics on reported SIDS deaths;
- Serving as a liaison and coordinating activities with the Florida SIDS Alliance, including the SIDS hotline;
- Maintaining a library reference list and materials for public disseminations about SIDS;
- Providing professional support to field staff; and
- Coordinating the activities of and promoting a link between the fetal and infant mortality review committees of the local healthy start coalitions, the local SIDS alliance and other related support groups.

Infant Death Statistics

The DOH reports annually on fetal and infant deaths through the Florida Vital Statistics Annual Report.⁴ This report provides the number of fetal deaths per 1,000 live births, the number of deaths by race, and compares that data to national figures. In addition, specific information on

¹ See Department of Health Rule 64F-5.002, Florida Administrative Code. Found at: <https://www.flrules.org/gateway/ruleNo.asp?id=64F-5.002>, (last visited Jan. 21, 2013).

² See s. 383.3362(4), F.S.

³ *Id.* But see Florida Administrative Code Rule 11G-2.0031 at: <https://www.flrules.org/gateway/ruleNo.asp?id=11G-2.0031>, (last visited Jan. 21, 2013). Administrative rule repealed effective 5-21-2012 and SIDS autopsy protocol moved to Practice Guidelines.

⁴ See Florida Vital Statistics Annual Report 2011, <http://www.flpublichealth.com/VSBOOK/VSBOOK.aspx>, (last visited Jan. 21, 2013).

infant mortality rates, including data on SIDS and SUID deaths by county, is compiled by the DOH and available on-line at FloridaCHARTS.com.⁵

Over the last three years (2009-2011), 2,839 resident neonatal deaths in Florida were recorded. A neonatal death is defined as an infant death occurring within the first 27 days of birth. The overall number of resident neonatal infant deaths for 2011 was 915, which reflects a reduction from the prior year of 14.⁶ The resident neonatal death rate per 1,000 live births for 2011 translates to 4.3 for all births in the state.

The resident infant (less than one year old) death rate for the same rolling three-year period (2009-2011) in Florida was 4,297. The overall number of resident infant deaths for the most recent single year, 2011, was 1,372 which was a reduction from the prior year of 28. Florida’s rate of all infant death’s for 2011 was 6.4 per 1,000 live births.⁷

Infant Mortality Rates – All Causes		
Time Period	Resident Neo-Natal Deaths (Within First 27 Days)	Resident Infant Deaths (Within First Year)
2010	929	1,400
2011	915	1,372

Infant deaths are also reported by specific categories by year and in the same rolling three-year periods for many categories in FloridaCHARTS.com. For the period 2009- 2011, there were 179 SIDS reported deaths in Florida. These deaths were defined as occurring during the infant’s first year of life.⁸ In 2011, there were 46 reported SIDS deaths in the neonatal period with four occurring in the first 27 days of life and the remainder after day 28.⁹

Infant Mortality Rates – from SIDS			
Time Period	Total Infant Deaths	Resident Neo-Natal Deaths (Within First 27 Days)	Resident Infant Deaths (Within First Year)
2010	63	6	57
2011	46	4	42

Role of Medical Examiners

Medical examiners are required to perform an autopsy in accordance with the authority granted under s. 406.11, F.S. Part I of ch.406 specifically governs the medical examiners who are practicing physicians in pathology appointed by the Governor in each medical examiner district of the state.

⁵ See Florida Department of Health, Division of Public Health Statistics & Performance Management, Infant Death Indicators. <http://www.floridacharts.com/charts/DataViewer/InfantDeathViewer/InfantDeathViewer.aspx?indNumber=0053>, (last visited Jan. 21, 2013).

⁶ *Id.*

⁷ *Id.*

⁸ *Supra*, n. 5

⁹ *Id.*

Section 406.02, F.S., creates the Medical Examiner Commission within the Florida Department of Law Enforcement. The commission is comprised of nine appointed persons who are charged with adopting rules to implement ch.406 that ensure minimum and uniform standards of excellence, performance of duties; and maintenance of records so as to provide useful and adequate information to the state in death investigations.

Section 406.11, F.S., mandates the circumstances under which a medical examiner must determine the cause of death and shall perform an examination, investigation and autopsy. Those instances include when any person dies in the state:

- Of criminal violence.
- By accident.
- By suicide.
- *Suddenly, when in apparent good health. (emphasis added)*
- Unattended by a practicing physician or other recognized practitioner.
- In any prison or penal institution.
- In police custody.
- In any suspicious or unusual circumstances.
- By criminal abortion.
- By poison.
- By disease constituting a threat to public health.
- By disease, injury, or toxic agent result from employment.

Sudden Unexpected Infant Death (SUID) Initiative

The Centers for Disease Control and Prevention (CDC) defines SIDS as the sudden death of an infant less than 1 year of age that cannot be explained *after* a thorough investigation is conducted, including a complete autopsy, examination of the death scene and review of the clinical history.¹⁰ Beginning in 1998, records showed that medical examiners and coroners began to move away from classifying infant deaths as SIDS and identifying more deaths as accidental suffocations or unknown cause. This movement suggested that the medical examiners and coroners had adopted different reporting and diagnostic procedures. As a result of these changes, the CDC began the Sudden Unexpected Infant Death (SUID) Initiative in order to improve investigation and reporting practices for SIDS and other SUIDs.¹¹

In contrast to SIDS, SUID is defined as deaths in infants less than 1 year of age that occur suddenly and unexpectedly, and whose cause of death is not immediately obvious *prior* to investigation. According to the CDC, more than 4,500 infants die each year suddenly of no immediately obvious cause. Half of these SUIDs are due to SIDS.

The SUID Initiative's goals include the standardization and improvement of data collection at the death scene, promotion of the consistent classification and reporting of the cause of death,

¹⁰ Centers for Disease Control and Prevention, *Sudden Infant Death Syndrome*, <http://www.cdc.gov/sids/index.htm>, (last visited Dec. 19, 2012).

¹¹ Centers for Disease Control and Prevention, *CDC's Sudden Unexpected Infant Death Initiative*, <http://www.cdc.gov/sids/suidabout.htm>, (last visited Jan. 21, 2013).

improving the national reporting of SUID and reducing SUID by using improved data to identify those at risk. To accomplish these goals, the collaborative has revised reporting forms, developed training materials, trained medicolegal professional and child advocates on how to complete death investigations and implemented a state-based SUID case registry in five pilot states initially and later expanded through grants to cover 10 states.¹²

According to the CDC, SIDS is one of several causes of SUID. SIDS, unlike SUID, is a diagnosis of exclusion. SIDS is a diagnosis that should be given only after all other possible causes of sudden, unexplained death have been ruled out through a careful case investigation, which includes a thorough examination of the death scene, a complete autopsy and a review of the infant's medical history. The most common causes of SUID are: SIDS, suffocation, metabolic errors, injury or trauma and unclassified causes (if the death scene investigation and/or autopsy were incomplete or not done and the death certifier has insufficient evidence to record a more specific cause of death).¹³

Healthy Start Programs

Florida's Healthy Start initiative was signed into law on June 4, 1991. The Healthy Start law provides for universal risk screening of all of Florida's pregnant women and newborn infants to identify those at risk of poor birth, health and development outcomes. The Florida Department of Health administers the program and services are provided through local coalitions.¹⁴

The state's 33 Healthy Start Coalitions are non-profit organizations that provide services statewide to pregnant women and their babies up to age three. By providing these services, the coalitions seek to reduce infant mortality, reduce the number of low birth weight babies and improve health and developmental outcomes.¹⁵ The program identifies women and infants at an increased risk for poor outcomes, provides a professional assessment of their needs and identifies resources to address those needs. The program also refers women to other service providers as needed.

Fetal and Infant Mortality Review

Fetal and Infant Mortality Review (FIMR) began nationally in 1990 as a collaborative process between health departments, providers and maternal and child health coalitions to address factors that impact fetal and infant mortality.

FIMR projects were adopted in Florida in 1992 and currently 29 counties participate in this project.¹⁶ A Local Infant Mortality Committee of the Healthy Start Coalition provides an analysis

¹² Centers for Disease Control and Prevention, *Sudden Unexpected Infant Death Case Registry*, <http://www.cdc.gov/sids/suidabout.htm>, (last visited Jan. 21, 2013).

¹³ Carrie Shapiro-Mendoza, Ph.D., M.P.H., CDC, *Sudden, Unexplained Death Investigation, Chapter 1, Types of Sudden, Unexplained Infant Death*, http://www.cdc.gov/sids/PDF/SUIDManual/Chapter1_tag508.pdf, (last visited Jan. 21, 2013).

¹⁴ See ss. 383.011(1)(e) and 383.216, F.S.

¹⁵ Florida Department of Health, *Healthy Start Annual Report 2011*, <http://www.doh.state.fl.us/family/mch/hs/HealthyStartReport2011.pdf>, (last visited: Jan. 21, 2013)

¹⁶ Florida Department of Health. *FIMR*, http://www.doh.state.fl.us/family/mch/FIMR/fimr_facts.html, (last visited Jan. 21, 2013).

of the basic statistical and epidemiological aspects of the fetal and infant mortality. The committee then selects objectives and plans, and manages the review process.

Florida SIDS Alliance

Concerned SIDS parents and professionals formed the Florida SIDS Alliance in 1985. The alliance operates a hotline (1-800-SIDS-FLA) and a website. The alliance provides a reliable and continuous source of assistance to parents who have lost a child suddenly and unexpectedly; provides information and referrals; sponsors educational campaigns; and promotes research into the cause and possible prevention of SIDS through fundraising and public education.¹⁷

III. Effect of Proposed Changes:

Section 1 of the bill modifies s. 383.3362, F.S., relating to “sudden infant death syndrome” (SIDS) and replaces those references with the term and corresponding activities for “sudden unexpected infant death” (SUID). SIDS and SUID are two distinct classifications. The SUID classification occurs prior to an investigation of an infant death and includes numerous common causes, while SIDS is designated only after a full investigation (SIDS). SIDS is still a classification utilized in state reporting.

Legislative findings and intent are amended to reflect current infant death mortality rates and the revised terminology. The bill recognizes that first responders need special training to recognize that infant deaths may be caused by natural or accidental causes as well as by criminal acts and to act appropriately with the deceased infant’s parents or caretakers. The bill also recognizes the importance of multi-disciplinary investigations and the need for standardized investigative protocols in the cases of sudden unexpected infant deaths. Language concerning a standard protocol for the review of SIDS deaths by medical examiners and the importance of follow-up in such deaths is deleted.

The bill further modifies legislative intent by replacing references to SIDS with SUID in order to expand analysis and research on possible causes of sudden unexpected infant death and on how to reduce its incidence.

SUID is defined as the sudden unexpected death of an infant under 1 year of age while in apparent good health whose death may have been a result of natural or unnatural causes, replacing the definition of SIDS. The SUID definition matches the definition utilized by the Centers for Disease Control and Prevention.

The bill changes the basic training program for emergency medical technicians, paramedics, firefighters and certain law enforcement officers to address SUID rather than SIDS and deletes an obsolete date.

The bill requires the DOH, in consultation with the Emergency Medical Services Advisory Council, the Firefighters Employment, Standards, and Training Council, and the Criminal Justice

¹⁷ Florida SIDS Alliance, *About Us*, <http://flasids.com/blog/florida-sids-alliance/> (last visited Jan. 21, 2013).

Standard and Training Commission, to develop and adopt, by rule, curriculum that includes training on SUID, instead of SIDS.

The bill requires an autopsy for any infant younger than 1 year of age who dies suddenly and unexpectedly while in apparent good health by the medical examiner under s. 406.11, F.S. Medical examiners currently follow practice guidelines (article 26 as incorporated into Rule 11G, F.A.C.) that require an autopsy for the sudden and unexpected death of infants younger than 1 year of age. To conform these changes to ch.406, F.S., a medical examiner is no longer required to: perform an autopsy within 24 hours on any infant that the medical examiner suspected to have died of SIDS; state on the death certificate that SIDS was the cause of death; or follow the SIDS protocol when conducting autopsies. The bill deletes a redundant statutory cross-reference to the authority of the medical examiner.

The bill directs the Medical Examiners Commission to develop and implement a protocol for the medicolegal investigation of SUID and deletes a reference to a protocol for SIDS.

The bill amends the duties of the DOH to replace SIDS references to SUID in the training programs of the department, the database of statistics and the library of reference materials.

The bill deletes the DOH's liaison responsibility with the Florida SIDS Alliance with regard specifically to the SIDS hotline. The bill also deletes the DOH's responsibilities to coordinate activities with the local SIDS alliance and other groups including the fetal and infant mortality review committee of the local healthy start coalitions. Coordination with other related support groups remains a function under this provision.

Section 2 of the bill provides for an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Department of Health is no longer required specifically to include the local SIDS alliances in certain coordination and promotion activities. This may result in reduced participation by the community-based alliances.

C. Government Sector Impact:**State Government**

Rules, training curriculum and guidelines may need to be amended to reflect the changes in terminology and standards from SIDS to SUID. The Departments of Health and Law Enforcement do not expect the bill will create a fiscal impact on their agencies.

Local Government

Medical examiners are funded by the counties. The bill codifies the current practice where medical examiners conduct autopsies for all unexpected deaths of children under 1 year of age. The bill will therefore not increase the workload and costs of the medical examiner district offices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

None.

B. Amendments:

None.



596680

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/06/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden Unexpected Infant Death ~~Syndrome~~.—

(1) FINDINGS AND INTENT.—The Legislature recognizes that more than 4,500 infants in the United States die suddenly and unexpectedly of no immediate or obvious cause. According to statistics from the Department of Health, more than 200 infants in this state experienced Sudden Unexpected Infant Death in 2010



596680

13 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~
14 ~~death among children under the age of 1 year, both nationally~~
15 ~~and in this state. The Legislature further recognizes that first~~
16 ~~responders to emergency calls relating to such a death need~~
17 ~~access to special training to better enable them to recognize~~
18 ~~that such deaths may result from natural and accidental causes~~
19 ~~or may be caused ~~distinguish SIDS from death caused by criminal~~~~
20 ~~acts and to appropriately interact with the deceased infant's~~
21 ~~parents or caretakers. At the same time, the Legislature,~~
22 ~~recognizing that the primary focus of first responders is to~~
23 ~~carry out their assigned duties, intends to increase ~~the~~~~
24 ~~awareness of the possible causes of Sudden Unexpected Infant~~
25 ~~Death ~~SIDS by first responders, but in no way expand or take~~~~
26 ~~away from their duties. Further, the Legislature recognizes the~~
27 ~~importance of a multidisciplinary investigation and standardized~~
28 ~~investigative protocols in cases of Sudden Unexpected Infant~~
29 ~~Death ~~standard protocol for review of SIDS deaths by medical~~~~
30 ~~examiners and the importance of appropriate followup in cases of~~
31 ~~certified or suspected SIDS deaths. Finally, the Legislature~~
32 ~~finds that it is desirable to analyze existing data, and ~~to~~~~
33 ~~conduct further research on, the possible causes of Sudden~~
34 ~~Unexpected Infant Death ~~SIDS and on how to reduce its incidence~~~~
35 ~~lower the number of sudden infant deaths.~~

36 (2) DEFINITION.—As used in this section, the term "Sudden
37 Unexpected Infant Death Syndrome," or "SUID," "~~SIDS,~~" means the
38 sudden unexpected death of an infant under 1 year of age while
39 in apparent good health whose death may have been a result of
40 natural or unnatural causes ~~which remains unexplained after a~~
41 ~~complete autopsy, death-scene investigation, and review of the~~



596680

42 ~~ease history. The term includes only those deaths for which,~~
43 ~~currently, there is no known cause or cure.~~

44 (3) TRAINING.—

45 (a) The Legislature finds that an emergency medical
46 technician, a paramedic, a firefighter, or a law enforcement
47 officer is likely to be the first responder to a request for
48 assistance which is made immediately after the sudden unexpected
49 death of an infant. The Legislature further finds that these
50 first responders should be trained in appropriate responses to
51 sudden infant death.

52 (b) ~~After January 1, 1995,~~ The basic training programs
53 required for certification as an emergency medical technician, a
54 paramedic, a firefighter, or a law enforcement officer as
55 defined in s. 943.10, other than a correctional officer or a
56 correctional probation officer, must include curriculum that
57 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

58 (c) The Department of Health, in consultation with the
59 Emergency Medical Services Advisory Council, the Firefighters
60 Employment, Standards, and Training Council, the child
61 protection teams established in Children's Medical Services
62 program, and the Criminal Justice Standards and Training
63 Commission, shall develop and adopt, by rule, curriculum that,
64 at a minimum, includes training in the nature of SUID ~~SIDS~~,
65 standard procedures to be followed by law enforcement agencies
66 in investigating cases involving sudden deaths of infants, and
67 training in responding appropriately to the parents or
68 caretakers who have requested assistance.

69 (4) AUTOPSIES.—

70 (a) The death of any infant younger than 1 year of age who



596680

71 dies suddenly and unexpectedly while in apparent good health
72 falls under the jurisdiction of the medical examiner as provided
73 in s. 406.11. ~~The medical examiner must perform an autopsy upon~~
74 ~~any infant under the age of 1 year who is suspected to have died~~
75 ~~of Sudden Infant Death Syndrome. The autopsy must be performed~~
76 ~~within 24 hours after the death, or as soon thereafter as is~~
77 ~~feasible. When the medical examiner's findings are consistent~~
78 ~~with the definition of sudden infant death syndrome in~~
79 ~~subsection (2), the medical examiner must state on the death~~
80 ~~certificate that sudden infant death syndrome was the cause of~~
81 ~~death.~~

82 (b) The Medical Examiners Commission shall provide for the
83 development and implementation of ~~develop and implement~~ a
84 protocol for the medicolegal investigation of SUID ~~dealing with~~
85 ~~suspected sudden infant death syndrome. The protocol must be~~
86 ~~followed by all medical examiners when conducting the autopsies~~
87 ~~required under this subsection.~~ The protocol may include
88 requirements and standards for scene investigations,
89 requirements for specific data, criteria for any specific tissue
90 sampling, and any other requirements that are deemed
91 ~~ascertaining cause of death based on the autopsy, criteria for~~
92 ~~any specific tissue sampling, and any other requirements that~~
93 ~~the commission considers necessary.~~

94 (c) A medical examiner is not liable for damages in a civil
95 action for any act or omission done in compliance with this
96 subsection.

97 ~~(d) An autopsy must be performed under the authority of a~~
98 ~~medical examiner under s. 406.11.~~

99 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT



596680

100 DEATH (SUID) SYNDROME ~~(SIDS)~~.—The Department of Health, in
101 consultation with the child protection teams established in the
102 Children’s Medical Services program, shall:

103 (a) Collaborate with other agencies in the development and
104 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~
105 training programs for first responders, including those for
106 emergency medical technicians and paramedics, firefighters, and
107 law enforcement officers.

108 (b) Maintain a database of statistics on reported SUID ~~SIDS~~
109 deaths, and analyze the data as funds allow.

110 (c) Serve as liaison and closely coordinate activities with
111 the Florida SIDS Alliance, ~~including the services related to the~~
112 ~~SIDS hotline.~~

113 (d) Maintain a library reference list and materials about
114 SUID ~~SIDS~~ for public dissemination.

115 (e) Provide professional support to field staff.

116 (f) Coordinate the activities of and promote a link between
117 the fetal and infant mortality review committees of the local
118 healthy start coalitions, the Florida ~~lead~~ SIDS Alliance, and
119 other related support groups.

120 (6) SUID AND SAFE SLEEP INFORMATION.—Each hospital and
121 birthing center in this state shall provide information on SUID
122 and safe sleep practices to parents of newborns before
123 discharge.

124 Section 2. This act shall take effect July 1, 2013.

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

127 And the title is amended as follows:

128 Delete everything before the enacting clause



596680

129 and insert:

130 A bill to be entitled
131 An act relating to infant death; amending s. 383.3362,
132 F.S.; revising legislative findings and intent with
133 respect to the sudden unexpected death of an infant
134 under a specified age; defining the term "Sudden
135 Unexpected Infant Death" (SUID); revising provisions
136 relating to training requirements for first
137 responders; revising requirements relating to
138 autopsies performed by medical examiners; requiring
139 the Medical Examiners Commission to provide for the
140 development and implementation of a protocol for the
141 medicolegal investigation of SUID; requiring each
142 hospital and birthing center in this state to provide
143 information on SUID and safe sleep practices to
144 parents of newborns before discharge; providing an
145 effective date.



540308

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/06/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (2) of section 383.311, Florida Statutes, is amended to read:

383.311 Education and orientation for birth center clients and their families.—

(2) The clients shall be prepared for childbirth and childbearing by education in:

(f) The care of the newborn to include safe sleep practices and the possible causes of Sudden Unexpected Infant Death.



540308

13 Section 2. Paragraph (e) of subsection (3) of section
14 383.318, Florida Statutes, is amended to read:

15 383.318 Postpartum care for birth center clients and
16 infants.—

17 (3) Postpartum evaluation and followup care shall be
18 provided, which shall include:

19 (e) Instruction in child care, including immunization, and
20 breastfeeding, safe sleep practices, and possible causes of
21 Sudden Unexpected Infant Death.

22 Section 3. Section 383.3362, Florida Statutes, is amended
23 to read:

24 383.3362 Sudden Unexpected Infant Death Syndrome.—

25 (1) FINDINGS AND INTENT.—The Legislature recognizes that
26 more than 4,500 infants in the United States die suddenly and
27 unexpectedly of no immediate or obvious cause. According to
28 statistics from the Department of Health, more than 200 infants
29 in this state experienced Sudden Unexpected Infant Death in 2010
30 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~
31 ~~death among children under the age of 1 year, both nationally~~
32 ~~and in this state.~~ The Legislature further recognizes that first
33 responders to emergency calls relating to such a death need
34 access to special training to better enable them to recognize
35 that such deaths may result from natural and accidental causes
36 or may be caused ~~distinguish SIDS from death caused by criminal~~
37 acts and to appropriately interact with the deceased infant's
38 parents or caretakers. At the same time, the Legislature,
39 recognizing that the primary focus of first responders is to
40 carry out their assigned duties, intends to increase the
41 awareness of the possible causes of Sudden Unexpected Infant



540308

42 ~~Death SIDS by first responders,~~ but in no way expand or take
43 away from their duties. Further, the Legislature recognizes the
44 importance of a multidisciplinary investigation and standardized
45 investigative protocols in cases of Sudden Unexpected Infant
46 Death standard protocol for review of SIDS deaths by medical
47 examiners and the importance of appropriate followup in cases of
48 certified or suspected SIDS deaths. Finally, the Legislature
49 finds that it is desirable to analyze existing data, and to
50 conduct further research on, the possible causes of Sudden
51 Unexpected Infant Death SIDS and on how to reduce its incidence
52 ~~lower the number of sudden infant deaths.~~

53 (2) DEFINITION.—As used in this section, the term "Sudden
54 Unexpected Infant Death Syndrome," or "SUID," "~~SIDS,~~" means the
55 sudden unexpected death of an infant under 1 year of age while
56 in apparent good health whose death may have been a result of
57 natural or unnatural causes ~~which remains unexplained after a~~
58 ~~complete autopsy, death-scene investigation, and review of the~~
59 ~~case history. The term includes only those deaths for which,~~
60 ~~currently, there is no known cause or cure.~~

61 (3) TRAINING.—

62 (a) The Legislature finds that an emergency medical
63 technician, a paramedic, a firefighter, or a law enforcement
64 officer is likely to be the first responder to a request for
65 assistance which is made immediately after the sudden unexpected
66 death of an infant. The Legislature further finds that these
67 first responders should be trained in appropriate responses to
68 sudden infant death.

69 (b) ~~After January 1, 1995,~~ The basic training programs
70 required for certification as an emergency medical technician, a



540308

71 paramedic, a firefighter, or a law enforcement officer as
72 defined in s. 943.10, other than a correctional officer or a
73 correctional probation officer, must include curriculum that
74 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

75 (c) The Department of Health, in consultation with the
76 Emergency Medical Services Advisory Council, the Firefighters
77 Employment, Standards, and Training Council, the child
78 protection teams established in the Division of Children's
79 Medical Services, and the Criminal Justice Standards and
80 Training Commission, shall develop and adopt, by rule,
81 curriculum that is as part of the Centers for Disease Control
82 SUID Initiative which must ~~that, at a minimum, includes training~~
83 ~~in the nature of SIDS, standard procedures to be followed by law~~
84 ~~enforcement agencies in investigating cases involving sudden~~
85 ~~deaths of infants, and training in responding appropriately to~~
86 ~~the parents or caretakers who have requested assistance.~~

87 (4) AUTOPSIES.—

88 (a) The death of any infant younger than 1 year of age who
89 dies suddenly and unexpectedly while in apparent good health
90 falls under the jurisdiction of the medical examiner as provided
91 in s. 406.11 ~~The medical examiner must perform an autopsy upon~~
92 ~~any infant under the age of 1 year who is suspected to have died~~
93 ~~of Sudden Infant Death Syndrome. The autopsy must be performed~~
94 ~~within 24 hours after the death, or as soon thereafter as is~~
95 ~~feasible. When the medical examiner's findings are consistent~~
96 ~~with the definition of sudden infant death syndrome in~~
97 ~~subsection (2), the medical examiner must state on the death~~
98 ~~certificate that sudden infant death syndrome was the cause of~~
99 ~~death.~~



540308

100 (b) The Medical Examiners Commission shall provide for the
101 development and implementation of ~~develop and implement~~ a
102 protocol for the medicolegal investigation of SUID ~~dealing with~~
103 ~~suspected sudden infant death syndrome. The protocol must be~~
104 ~~followed by all medical examiners when conducting the autopsies~~
105 ~~required under this subsection.~~ The protocol may include
106 requirements and standards for scene investigations,
107 requirements for specific data, criteria for any specific tissue
108 sampling, and any other requirements that are deemed
109 ~~ascertaining cause of death based on the autopsy, criteria for~~
110 ~~any specific tissue sampling, and any other requirements that~~
111 ~~the commission considers necessary.~~

112 (c) A medical examiner is not liable for damages in a civil
113 action for any act or omission done in compliance with this
114 subsection.

115 ~~(d) An autopsy must be performed under the authority of a~~
116 ~~medical examiner under s. 406.11.~~

117 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT
118 DEATH (SUID) ~~SYNDROME (SIDS).~~—The Department of Health, in
119 consultation with the child protection teams established in the
120 Division of Children’s Medical Services, shall:

121 (a) Collaborate with other agencies in the development and
122 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~
123 training programs for first responders, including those for
124 emergency medical technicians and paramedics, firefighters, and
125 law enforcement officers.

126 (b) Maintain a database of statistics on reported SUID ~~SIDS~~
127 deaths, and analyze the data as funds allow.

128 (c) Serve as liaison and closely coordinate activities with



540308

129 the Florida SIDS Alliance, ~~including the services related to the~~
130 ~~SIDS hotline.~~

131 (d) Maintain a library reference list and materials about
132 SUID ~~SIDS~~ for public dissemination.

133 (e) Provide professional support to field staff.

134 (f) Coordinate the activities of and promote a link between
135 the fetal and infant mortality review committees of the local
136 healthy start coalitions, the Florida ~~leaa~~ SIDS Alliance, and
137 other related support groups.

138 Section 4. Section 395.1053, Florida Statutes, is created
139 to read:

140 395.1053 Postpartum education.—A hospital that provides
141 birthing services shall incorporate information on safe sleep
142 practices and the possible causes of Sudden Unexpected Infant
143 Death into the hospital's postpartum instruction on the care of
144 newborns.

145 Section 5. This act shall take effect July 1, 2013.

146
147 ===== T I T L E A M E N D M E N T =====

148 And the title is amended as follows:

149 Delete everything before the enacting clause
150 and insert:

151 A bill to be entitled
152 An act relating to infant death; amending s. 383.311,
153 F.S.; revising the education and orientation
154 requirements for birth centers and their families to
155 incorporate safe sleep practices and causes of Sudden
156 Unexpected Infant Death; amending s. 383.318, F.S.;;
157 revising the postpartum care for birth center clients



540308

158 and infants to incorporate instruction on safe sleep
159 practices and causes of Sudden Unexpected Infant
160 Death; amending s. 383.3362, F.S.; revising
161 legislative findings and intent with respect to the
162 sudden unexpected death of an infant under a specified
163 age; defining the term "Sudden Unexpected Infant
164 Death"; revising provisions relating to training
165 requirements for first responders; revising
166 requirements relating to autopsies performed by
167 medical examiners; requiring the Medical Examiners
168 Commission to provide for the development and
169 implementation of a protocol for the medicolegal
170 investigation of Sudden Unexpected Infant Death;
171 creating s. 395.1053, F.S.; requiring a hospital that
172 provides birthing services to incorporate information
173 on safe sleep practices and the possible causes of
174 sudden unexpected infant death into the hospital's
175 postpartum instruction on the care of newborns;
176 providing an effective date.

By Senator Hays

11-00035A-13

201356__

A bill to be entitled

An act relating to infant death; amending s. 383.3362, F.S.; revising legislative findings and intent with respect to the sudden unexpected death of an infant under a specified age; defining the term "sudden unexpected infant death"; revising provisions relating to training requirements for first responders; revising requirements relating to autopsies performed by medical examiners; requiring the Medical Examiners Commission to provide for the development and implementation of a protocol for the medicolegal investigation of sudden unexpected infant deaths; deleting references to the SIDS hotline and local SIDS alliances; providing an effective date.

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

Section 1. Section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden unexpected infant death ~~Syndrome~~.—

(1) FINDINGS AND INTENT.—The Legislature recognizes that more than 4,500 infants in the United States die suddenly and unexpectedly of no immediate or obvious cause. According to statistics from the Department of Health, more than 200 infants in this state experienced sudden unexpected infant death in 2010 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of death among children under the age of 1 year, both nationally and in this state.~~ The Legislature further recognizes that first responders to emergency calls relating to such a death need

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

11-00035A-13

201356__

access to special training to better enable them to recognize that such deaths may result from natural and accidental causes ~~or may be caused~~ ~~distinguish SIDS from death caused~~ by criminal acts and to appropriately interact with the deceased infant's parents or caretakers. At the same time, the Legislature, recognizing that the primary focus of first responders is to carry out their assigned duties, intends to increase ~~the~~ awareness of the possible causes of sudden unexpected infant deaths ~~SIDS by first responders~~, but in no way expand or take away from their duties. Further, the Legislature recognizes the importance of a multidisciplinary investigation and standardized investigative protocols in cases of sudden unexpected infant standard protocol for review of SIDS deaths by medical examiners and the importance of appropriate followup in cases of certified or suspected SIDS deaths. Finally, the Legislature finds that it is desirable to analyze existing data, ~~and to~~ ~~conduct~~ further research on, the possible causes of sudden unexpected infant death ~~SIDS~~ and on how to reduce its incidence ~~lower the number of sudden infant deaths.~~

(2) DEFINITION.—As used in this section, the term "sudden unexpected infant death ~~Syndrome~~," or "SUID," ~~"SIDS,"~~ means the sudden unexpected death of an infant under 1 year of age while in apparent good health whose death may have been a result of natural or unnatural causes which remains unexplained after a complete autopsy, death scene investigation, and review of the case history. ~~The term includes only those deaths for which, currently, there is no known cause or cure.~~

(3) TRAINING.—

(a) The Legislature finds that an emergency medical

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

11-00035A-13

201356

59 technician, a paramedic, a firefighter, or a law enforcement
60 officer is likely to be the first responder to a request for
61 assistance which is made immediately after the sudden unexpected
62 death of an infant. The Legislature further finds that these
63 first responders should be trained in appropriate responses to
64 sudden infant death.

65 (b) ~~After January 1, 1995,~~ The basic training programs
66 required for certification as an emergency medical technician, a
67 paramedic, a firefighter, or a law enforcement officer as
68 defined in s. 943.10, other than a correctional officer or a
69 correctional probation officer, must include curriculum that
70 contains instruction on SUID Sudden Infant Death Syndrome.

71 (c) The Department of Health, in consultation with the
72 Emergency Medical Services Advisory Council, the Firefighters
73 Employment, Standards, and Training Council, and the Criminal
74 Justice Standards and Training Commission, shall develop and
75 adopt, by rule, curriculum that, at a minimum, includes training
76 in the nature of SUID SIDS, standard procedures to be followed
77 by law enforcement agencies in investigating cases involving
78 sudden deaths of infants, and training in responding
79 appropriately to the parents or caretakers who have requested
80 assistance.

81 (4) AUTOPSIES.—

82 (a) The death of any infant younger than 1 year of age who
83 dies suddenly and unexpectedly while in apparent good health
84 falls under the jurisdiction of the medical examiner as provided
85 in s. 406.11. The medical examiner must perform an autopsy upon
86 any infant under the age of 1 year who is suspected to have died
87 of Sudden Infant Death Syndrome. The autopsy must be performed

11-00035A-13

201356

88 ~~within 24 hours after the death, or as soon thereafter as is~~
89 ~~feasible. When the medical examiner's findings are consistent~~
90 ~~with the definition of sudden infant death syndrome in~~
91 ~~subsection (2), the medical examiner must state on the death~~
92 ~~certificate that sudden infant death syndrome was the cause of~~
93 ~~death.~~

94 (b) The Medical Examiners Commission shall provide for the
95 development and implementation of ~~develop and implement~~ a
96 protocol for the medicolegal investigation of SUID dealing with
97 suspected sudden infant death syndrome. The protocol must be
98 followed by all medical examiners when conducting the autopsies
99 required under this subsection. The protocol may include
100 requirements and standards for scene investigations,
101 requirements for specific data, criteria for any specific tissue
102 sampling, and any other requirements that are deemed
103 ascertaining cause of death based on the autopsy, criteria for
104 any specific tissue sampling, and any other requirements that
105 the commission considers necessary.

106 (c) A medical examiner is not liable for damages in a civil
107 action for any act or omission done in compliance with this
108 subsection.

109 ~~(d) An autopsy must be performed under the authority of a~~
110 ~~medical examiner under s. 406.11.~~

111 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT
112 DEATH (SUID) SYNDROME (SIDS).—The Department of Health shall:

113 (a) Collaborate with other agencies in the development and
114 presentation of the SUID Sudden Infant Death Syndrome (SIDS)
115 training programs for first responders, including those for
116 emergency medical technicians and paramedics, firefighters, and

11-00035A-13

201356__

117 law enforcement officers.

118 (b) Maintain a database of statistics on reported SUID ~~SIDS~~
119 deaths, and analyze the data as funds allow.

120 (c) Serve as liaison and closely coordinate activities with
121 the Florida SIDS Alliance, ~~including the services related to the~~
122 ~~SIDS hotline.~~

123 (d) Maintain a library reference list and materials about
124 SUID ~~SIDS~~ for public dissemination.

125 (e) Provide professional support to field staff.

126 (f) Coordinate the activities of and promote a link between
127 the fetal and infant mortality review committees of the local
128 healthy start coalitions, ~~the local SIDS alliance,~~ and other
129 related support groups.

130 Section 2. This act shall take effect July 1, 2013.



The Florida Senate
Committee Agenda Request

RECEIVED

JAN 23 2013

Senate Committee
Children and Families

To: Senator Eleanor Sobel, Chair
Children, Families, and Elder Affairs

CC: Claude Hendon, Staff Director
Lynn Wells, Administrative Assistant

Subject: Committee Agenda Request

Date: January 23, 2013

I respectfully request that **Senate Bill #56**, relating to Infant Death, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Alan Hays".

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/13
Meeting Date

Topic _____

Bill Number SB 56
(if applicable)

Name SAM BELL

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1298 MILLSTREAM

Phone 850-222-3533

TALL FL 32312
City State Zip

E-mail sbelle@penningtonlaw.com

Speaking: For Against Information

Representing Florida Pediatric Society

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-13
Meeting Date



Topic Infant Death

Bill Number 56
(if applicable)

Name Michelle Jacques

Amendment Barcode _____
(if applicable)

Job Title Dir. of Legislative Advocacy

Address PO BOX 10214

Phone 251-2288

TALLY FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

WAIVE/SUPPORT

Representing F.M.A.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-13

Meeting Date

Topic Infant Death Bill Number SB 56
Name Lisa Sculley Amendment Barcode _____
Job Title _____

Address 1000 Lee Street Phone 904-707-3352
City Starke State FL Zip 32091 E-mail sidsloop@yahoo.com

Speaking: For Against Information

Representing Sids family of Bradford, Florida SIDS Alliance

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/1

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-2013

Meeting Date

Topic Infant Death Bill Number 56
Name Bunny D. Hamer Amendment Barcode _____
Job Title _____

Address 2176 Alagua Drive Phone 305-903-7124
City Longwood, Fl. State _____ Zip 32779 E-mail bunny.hamer@gmail.com

Speaking: For Against Information

Representing Florida SIDS Alliance

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/1

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/13
Meeting Date

Topic Infant Death

Bill Number SB56
(if applicable)

Name Judy Lanham

Amendment Barcode _____
(if applicable)

Job Title _____

Address 17277 Deer Run Dr
Street

Phone 904-703-4108

Orlando FL 32820
City State Zip

E-mail judyLanham3@yahoo.com

Speaking: For Against Information

Representing Florida SIDS Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

~~3/6~~ 3-6-13
Meeting Date

Topic Infant Death

Bill Number SB56
(if applicable)

Name Charlene Melcher

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3593 Siderwheel Dr.
Street

Phone 407-242-4701

Rockledge FL 32955
City State Zip

E-mail charmelcher@aol.com

Speaking: For Against Information

Representing FL SIDS Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 142

INTRODUCER: Senator Altman

SUBJECT: Intellectual Disabilities

DATE: March 6, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	Favorable
2.			CJ	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 142 substitutes the term “intellectual disability” for “mental retardation” throughout the Florida Statutes. The bill specifies that as the new terminology is applied in the pretrial, trial, sentencing, and death penalty areas of the criminal law, the terms “intellectual disability” or “intellectually disabled” are interchangeable with the terms “mental retardation” or “retardation” and “mentally retarded” as previously defined.

This bill also substitutes “the Arc of Florida” for “the Association for Retarded Citizens” to reflect the correct name of the organization.

This bill will not have a fiscal impact on the state and has an effective date of July 1, 2013.

This bill amends the following sections of the Florida Statutes: 39.502, 40.013, 86.041, 92.53, 92.54, 92.55, 320.10, 383.14, 393.063, 393.11, 394.455, 400.960, 408.032, 409.908, 413.20, 440.49, 499.0054, 514.072, 627.6041, 627.6615, 641.31, 650.05, 765.204, 849.04, 914.16, 914.17, 916.105, 916.106, 916.107, 916.301, 916.3012, 916.302, 916.3025, 916.303, 916.304, 918.16, 921.137, 941.38, 944.602, 945.025, 945.12, 945.42, 947.185, 984.19, 985.14, 985.145, 985.18, 985.19, 985.195, and 985.61.

II. Present Situation:

Mental Retardation

Mental retardation is a condition or syndrome defined by a collection of symptoms, traits, and characteristics. Under the most current Diagnostic and Statistical Manual of Mental Disorders

(DSM-IV), the term mental retardation means a significantly subaverage intellectual functioning, such as an IQ of approximately 70 or below, and concurrent deficits of impairment in present adaptive functioning¹ in at least two of the following areas:

- Communication
- Self-care
- Home living
- Social or interpersonal skills
- Use of community resources
- Self-direction
- Functional academic skills
- Work
- Leisure
- Health
- Safety²

Onset of the disability occurs before age 18.³

Mental retardation has been defined and renamed many times. For example, in 1910, three levels of mental retardation were identified: idiot, imbecile, and moron.⁴ Additionally, feeble-mindedness and mental deficiency were used as labels for mental retardation during the late 19th and early 20th century.⁵

The Arc of the United States, an organization that advocates for and serves people with intellectual and developmental disabilities, changed its name in 1992⁶ to reflect contemporary sensibilities. The Arc notes:

The term “mental retardation.” is an out-dated term that may offer some protections in some states, however, with the passage of Rosa’s Law in 2010, many states have replaced all terminology from mental retardation to intellectual disability. Although some still use the term “mental retardation” to be eligible for some services in a few states, in no case does having the label guarantee that supports will be available. The Arc does not encourage the use of nor promote the term mental retardation. The general public, including families, individuals,

¹ According to the DSM-IV, adaptive functioning relates to the person’s effectiveness in meeting the standards expected for his or her age by his or her cultural group. American Psychiatric Association, DSM-IV 42 (March 2010).

² *Id.* at 41.

³ *Id.*

⁴ Fred J. Biasini, *et al.*, Department of Psychology, University of Alabama at Birmingham, *Mental Retardation: A Symptom and a Syndrome*, available at <http://www.ibis-birthdefects.org/start/mentalSyndrome.htm> (last visited Jan. 29, 2013).

⁵ *Id.*

⁶ Prior to becoming The Arc of the United States, the organization was called the Association for Retarded Citizens of the United States. The Arc, *History of Name Changes*, available at <http://www.thearc.org/page.aspx?pid=2344> (last visited Jan. 25, 2013). In 2007, the Association for Retarded Citizens of Florida, Inc., adopted the fictitious name The Arc of Florida, and the organization officially changed its name in 2010. The Arc of Florida, *About the Arc, History*, available at http://arcflorida.org/index.php?option=com_content&view=category&layout=blog&id=5&Itemid=2 (last visited Jan. 25, 2013).

funders, administrators, and public policymakers at local, state and federal levels, are becoming aware of how offensive the term is⁷

Other organizations in the United States, such as United Cerebral Palsy, take similar positions on use of this term.⁸ In addition, the State of Washington enacted legislation in 2010 amending its statutes to make the change to “intellectual disability.”⁹

The American Psychiatric Association (APA), the organization that publishes the DSM, has undertaken a complete revision of the DSM-IV, which was originally published in 1994.¹⁰ The APA has proposed renaming “mental retardation” as “intellectual developmental disorder” in order to be consistent with current practice.¹¹ The new criteria will be released in May 2013.¹²

Current Statutory Definitions

Section 921.137, F.S., which prohibits the imposition of the death penalty on a mentally-retarded defendant, states:

“Mental retardation” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the period from conception to age 18. The term “significantly subaverage general intellectual functioning,” for the purpose of this section, means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the Agency for Persons with Disabilities. The term “adaptive behavior,” for the purpose of this definition, means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community. The Agency for Persons with Disabilities shall adopt rules to specify the standardized intelligence tests as provided in this subsection.

⁷ The Arc, *Introduction to Intellectual Disabilities* (revised Mar.1, 2011), available at <http://www.thearc.org/page.aspx?pid=2448> (last visited Jan. 23, 2013). “Rosa’s Law” amended the language in all federal health, education, and labor laws to remove the phrase “mentally retarded” and substitute the phrase “intellectual disability.” Press Release, The White House *Remarks by the President at the Signing of the 21st Century Communications and Video Accessibility Act of 2010* (Oct.8, 2010), available at <http://www.whitehouse.gov/the-press-office/2010/10/08/remarks-president-signing-21st-century-communications-and-video-accessib> (last visited Feb.4, 2013).

⁸ See United Cerebral Palsy, *Legislative Agenda for the 112th Congress*, available at <http://www.ucp.org/public-policy/legislative-agenda> (last visited Jan. 25, 2013); American Association on Intellectual and Developmental Disabilities, *Definition of Intellectual Disability*, available at http://www.aaid.org/content_100.cfm?navID=21 (last visited Jan. 25, 2013).

⁹ See Revised Code of Washington 44.04.280.

¹⁰ American Psychiatric Association *Overview DSM-5 Development*, available at <http://www.dsm5.org/ABOUT/Pages?DSMVOverview.aspx> (last visited Jan. 25, 2013).

¹¹ American Psychiatric Association, *Intellectual Disability* (Dec. 18, 2012) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹² American Psychiatric Association, *DSM-5 Development, Timeline*, available at <http://www.dsm5.org/about/Pages/Timeline.aspx> (last visited Feb.4, 2013).

The definition used in the death penalty statute is taken from the definition of “retardation” in ch.393, F.S., the area of law relating to developmental disabilities, which defines retardation as:

[S]ignificantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that manifests before the age of 18 and can reasonably be expected to continue indefinitely. “Significantly subaverage general intellectual functioning,” for the purpose of this definition, means performance which is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency. “Adaptive behavior,” for the purpose of this definition, means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.¹³

The statutory definition of developmental disability indicates that it *is* attributable to mental retardation, among other conditions. Section 393.063(9), F.S., defines “developmental disability” as:

[A] disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

Individuals with developmental disabilities may be eligible for a variety of home and community based services through the Agency for Persons with Disabilities and other state and federal entities.

The term “intellectual disability” is not currently defined in the Florida Statutes, although the term is defined, and is interchangeable with the term “mental retardation,” pursuant to Rule 65G-4.014(3) of the Florida Administrative Code. The Rule, states:

Mental Retardation or Intellectual Disability – is evidenced by the concurrent existence of:

- (a) Significantly subaverage general intellectual functioning evidenced by an Intelligence Quotient (IQ) two or more standard deviations below the mean on an individually administered standardized intelligence test, and
- (b) Significant deficits in adaptive functioning in one or more of the following areas:
 1. Communication skills,
 2. Self-care, home living,
 3. Social and interpersonal skills,
 4. Use of community resources and self-direction,
 5. Functional academic skills,
 6. Work, leisure, health and safety awareness and skills,
- (c) Which are manifested prior to age 18; and
- (d) Constitute a substantial handicap which is reasonably expected to continue indefinitely.

¹³ Section 393.063(32), F.S.

In 2008, the term “intellectual disability” was substituted for the term “mentally handicapped” in the definition of “exceptional student” as the term is used in the statutes creating the McKay Scholarship Program.¹⁴

III. Effect of Proposed Changes:

This bill substitutes the term “intellectual disability” for “mental retardation” throughout the Florida Statutes. Specifically, the term “intellectual disability” is being used in statutes pertaining to:

- Persons disqualified or excused from jury service (s. 40.013, F.S.);
- Actions by executors, administrators, trustees, etc. (s. 86.041, F.S.);
- Certain judicial or other proceedings involving victims or witnesses under the age of 16 or person with mental retardation (ss. 92.53, 92.54, and 92.55, F.S.);
- Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors (s. 383.14, F.S.);
- Developmental Disabilities (ss. 393.063 and 393.11, F.S.);
- Mental Health (s. 394.455, F.S.);
- Intermediate Care Facilities for Developmentally Disabled Persons (s. 400.960, F.S.);
- Medicaid (s. 409.908, F.S.);
- Vocational Rehabilitation (s. 413.20, F.S.);
- Special Disability Trust Fund (s. 440.49, F.S.);
- Advertising and labeling of drugs, devices, and cosmetics; exemptions (s. 499.0054, F.S.);
- Insurance (ss. 627.6041, 627.6615, 641.31, and 650.05, F.S.);
- Health Care Surrogates (s. 765.204, F.S.);
- Gambling (s. 849.04, F.S.);
- Criminal proceedings relating to victims under age 16 or persons with mental retardation (ss. 914.16, 914.17, and 918.16, F.S.);
- Mentally Deficient and Mentally Ill Defendants (ss. 916.105, 916.106, 916.107, 916.301, 916.3012, 916.302, 916.3025, 916.303, and 916.304, F.S.);
- Prohibition on imposition of the death sentence upon a defendant with mental retardation (s. 921.137, F.S.);
- Extradition of persons alleged to be of unsound mind (s. 941.38, F.S.);
- Department of Corrections and State Correctional Institution (ss. 944.602, 945.025, 945.12, and 945.42, F.S.);
- Application for mental retardation services as condition of parole (s. 947.185, F.S.);
- Children and Families in Need of Services (s. 984.19, F.S.); and

¹⁴ “Exceptional student” means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospital and homebound, autistic, developmentally delayed children, ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to s. 1003.21(1)(e). Chapter 2008-204, s. 3, Laws of Fla.

- Juvenile Justice; Interstate Compact on Juveniles (ss. 985.14, 985.145, 985.18, 985.19, 985.195, and 985.61, F.S.)

The bill does not make substantive changes to any of the statutes so revised.

The bill also amends ss. 39.502 and 320.10, F.S., by replacing the name “the Association for Retarded Citizens” with “the Arc of Florida” to reflect the current name of the organization.

The bill includes legislative intent in order to avoid any potential confusion which might arise as the new term is applied because the American Psychiatric Association has not yet released the DSM-5, formally adopting the term “intellectual disability” rather than “mental retardation,” and because use of the term “intellectual disability” has not yet become universal. Specifically:

- The changes made by the bill are not intended to expand or contract the scope of the Florida Statutes; and
- The bill may not be construed to change the application of any provision of the Florida Statutes to any person.

In addition, the bill clarifies that as the new terminology is applied in the pretrial, trial, sentencing, and death penalty areas of the criminal law, it has the same meaning and is interchangeable with the terms “mental retardation,” “retardation,” and “mentally retarded.”¹⁵

The bill makes a number of technical corrections to the Florida Statutes, including:

- Removing definitions, from part VIII of ch. 400, F.S., of terms that are no longer used in that part;
- Removing obsolete grandfathering language from s. 514.072, F.S., relating to certification of swimming instructors for people with developmental disabilities; and
- Renaming part III of ch. 916, F.S., as “Forensic Services for Persons who are Intellectually Disabled or Autistic.”

Finally, the bill amends s. 408.032, F.S., to provide that an “intermediate care facility for the developmentally disabled” means a residential facility licensed under part VIII of ch. 400, F.S., rather than under ch. 393, F.S.

The bill does not have any fiscal impact to the state and provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁵ See sections 9 and 38 of the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

In the past, the Department of Corrections (DOC or department), has indicated that the bill would require revisions to be made to the department's procedures, health services bulletins, and Offender Based Information System codes because they reference the standardized professional terminology and diagnostic codes set forth in the DSM-IV.¹⁶ Other agencies may need to make similar changes. However, these changes will be required regardless when the DSM-V manual is released with the revised definition.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

B. Amendments:

None.

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

¹⁶ Tommy Maggitas, Department of Corrections, *SB 460-Intellectual Disabilities* (Jan. 10, 2012) (on file with the Senate Committee on Children, Families, and Elder Affairs).

By Senator Altman

16-00179A-13

2013142__

1 A bill to be entitled
 2 An act relating to intellectual disabilities; amending
 3 s. 39.502, F.S.; substituting the Arc of Florida for
 4 the Association for Retarded Citizens for purposes of
 5 certain proceedings relating to children; amending ss.
 6 40.013, 86.041, 92.53, 92.54, and 92.55, F.S.;
 7 substituting the term "intellectual disability" for
 8 the term "mental retardation"; amending s. 320.10,
 9 F.S.; substituting the Arc of Florida for the
 10 Association for Retarded Citizens; amending ss.
 11 383.14, 393.063, 393.11, and 394.455, F.S.;
 12 substituting the term "intellectual disability" for
 13 the term "mental retardation"; clarifying in s.
 14 393.063, that the meaning of the terms "intellectual
 15 disability" or "intellectually disabled" is the same
 16 as the meaning of the terms "mental retardation,"
 17 "retarded," and "mentally retarded" for purposes of
 18 matters relating to the criminal laws and court rules;
 19 amending s. 400.960, F.S.; revising definitions
 20 relating to intermediate care facilities for the
 21 developmentally disabled to delete unused terms;
 22 amending s. 408.032, F.S.; conforming a cross-
 23 reference; amending s. 409.908, F.S.; substituting the
 24 term "intellectually disabled" for the term "mentally
 25 retarded"; amending ss. 413.20, 440.49, and 499.0054,
 26 F.S.; substituting the term "intellectual disability"
 27 for the term "mental retardation"; amending s.
 28 514.072, F.S.; conforming a cross-reference and
 29 deleting obsolete provisions; amending ss. 627.6041,

Page 1 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13

2013142__

30 627.6615, 641.31, 650.05, 765.204, 849.04, 914.16,
 31 914.17, 916.105, and 916.106, F.S.; substituting the
 32 term "intellectual disability" for the term "mental
 33 retardation"; amending s. 916.107, F.S.; substituting
 34 the term "intellectual disability" for the term
 35 "retardation"; providing a directive to the Division
 36 of Law Revision and Information; amending ss. 916.301,
 37 916.3012, 916.302, 916.3025, 916.303, 916.304, 918.16,
 38 921.137, 941.38, 944.602, 945.025, 945.12, 945.42,
 39 947.185, 984.19, 985.14, 985.145, 985.18, 985.19,
 40 985.195, and 985.61, F.S.; clarifying in s. 921.137,
 41 F.S., that the terms "intellectual disability" or
 42 "intellectually disabled" are interchangeable with and
 43 have the same meaning as the terms "mental
 44 retardation," or "retardation" and "mentally
 45 retarded," as defined before the effective date of the
 46 act; substituting the term "intellectual disability"
 47 for the term "mental retardation"; expressing
 48 legislative intent; providing an effective date.

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

51
 52 Section 1. Subsection (15) of section 39.502, Florida
 53 Statutes, is amended to read:

54 39.502 Notice, process, and service.—

55 (15) A party who is identified as a person who has a with
 56 mental illness or ~~with~~ a developmental disability must be
 57 informed by the court of the availability of advocacy services
 58 through the department, the Arc of Florida Association for

Page 2 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13 2013142__

59 ~~Retarded Citizens~~, or other appropriate mental health or
60 developmental disability advocacy groups and encouraged to seek
61 such services.

62 Section 2. Subsection (9) of section 40.013, Florida
63 Statutes, is amended to read:

64 40.013 Persons disqualified or excused from jury service.—

65 (9) Any person who is responsible for the care of a person
66 who, because of mental illness, intellectual disability ~~mental~~
67 ~~retardation~~, senility, or other physical or mental incapacity,
68 is incapable of caring for himself or herself shall be excused
69 from jury service upon request.

70 Section 3. Section 86.041, Florida Statutes, is amended to
71 read:

72 86.041 Actions by executors, administrators, trustees,
73 etc.—Any person interested as or through an executor,
74 administrator, trustee, guardian, or other fiduciary, creditor,
75 devisee, legatee, heir, next of kin, or cestui que trust, in the
76 administration of a trust, a guardianship, or ~~of~~ the estate of a
77 decedent, an infant, a mental incompetent, or insolvent may have
78 a declaration of rights or equitable or legal relations to ~~in~~
79 ~~respect thereto~~:

80 (1) ~~To~~ Ascertain any class of creditors, devisees,
81 legatees, heirs, next of kin, or others; ~~or~~

82 (2) ~~To~~ Direct the executor, administrator, or trustee to
83 refrain from doing any particular act in his or her fiduciary
84 capacity; or

85 (3) ~~To~~ Determine any question relating to ~~arising in~~ the
86 administration of the guardianship, estate, or trust, including
87 questions of construction of wills and other writings.

16-00179A-13 2013142__

88
89 For the purpose of this section, a "mental incompetent" is one
90 who, because of mental illness, intellectual disability ~~mental~~
91 ~~retardation~~, senility, excessive use of drugs or alcohol, or
92 other mental incapacity, is incapable of ~~either~~ managing his or
93 her property or caring for himself or herself, or both.

94 Section 4. Section 92.53, Florida Statutes, is amended to
95 read:

96 92.53 Videotaping the ~~of~~ testimony of a victim or witness
97 under age 16 or who has an intellectual disability ~~person with~~
98 ~~mental retardation~~.—

99 (1) On motion and hearing in camera and a finding that
100 there is a substantial likelihood that a victim or witness who
101 is under the age of 16 or who has an intellectual disability ~~is~~
102 ~~a person with mental retardation~~ as defined in s. 393.063 would
103 suffer at least moderate emotional or mental harm due to the
104 presence of the defendant if such victim or witness ~~the child or~~
105 ~~person with mental retardation~~ is required to testify in open
106 court, or ~~that such victim or witness is otherwise~~ unavailable
107 as defined in s. 90.804(1), the trial court may order the
108 videotaping of the testimony of the victim or witness in a case,
109 whether civil or criminal in nature, in which videotaped
110 testimony is to be used ~~utilized~~ at trial in lieu of trial
111 testimony in open court.

112 (2) The motion may be filed by:

113 (a) The victim or witness, or the victim's or witness's
114 attorney, parent, legal guardian, or guardian ad litem;

115 (b) A trial judge on his or her own motion;

116 (c) Any party in a civil proceeding; or

16-00179A-13

2013142__

117 (d) The prosecuting attorney or the defendant, or the
118 defendant's counsel.

119 (3) The judge shall preside, or shall appoint a special
120 master to preside, at the videotaping unless ~~the following~~
121 ~~conditions are met:~~

122 (a) The child or the person who has the intellectual
123 disability with mental retardation is represented by a guardian
124 ad litem or counsel;

125 (b) The representative of the victim or witness and the
126 counsel for each party stipulate that the requirement for the
127 presence of the judge or special master may be waived; and

128 (c) The court finds at a hearing on the motion that the
129 presence of a judge or special master is not necessary to
130 protect the victim or witness.

131 (4) The defendant and the defendant's counsel must ~~shall~~ be
132 present at the videotaping, unless the defendant has waived this
133 right. The court may require the defendant to view the testimony
134 from outside the presence of the child or the person who has an
135 intellectual disability with mental retardation by means of a
136 two-way mirror or another similar method that ensures will
137 ~~ensure~~ that the defendant can observe and hear the testimony of
138 the victim or witness in person, but ~~that~~ the victim or witness
139 cannot hear or see the defendant. The defendant and the attorney
140 for the defendant may communicate by any appropriate private
141 method.

142 (5) Any party, or the court on its own motion, may request
143 the aid of an interpreter, as provided in s. 90.606, to aid the
144 parties in formulating methods of questioning the child or
145 person who has the intellectual disability with mental

Page 5 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13

2013142__

146 ~~retardation~~ and in interpreting the answers of the child or
147 person during with mental retardation throughout proceedings
148 conducted under this section.

149 (6) The motion referred to in subsection (1) may be made at
150 any time with reasonable notice to each party to the cause, and
151 videotaping of testimony may be made any time after the court
152 grants the motion. The videotaped testimony is shall be
153 admissible as evidence in the trial of the cause; however, such
154 testimony is shall not be admissible in any trial or proceeding
155 in which such witness testifies by use of closed circuit
156 television pursuant to s. 92.54.

157 (7) The court shall make specific findings of fact, on the
158 record, as to the basis for its ruling under this section.

159 Section 5. Section 92.54, Florida Statutes, is amended to
160 read:

161 92.54 Use of closed circuit television in proceedings
162 involving a victim or witness ~~victims or witnesses~~ under the age
163 of 16 or who has an intellectual disability ~~persons with mental~~
164 ~~retardation.~~

165 (1) Upon motion and hearing in camera and upon a finding
166 that there is a substantial likelihood that a victim or witness
167 under the age of 16 or who has an intellectual disability ~~the~~
168 ~~child or person with mental retardation~~ will suffer at least
169 moderate emotional or mental harm due to the presence of the
170 defendant if such victim or witness ~~the child or person with~~
171 ~~mental retardation~~ is required to testify in open court, or ~~that~~
172 ~~such victim or witness~~ is unavailable as defined in s.
173 90.804(1), the trial court may order that the testimony of the a
174 ~~child under the age of 16 or person with mental retardation who~~

Page 6 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13 2013142__

175 ~~is a~~ victim or witness be taken outside of the courtroom and
176 shown by means of closed circuit television.

177 (2) The motion may be filed by the victim or witness; the
178 attorney, parent, legal guardian, or guardian ad litem of the
179 victim or witness; the prosecutor; the defendant or the
180 defendant's counsel; or the trial judge on his or her own
181 motion.

182 (3) Only the judge, the prosecutor, the defendant, the
183 attorney for the defendant, the operators of the videotape
184 equipment, an interpreter, and some other person who, in the
185 opinion of the court, contributes to the well-being of the child
186 or the person who has an intellectual disability with mental
187 ~~retardation~~ and who will not be a witness in the case may be in
188 the room during the recording of the testimony.

189 (4) During the victim's or witness's child's or person's
190 ~~with mental retardation~~ testimony by closed circuit television,
191 the court may require the defendant to view the testimony from
192 the courtroom. In such a case, the court shall permit the
193 defendant to observe and hear the testimony of the victim or
194 witness child or person with mental retardation, but ~~must shall~~
195 ensure that the victim or witness child or person with mental
196 ~~retardation~~ cannot hear or see the defendant. The defendant's
197 right to assistance of counsel, which includes the right to
198 immediate and direct communication with counsel conducting
199 cross-examination, must be protected and, upon the defendant's
200 request, such communication ~~must shall~~ be provided by any
201 appropriate electronic method.

202 (5) The court shall make specific findings of fact, on the
203 record, as to the basis for its ruling under this section.

16-00179A-13 2013142__

204 Section 6. Section 92.55, Florida Statutes, is amended to
205 read:

206 92.55 Judicial or other proceedings involving victim or
207 witness under the age of 16 or person who has an intellectual
208 disability with mental retardation; special protections; use of
209 registered service or therapy animals.—

210 (1) Upon motion of any party, upon motion of a parent,
211 guardian, attorney, or guardian ad litem for a victim or witness
212 child under the age of 16 or person who has an intellectual
213 disability with mental retardation, or upon its own motion, the
214 court may enter any order necessary to protect such a child
215 ~~under the age of 16 or person with mental retardation who is a~~
216 victim or witness in any judicial proceeding or other official
217 proceeding from severe emotional or mental harm due to the
218 presence of the defendant if the victim or witness child or
219 ~~person with mental retardation~~ is required to testify in open
220 court. Such orders ~~must shall~~ relate to the taking of testimony
221 and ~~shall~~ include, but are not ~~be~~ limited to:

222 (a) Interviewing or the taking of depositions as part of a
223 civil or criminal proceeding.

224 (b) Examination and cross-examination for the purpose of
225 qualifying as a witness or testifying in any proceeding.

226 (c) The use of testimony taken outside of the courtroom,
227 including proceedings under ss. 92.53 and 92.54.

228 (2) In ruling upon the motion, the court shall consider
229 ~~take into consideration~~:

230 (a) The age of the child, the nature of the offense or act,
231 the relationship of the child to the parties in the case or to
232 the defendant in a criminal action, the degree of emotional

16-00179A-13 2013142__

233 trauma that will result to the child as a consequence of the
234 defendant's presence, and any other fact that the court deems
235 relevant; or

236 (b) The age of the person who has an intellectual
237 disability with mental retardation, the functional capacity of
238 such the person with mental retardation, the nature of the
239 offenses or act, the relationship of the person with mental
240 retardation to the parties in the case or to the defendant in a
241 criminal action, the degree of emotional trauma that will result
242 to the person with mental retardation as a consequence of the
243 defendant's presence, and any other fact that the court deems
244 relevant.

245 (3) In addition to such other relief ~~as is~~ provided by law,
246 the court may enter orders limiting the number of times that a
247 child or a person who has an intellectual disability with mental
248 retardation may be interviewed, prohibiting depositions of such
249 a child or person with mental retardation, requiring the
250 submission of questions before the ~~prior to~~ examination of the a
251 child or person with mental retardation, setting the place and
252 conditions for interviewing the a child or person with mental
253 retardation or for conducting any other proceeding, or
254 permitting or prohibiting the attendance of any person at any
255 proceeding. The court shall enter any order necessary to protect
256 the rights of all parties, including the defendant in any
257 criminal action.

258 (4) The court may set any other conditions it finds just
259 and appropriate when on the taking the of testimony of by a
260 child, including the use of a service or therapy animal that has
261 been evaluated and registered according to national standards,

16-00179A-13 2013142__

262 in any proceeding involving a sexual offense. When deciding
263 whether to permit a child to testify with the assistance of a
264 registered service or therapy animal, the court shall consider
265 ~~take into consideration~~ the age of the child, the interests of
266 the child, the rights of the parties to the litigation, and any
267 other relevant factor that would facilitate the testimony by the
268 child.

269 Section 7. Subsection (1) of section 320.10, Florida
270 Statutes, is amended to read:

271 320.10 Exemptions.—

272 (1) The provisions of s. 320.08 do not apply to:

273 (a) Any motor vehicle or mobile home owned by, and operated
274 exclusively for the personal use of, any member of the United
275 States Armed Forces who is not a resident of this state and who
276 is stationed in the state while in compliance with military or
277 naval orders;

278 (b) Any motor vehicle owned or operated exclusively by the
279 Federal Government;

280 (c) Any motor vehicle owned and operated exclusively for
281 the benefit of the Boys' Clubs of America, the National Audubon
282 Society, the National Children's Cardiac Hospital, any humane
283 society, any nationally chartered veterans' organization that
284 maintains a state headquarters in this state, the Children's
285 Bible Mission, the Boy Scouts of America, the Girl Scouts of
286 America, the Salvation Army, the American National Red Cross,
287 the United Service Organization, any local member unit of the
288 National Urban League which provides free services to municipal
289 and county residents who are in need of such services, the Young
290 Men's Christian Association, the Young Men's Hebrew Association,

16-00179A-13 2013142__
 291 the Camp Fire Girls' Council, the Young Women's Christian
 292 Association, the Young Women's Hebrew Association, any local
 293 member unit of the Arc of Florida ~~Association for Retarded~~
 294 ~~Citizens~~, the Children's Home Society of Florida, or the
 295 Goodwill Industries. A not-for-profit organization named in this
 296 paragraph and its local affiliate organizations ~~is shall be~~
 297 eligible for the exemption if it ~~for so long as each~~ maintains
 298 current articles of incorporation on file with the Department of
 299 State and qualifies as a not-for-profit organization under s.
 300 212.08;

(d) Any motor vehicle owned and operated by a church,
 302 temple, or synagogue for exclusive use as a community service
 303 van or to transport passengers without compensation to religious
 304 services or for religious education;

(e) Any motor vehicle owned and operated by the Civil Air
 306 Patrol or the United States Coast Guard Auxiliary;

(f) Any mobile blood bank unit when operated as a nonprofit
 308 service by an organization;

(g) Any mobile X-ray unit or truck or bus used exclusively
 310 for public health purposes;

(h) Any school bus owned and operated by a nonprofit
 312 educational or religious corporation;

(i) Any vehicle used by any of the various search and
 314 rescue units of the several counties for exclusive use as a
 315 search and rescue vehicle; ~~or and~~

(j) Any motor vehicle used by a community transportation
 317 coordinator or a transportation operator as defined in part I of
 318 chapter 427, and which is used exclusively to transport
 319 transportation disadvantaged persons.

16-00179A-13 2013142__
 320 Section 8. Paragraph (d) of subsection (3) of section
 321 383.14, Florida Statutes, is amended to read:

322 383.14 Screening for metabolic disorders, other hereditary
 323 and congenital disorders, and environmental risk factors.—

324 (3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department
 325 shall administer and provide certain services to implement the
 326 provisions of this section and shall:

327 (d) Maintain a confidential registry of cases, including
 328 information of importance for the purpose of followup services
 329 to prevent intellectual disabilities ~~mental retardation~~, to
 330 correct or ameliorate physical disabilities ~~handicaps~~, and for
 331 epidemiologic studies, if indicated. Such registry shall be
 332 exempt from the provisions of s. 119.07(1).
 333

334 All provisions of this subsection must be coordinated with the
 335 provisions and plans established under this chapter, chapter
 336 411, and Pub. L. No. 99-457.

337 Section 9. Subsection (9) and subsections (21) through (32)
 338 of section 393.063, Florida Statutes, are reordered and amended
 339 to read:

340 393.063 Definitions.—For the purposes of this chapter, the
 341 term:

342 (9) "Developmental disability" means a disorder or syndrome
 343 that is attributable to intellectual disability ~~retardation~~,
 344 cerebral palsy, autism, spina bifida, or Prader-Willi syndrome;
 345 that manifests before the age of 18; and that constitutes a
 346 substantial handicap that can reasonably be expected to continue
 347 indefinitely.

348 ~~(22)~~ ~~(21)~~ "Intermediate care facility for the

16-00179A-13 2013142
 349 developmentally disabled" or "ICF/DD" means a residential
 350 facility licensed and certified under ~~pursuant to~~ part VIII of
 351 chapter 400.

352 ~~(23)(22)~~ "Medical/dental services" means medically
 353 necessary services ~~that which~~ are provided or ordered for a
 354 client by a person licensed under chapter 458, chapter 459, or
 355 chapter 466. Such services may include, but are not limited to,
 356 prescription drugs, specialized therapies, nursing supervision,
 357 hospitalization, dietary services, prosthetic devices, surgery,
 358 specialized equipment and supplies, adaptive equipment, and
 359 other services as required to prevent or alleviate a medical or
 360 dental condition.

361 ~~(24)(23)~~ "Personal care services" means individual
 362 assistance with or supervision of essential activities of daily
 363 living for self-care, including ambulation, bathing, dressing,
 364 eating, grooming, and toileting, and other similar services that
 365 are incidental to the care furnished and essential to the
 366 health, safety, and welfare of the client ~~if when there is no~~
 367 one else is available to perform those services.

368 ~~(25)(24)~~ "Prader-Willi syndrome" means an inherited
 369 condition typified by neonatal hypotonia with failure to thrive,
 370 hyperphagia or an excessive drive to eat which leads to obesity
 371 usually at 18 to 36 months of age, mild to moderate intellectual
 372 disability ~~mental retardation~~, hypogonadism, short stature, mild
 373 facial dysmorphism, and a characteristic neurobehavior.

374 ~~(26)(25)~~ "Relative" means an individual who is connected by
 375 affinity or consanguinity to the client and who is 18 years of
 376 age or older.

377 ~~(27)(26)~~ "Resident" means a ~~any~~ person who has a ~~with~~

16-00179A-13 2013142
 378 developmental disability and resides ~~disabilities residing~~ at a
 379 residential facility, whether or not such person is a client of
 380 the agency.

381 ~~(28)(27)~~ "Residential facility" means a facility providing
 382 room and board and personal care for persons who have ~~with~~
 383 developmental disabilities.

384 ~~(29)(28)~~ "Residential habilitation" means supervision and
 385 training with the acquisition, retention, or improvement in
 386 skills related to activities of daily living, such as personal
 387 hygiene skills, homemaking skills, and the social and adaptive
 388 skills necessary to enable the individual to reside in the
 389 community.

390 ~~(30)(29)~~ "Residential habilitation center" means a
 391 community residential facility licensed under this chapter which
 392 provides habilitation services. The capacity of such a facility
 393 may shall not be fewer than nine residents. After October 1,
 394 1989, new residential habilitation centers may not be licensed
 395 and the licensed capacity for any existing residential
 396 habilitation center may not be increased.

397 ~~(31)(30)~~ "Respite service" means appropriate, short-term,
 398 temporary care that is provided to a person who has a ~~with~~
 399 developmental disability in order ~~disabilities~~ to meet the
 400 planned or emergency needs of the person or the family or other
 401 direct service provider.

402 ~~(32)(31)~~ "Restraint" means a physical device, method, or
 403 drug used to control dangerous behavior.

404 (a) A physical restraint is any manual method or physical
 405 or mechanical device, material, or equipment attached or
 406 adjacent to an ~~the~~ individual's body so that he or she cannot

16-00179A-13

2013142

407 easily remove the restraint and which restricts freedom of
408 movement or normal access to one's body.

409 (b) A drug used as a restraint is a medication used to
410 control the person's behavior or to restrict his or her freedom
411 of movement and is not a standard treatment for the person's
412 medical or psychiatric condition. Physically holding a person
413 during a procedure to forcibly administer psychotropic
414 medication is a physical restraint.

415 (c) Restraint does not include physical devices, such as
416 orthopedically prescribed appliances, surgical dressings and
417 bandages, supportive body bands, or other physical holding ~~when~~
418 necessary for routine physical examinations and tests; for
419 purposes of orthopedic, surgical, or other similar medical
420 treatment; ~~when used~~ to provide support for the achievement of
421 functional body position or proper balance; or ~~when used~~ to
422 protect a person from falling out of bed.

423 ~~(21)(32)~~ "Intellectual disability" ~~"Retardation"~~ means
424 significantly subaverage general intellectual functioning
425 existing concurrently with deficits in adaptive behavior which
426 ~~that~~ manifests before the age of 18 and can reasonably be
427 expected to continue indefinitely. For the purposes of this
428 definition, the term:

429 (a) "Adaptive behavior" means the effectiveness or degree
430 with which an individual meets the standards of personal
431 independence and social responsibility expected of his or her
432 age, cultural group, and community.

433 (b) "Significantly subaverage general intellectual
434 functioning," for the purpose of this definition, means
435 performance that which is two or more standard deviations from

16-00179A-13

2013142

436 the mean score on a standardized intelligence test specified in
437 the rules of the agency. ~~"Adaptive behavior," for the purpose of~~
438 ~~this definition, means the effectiveness or degree with which an~~
439 ~~individual meets the standards of personal independence and~~
440 ~~social responsibility expected of his or her age, cultural~~
441 ~~group, and community.~~

442
443 For purposes of the application of the criminal laws and
444 procedural rules of this state to matters relating to pretrial,
445 trial, sentencing, and any matters relating to the imposition
446 and execution of the death penalty, the terms "intellectual
447 disability" or "intellectually disabled" are interchangeable
448 with and have the same meaning as the terms "mental retardation"
449 or "retardation" and "mentally retarded" as defined in this
450 section before July 1, 2013.

451 Section 10. Subsection (1), paragraphs (c) and (d) of
452 subsection (2), paragraphs (b) through (d) of subsection (3),
453 paragraph (b) of subsection (4), paragraphs (b), (e), (f), and
454 (g) of subsection (5), subsection (6), paragraph (d) of
455 subsection (7), paragraph (b) of subsection (8), subsection
456 (10), and paragraph (b) of subsection (12) of section 393.11,
457 Florida Statutes, are amended to read:

458 393.11 Involuntary admission to residential services.—

459 (1) JURISDICTION.—~~If when~~ a person has an intellectual
460 disability is mentally retarded and requires involuntary
461 admission to residential services provided by the agency, the
462 circuit court of the county in which the person resides has
463 ~~shall have~~ jurisdiction to conduct a hearing and enter an order
464 involuntarily admitting the person in order for ~~that~~ the person

16-00179A-13 2013142__
 465 to ~~may~~ receive the care, treatment, habilitation, and
 466 rehabilitation ~~that which~~ the person needs. For the purpose of
 467 identifying intellectual disability ~~mental retardation~~,
 468 diagnostic capability shall be established by the agency. Except
 469 as otherwise specified, the proceedings under this section are
 470 ~~shall be~~ governed by the Florida Rules of Civil Procedure.

471 (2) PETITION.—

472 (c) The petition shall be verified and must shall:

473 1. State the name, age, and present address of the
 474 commissioners and their relationship to the person who has an
 475 intellectual disability ~~with mental retardation~~ or autism;

476 2. State the name, age, county of residence, and present
 477 address of the person who has an intellectual disability with
 478 ~~mental retardation~~ or autism;

479 3. Allege that the commission believes that the person
 480 needs involuntary residential services and specify the factual
 481 information on which the belief is based;

482 4. Allege that the person lacks sufficient capacity to give
 483 express and informed consent to a voluntary application for
 484 services and lacks the basic survival and self-care skills to
 485 provide for the person's well-being or is likely to physically
 486 injure others if allowed to remain at liberty; and

487 5. State which residential setting is the least restrictive
 488 and most appropriate alternative and specify the factual
 489 information on which the belief is based.

490 (d) The petition must shall be filed in the circuit court
 491 of the county in which the person who has the intellectual
 492 disability with mental retardation or autism resides.

493 (3) NOTICE.—

16-00179A-13 2013142__
 494 (b) ~~If Whenever~~ a motion or petition has been filed
 495 pursuant to s. 916.303 to dismiss criminal charges against a
 496 defendant who has an intellectual disability with ~~retardation~~ or
 497 autism, and a petition is filed to involuntarily admit the
 498 defendant to residential services under this section, the notice
 499 of the filing of the petition must shall also be given to the
 500 defendant's attorney, the state attorney of the circuit from
 501 which the defendant was committed, and the agency.

502 (c) The notice must shall state that a hearing shall be set
 503 to inquire into the need of the person who has an intellectual
 504 disability with mental retardation or autism for involuntary
 505 residential services. The notice must shall also state the date
 506 of the hearing on the petition.

507 (d) The notice must shall state that the individual who has
 508 an intellectual disability with mental retardation or autism has
 509 the right to be represented by counsel of his or her own choice
 510 and that, if the person cannot afford an attorney, the court
 511 shall appoint one.

512 (4) AGENCY PARTICIPATION.—

513 (b) Following examination, the agency shall file a written
 514 report with the court at least ~~not less than~~ 10 working days
 515 before the date of the hearing. The report must be served on the
 516 petitioner, the person who has the intellectual disability with
 517 ~~mental retardation~~, and the person's attorney at the time the
 518 report is filed with the court.

519 (5) EXAMINING COMMITTEE.—

520 (b) The court shall appoint at least ~~no fewer than~~ three
 521 disinterested experts who have demonstrated to the court an
 522 expertise in the diagnosis, evaluation, and treatment of persons

16-00179A-13 2013142

523 who have intellectual disabilities ~~with mental retardation~~. The
524 committee must include at least one licensed and qualified
525 physician, one licensed and qualified psychologist, and one
526 qualified professional who, at with a minimum, ~~has~~ of a masters
527 degree in social work, special education, or vocational
528 rehabilitation counseling, to examine the person and to testify
529 at the hearing on the involuntary admission to residential
530 services.

531 (e) The committee shall prepare a written report for the
532 court. The report must explicitly document the extent that the
533 person meets the criteria for involuntary admission. The report,
534 and expert testimony, must include, but not be limited to:

535 1. The degree of the person's intellectual disability
536 ~~mental retardation~~ and whether, using diagnostic capabilities
537 established by the agency, the person is eligible for agency
538 services;

539 2. Whether, because of the person's degree of intellectual
540 disability ~~mental retardation~~, the person:

541 a. Lacks sufficient capacity to give express and informed
542 consent to a voluntary application for services pursuant to s.
543 393.065;

544 b. Lacks basic survival and self-care skills to such a
545 degree that close supervision and habilitation in a residential
546 setting is necessary and if not provided would result in a real
547 and present threat of substantial harm to the person's well-
548 being; or

549 c. Is likely to physically injure others if allowed to
550 remain at liberty.

551 3. The purpose to be served by residential care;

16-00179A-13 2013142

552 4. A recommendation on the type of residential placement
553 which would be the most appropriate and least restrictive for
554 the person; and

555 5. The appropriate care, habilitation, and treatment.

556 (f) The committee shall file the report with the court at
557 least not less than 10 working days before the date of the
558 hearing. The report must ~~shall~~ be served on the petitioner, the
559 person who has the intellectual disability with mental
560 ~~retardation~~, the person's attorney at the time the report is
561 filed with the court, and the agency.

562 (g) Members of the examining committee shall receive a
563 reasonable fee to be determined by the court. The fees shall ~~are~~
564 ~~to~~ be paid from the general revenue fund of the county in which
565 the person who has the intellectual disability with mental
566 ~~retardation~~ resided when the petition was filed.

567 (6) COUNSEL; GUARDIAN AD LITEM.—

568 (a) The person who has the intellectual disability must
569 ~~with mental retardation shall~~ be represented by counsel at all
570 stages of the judicial proceeding. If ~~In the event~~ the person is
571 indigent and cannot afford counsel, the court shall appoint a
572 public defender at least not less than 20 working days before
573 the scheduled hearing. The person's counsel shall have full
574 access to the records of the service provider and the agency. In
575 all cases, the attorney shall represent the rights and legal
576 interests of the person ~~with mental retardation~~, regardless of
577 who initiates ~~may initiate~~ the proceedings or pays ~~pay~~ the
578 attorney's fee.

579 (b) If the attorney, during the course of his or her
580 representation, reasonably believes that the person who has the

16-00179A-13

2013142__

581 intellectual disability ~~with mental retardation~~ cannot
582 adequately act in his or her own interest, the attorney may seek
583 the appointment of a guardian ad litem. A prior finding of
584 incompetency is not required before a guardian ad litem is
585 appointed pursuant to this section.

(7) HEARING.—

587 (d) The person who has the intellectual disability must
588 ~~with mental retardation shall~~ be physically present throughout
589 the entire proceeding. If the person's attorney believes that
590 the person's presence at the hearing is not in his or her the
591 ~~person's~~ best interest, the person's presence may be waived once
592 the court has seen the person and the hearing has commenced.

(8) ORDER.—

594 (b) An order of involuntary admission to residential
595 services may not be entered unless the court finds that:

596 1. The person is intellectually disabled ~~mentally retarded~~
597 or autistic;

598 2. Placement in a residential setting is the least
599 restrictive and most appropriate alternative to meet the
600 person's needs; and

601 3. Because of the person's degree of intellectual
602 ~~disability mental retardation~~ or autism, the person:

603 a. Lacks sufficient capacity to give express and informed
604 consent to a voluntary application for services pursuant to s.
605 393.065 and lacks basic survival and self-care skills to such a
606 degree that close supervision and habilitation in a residential
607 setting is necessary and, if not provided, would result in a
608 real and present threat of substantial harm to the person's
609 well-being; or

16-00179A-13

2013142__

610 b. Is likely to physically injure others if allowed to
611 remain at liberty.

(10) COMPETENCY.—

613 (a) The issue of competency is shall be separate and
614 distinct from a determination of the appropriateness of
615 involuntary admission to residential services due to
616 intellectual disability ~~for a condition of mental retardation~~.

617 (b) The issue of the competency of a person who has an
618 intellectual disability ~~with mental retardation~~ for purposes of
619 assigning guardianship shall be determined in a separate
620 proceeding according to the procedures and requirements of
621 chapter 744. The issue of the competency of a person who has an
622 intellectual disability ~~with mental retardation~~ or autism for
623 purposes of determining whether the person is competent to
624 proceed in a criminal trial shall be determined in accordance
625 with chapter 916.

(12) APPEAL.—

627 (b) The filing of an appeal by the person who has an
628 intellectual disability stays ~~with mental retardation shall stay~~
629 admission of the person into residential care. The stay remains
630 ~~shall remain~~ in effect during the pendency of all review
631 proceedings in Florida courts until a mandate issues.

632 Section 11. Subsection (18) of section 394.455, Florida
633 Statutes, is amended to read:

634 394.455 Definitions.—As used in this part, unless the
635 context clearly requires otherwise, the term:

636 (18) "Mental illness" means an impairment of the mental or
637 emotional processes that exercise conscious control of one's
638 actions or of the ability to perceive or understand reality,

16-00179A-13 2013142
 639 which impairment substantially interferes with the a person's
 640 ability to meet the ordinary demands of living, ~~regardless of~~
 641 ~~etiology~~. For the purposes of this part, the term does not
 642 include a ~~retardation or~~ developmental disability as defined in
 643 chapter 393, intoxication, or conditions manifested only by
 644 antisocial behavior or substance abuse impairment.

645 Section 12. Subsections (3) through (13) of section
 646 400.960, Florida Statutes, are amended to read:

647 400.960 Definitions.—As used in this part, the term:

648 ~~(3) "Autism" has the same meaning as in s. 393.063.~~

649 ~~(4) "Cerebral palsy" has the same meaning as in s. 393.063.~~

650 (3)(5) "Client" means any person determined by the Agency
 651 for Persons with Disabilities to be eligible for developmental
 652 services.

653 (4)(6) "Developmentally disabled" ~~"developmental~~
 654 ~~disability"~~ has the same meaning as "developmental disability"
 655 as that term is defined in s. 393.063.

656 (5)(7) "Direct service provider" means a person 18 years of
 657 age or older who has direct contact with individuals who have
 658 ~~with~~ developmental disabilities and who is unrelated to such the
 659 individuals ~~with developmental disabilities~~.

660 (6)(8) "Intermediate care facility for the developmentally
 661 disabled" means a residential facility licensed and certified in
 662 accordance with state law, and certified by the Federal
 663 Government, pursuant to the Social Security Act, as a provider
 664 of Medicaid services to persons who have ~~with~~ developmental
 665 disabilities.

666 ~~(9) "Prader-Willi syndrome" has the same meaning as in s.~~
 667 ~~393.063.~~

16-00179A-13 2013142
 668 ~~(7)(10)(a)~~ "Restraint" means a physical device, method, or
 669 drug used to control behavior.

670 (a) A physical restraint is any manual method or physical
 671 or mechanical device, material, or equipment attached or
 672 adjacent to the individual's body so that he or she cannot
 673 easily remove the restraint and which restricts freedom of
 674 movement or normal access to one's body.

675 (b) A drug used as a restraint is a medication used to
 676 control the person's behavior or to restrict his or her freedom
 677 of movement. Physically holding a person during a procedure to
 678 forcibly administer psychotropic medication is a physical
 679 restraint.

680 (c) Restraint does not include physical devices, such as
 681 orthopedically prescribed appliances, surgical dressings and
 682 bandages, supportive body bands, or other physical holding ~~when~~
 683 necessary for routine physical examinations and tests; for
 684 purposes of orthopedic, surgical, or other similar medical
 685 treatment; ~~when used~~ to provide support for the achievement of
 686 functional body position or proper balance; or ~~when used~~ to
 687 protect a person from falling out of bed.

688 ~~(11) "Retardation" has the same meaning as in s. 393.063.~~

689 (8)(12) "Seclusion" means the physical segregation of a
 690 person in any fashion or the involuntary isolation of a person
 691 in a room or area from which the person is prevented from
 692 leaving. The prevention may be by physical barrier or by a staff
 693 member who is acting in a manner, or who is physically situated,
 694 so as to prevent the person from leaving the room or area. For
 695 purposes of this part, the term does not mean isolation due to a
 696 person's medical condition or symptoms.

16-00179A-13 2013142

697 ~~(13) "Spina bifida" has the same meaning as in s. 393.063.~~
698 Section 13. Subsection (12) of section 408.032, Florida
699 Statutes, is amended to read:

700 408.032 Definitions relating to Health Facility and
701 Services Development Act.—As used in ss. 408.031-408.045, the
702 term:

703 (12) "Intermediate care facility for the developmentally
704 disabled" means a residential facility licensed under part VIII
705 of chapter 400 ~~chapter 393 and certified by the Federal~~
706 ~~Government pursuant to the Social Security Act as a provider of~~
707 ~~Medicaid services to persons who are mentally retarded or who~~
708 ~~have a related condition.~~

709 Section 14. Subsection (8) of section 409.908, Florida
710 Statutes, is amended to read:

711 409.908 Reimbursement of Medicaid providers.—Subject to
712 specific appropriations, the agency shall reimburse Medicaid
713 providers, in accordance with state and federal law, according
714 to methodologies set forth in the rules of the agency and in
715 policy manuals and handbooks incorporated by reference therein.
716 These methodologies may include fee schedules, reimbursement
717 methods based on cost reporting, negotiated fees, competitive
718 bidding pursuant to s. 287.057, and other mechanisms the agency
719 considers efficient and effective for purchasing services or
720 goods on behalf of recipients. If a provider is reimbursed based
721 on cost reporting and submits a cost report late and that cost
722 report would have been used to set a lower reimbursement rate
723 for a rate semester, then the provider's rate for that semester
724 shall be retroactively calculated using the new cost report, and
725 full payment at the recalculated rate shall be effected

16-00179A-13 2013142

726 retroactively. Medicare-granted extensions for filing cost
727 reports, if applicable, shall also apply to Medicaid cost
728 reports. Payment for Medicaid compensable services made on
729 behalf of Medicaid eligible persons is subject to the
730 availability of moneys and any limitations or directions
731 provided for in the General Appropriations Act or chapter 216.
732 Further, nothing in this section shall be construed to prevent
733 or limit the agency from adjusting fees, reimbursement rates,
734 lengths of stay, number of visits, or number of services, or
735 making any other adjustments necessary to comply with the
736 availability of moneys and any limitations or directions
737 provided for in the General Appropriations Act, provided the
738 adjustment is consistent with legislative intent.

739 (8) A provider of home-based or community-based services
740 rendered pursuant to a federally approved waiver shall be
741 reimbursed based on an established or negotiated rate for each
742 service. These rates shall be established according to an
743 analysis of the expenditure history and prospective budget
744 developed by each contract provider participating in the waiver
745 program, or under any other methodology adopted by the agency
746 and approved by the Federal Government in accordance with the
747 waiver. Privately owned and operated community-based residential
748 facilities which meet agency requirements and which formerly
749 received Medicaid reimbursement for the optional intermediate
750 care facility for the intellectually disabled ~~mentally retarded~~
751 service may participate in the developmental services waiver as
752 part of a home-and-community-based continuum of care for
753 Medicaid recipients who receive waiver services.

754 Section 15. Subsection (16) of section 413.20, Florida

16-00179A-13

2013142__

755 Statutes, is amended to read:

756 413.20 Definitions.—As used in this part, the term:

757 (16) "Person who has a significant disability" means an
 758 individual who has a disability that is a severe physical or
 759 mental impairment that seriously limits one or more functional
 760 capacities, such as mobility, communication, self-care, self-
 761 direction, interpersonal skills, work tolerance, or work skills,
 762 in terms of an employment outcome; whose vocational
 763 rehabilitation may be expected to require multiple vocational
 764 rehabilitation services over an extended period of time; and who
 765 has one or more physical or mental disabilities resulting from
 766 amputation, arthritis, autism, blindness, burn injury, cancer,
 767 cerebral palsy, cystic fibrosis, deafness, head injury, heart
 768 disease, hemiplegia, hemophilia, respiratory or pulmonary
 769 dysfunction, intellectual disability ~~mental retardation~~, mental
 770 illness, multiple sclerosis, muscular dystrophy, musculoskeletal
 771 disorder, neurological disorder, including stroke and epilepsy,
 772 paraplegia, quadriplegia, or other spinal cord condition,
 773 sickle-cell anemia, specific learning disability, end-stage
 774 renal disease, or another disability or a combination of
 775 disabilities that is determined, after an assessment for
 776 determining eligibility and vocational rehabilitation needs, to
 777 cause comparable substantial functional limitation.

778 Section 16. Paragraph (a) of subsection (6) of section
 779 440.49, Florida Statutes, is amended to read:

780 440.49 Limitation of liability for subsequent injury
 781 through Special Disability Trust Fund.—

782 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

783 (a) Reimbursement is not allowed under this section unless

16-00179A-13

2013142__

784 it is established that the employer knew of the preexisting
 785 permanent physical impairment prior to the occurrence of the
 786 subsequent injury or occupational disease, and ~~that~~ the
 787 permanent physical impairment is one of the following:
 788 1. Epilepsy.
 789 2. Diabetes.
 790 3. Cardiac disease.
 791 4. Amputation of foot, leg, arm, or hand.
 792 5. Total loss of sight of one or both eyes or a partial
 793 loss of corrected vision of more than 75 percent bilaterally.
 794 6. Residual disability from poliomyelitis.
 795 7. Cerebral palsy.
 796 8. Multiple sclerosis.
 797 9. Parkinson's disease.
 798 10. Meniscectomy.
 799 11. Patellectomy.
 800 12. Ruptured cruciate ligament.
 801 13. Hemophilia.
 802 14. Chronic osteomyelitis.
 803 15. Surgical or spontaneous fusion of a major weight-
 804 bearing joint.
 805 16. Hyperinsulinism.
 806 17. Muscular dystrophy.
 807 18. Thrombophlebitis.
 808 19. Herniated intervertebral disk.
 809 20. Surgical removal of an intervertebral disk or spinal
 810 fusion.
 811 21. One or more back injuries or a disease process of the
 812 back resulting in disability over a total of 120 or more days,

16-00179A-13 2013142__

813 if substantiated by a doctor's opinion that there was a
814 preexisting impairment to the claimant's back.

815 22. Total deafness.

816 23. Intellectual disability if ~~Mental retardation~~, provided
817 the employee's intelligence quotient is such that she or he
818 falls within the lowest 2 percentile of the general population.
819 However, ~~it shall not be necessary for~~ the employer does not
820 need to know the employee's actual intelligence quotient or
821 actual relative ranking in relation to the intelligence quotient
822 of the general population.

823 24. Any permanent physical condition that ~~which~~, prior to
824 the industrial accident or occupational disease, constitutes a
825 20 percent ~~20 percent~~ impairment of a member or of the body as a
826 whole.

827 25. Obesity if, ~~provided~~ the employee is 30 percent or more
828 over the average weight designated for her or his height and age
829 in the Table of Average Weight of Americans by Height and Age
830 prepared by the Society of Actuaries using data from the 1979
831 Build and Blood Pressure Study.

832 26. Any permanent physical impairment as provided ~~defined~~
833 in s. 440.15(3) which is a result of a prior industrial accident
834 with the same employer or the employer's parent company,
835 subsidiary, sister company, or affiliate located within the
836 geographical boundaries of this state.

837 Section 17. Paragraph (g) of subsection (1) of section
838 499.0054, Florida Statutes, is amended to read:
839 499.0054 Advertising and labeling of drugs, devices, and
840 cosmetics; exemptions.-
841 (1) It is a violation of the Florida Drug and Cosmetic Act

16-00179A-13 2013142__

842 to perform or cause the performance of any of the following
843 acts:

844 (g) The advertising of any drug or device represented to
845 have any effect in any of the following conditions, disorders,
846 diseases, or processes:

847 1. Blood disorders.
848 2. Bone or joint diseases.
849 3. Kidney diseases or disorders.
850 4. Cancer.
851 5. Diabetes.
852 6. Gall bladder diseases or disorders.
853 7. Heart and vascular diseases.
854 8. High blood pressure.
855 9. Diseases or disorders of the ear or auditory apparatus,
856 including hearing loss or deafness.

857 10. Mental disease or intellectual disability ~~mental~~
858 ~~retardation~~.

859 11. Paralysis.
860 12. Prostate gland disorders.
861 13. Conditions of the scalp affecting hair loss.
862 14. Baldness.
863 15. Endocrine disorders.
864 16. Sexual impotence.
865 17. Tumors.
866 18. Venereal diseases.
867 19. Varicose ulcers.
868 20. Breast enlargement.
869 21. Purifying blood.
870 22. Metabolic disorders.

16-00179A-13 2013142

871 23. Immune system disorders or conditions affecting the
872 immune system.

873 24. Extension of life expectancy.

874 25. Stress and tension.

875 26. Brain stimulation or performance.

876 27. The body's natural defense mechanisms.

877 28. Blood flow.

878 29. Depression.

879 30. Human immunodeficiency virus or acquired immune
880 deficiency syndrome or related disorders or conditions.

881 Section 18. Section 514.072, Florida Statutes, is amended
882 to read:

883 514.072 Certification of swimming instructors for people
884 who have developmental disabilities ~~required~~.—Any person working
885 at a swimming pool who holds himself or herself out as a
886 swimming instructor specializing in training people who have
887 developmental disabilities, as defined in s. 393.063(4), may be
888 certified by the Dan Marino Foundation, Inc., in addition to
889 being certified under s. 514.071. The Dan Marino Foundation,
890 Inc., must develop certification requirements and a training
891 curriculum for swimming instructors for people who have
892 developmental disabilities ~~and must submit the certification~~
893 ~~requirements to the Department of Health for review by January~~
894 ~~1, 2007. A person certified under s. 514.071 before July 1,~~
895 ~~2007, must meet the additional certification requirements of~~
896 ~~this section before January 1, 2008.~~ A person certified under s.
897 514.071 ~~on or after July 1, 2007,~~ must meet the additional
898 certification requirements of this section within 6 months after
899 receiving certification under s. 514.071.

16-00179A-13 2013142

900 Section 19. Section 627.6041, Florida Statutes, is amended
901 to read:

902 627.6041 ~~Handicapped Children~~ with disabilities;
903 continuation of coverage.—

904 (1) A hospital or medical expense insurance policy or
905 health care services plan contract that is delivered or issued
906 for delivery in this state and that provides that coverage of a
907 dependent child terminates ~~will terminate~~ upon attainment of the
908 limiting age for dependent children specified in the policy or
909 contract ~~must~~ shall also provide in substance that attainment of
910 the limiting age does not terminate the coverage of the child
911 while the child continues to be both:

912 (a)(1) Incapable of self-sustaining employment by reason of
913 an intellectual mental retardation or physical disability.
914 ~~handicap; and~~

915 (b)(2) Chiefly dependent upon the policyholder or
916 subscriber for support and maintenance.

917 (2) If a claim is denied under a policy or contract for the
918 stated reason that the child has attained the limiting age for
919 dependent children specified in the policy or contract, the
920 notice of denial must state that the policyholder has the burden
921 of establishing that the child continues to meet the criteria
922 specified in subsection ~~subsections~~ (1) and (2).

923 Section 20. Section 627.6615, Florida Statutes, is amended
924 to read:

925 627.6615 ~~Handicapped Children~~ with disabilities;
926 continuation of coverage under group policy.—

927 (1) A group health insurance policy or health care services
928 plan contract that is delivered or issued for delivery in this

16-00179A-13 2013142
 929 state and that provides that coverage of a dependent child of an
 930 employee or other member of the covered group terminates will
 931 ~~terminate~~ upon attainment of the limiting age for dependent
 932 children specified in the policy or contract must shall also
 933 provide in substance that attainment of the limiting age does
 934 not terminate the coverage of the child while the child
 935 continues to be both:

936 (a)(1) Incapable of self-sustaining employment by reason of
 937 an intellectual mental retardation or physical disability.
 938 ~~handicap, and~~

939 (b)(2) Chiefly dependent upon the employee or member for
 940 support and maintenance.

941 (2) If a claim is denied under a policy or contract for the
 942 stated reason that the child has attained the limiting age for
 943 dependent children specified in the policy or contract, the
 944 notice of denial must state that the certificateholder or
 945 subscriber has the burden of establishing that the child
 946 continues to meet the criteria specified in subsection
 947 ~~subsections (1) and (2).~~

948 Section 21. Subsection (29) of section 641.31, Florida
 949 Statutes, is amended to read:

950 641.31 Health maintenance contracts.—

951 (29) If a health maintenance contract provides that
 952 coverage of a dependent child of the subscriber terminates will
 953 ~~terminate~~ upon attainment of the limiting age for dependent
 954 children which is specified in the contract, the contract must
 955 also provide in substance that attainment of the limiting age
 956 does not terminate the coverage of the child while the child
 957 continues to be both:

16-00179A-13 2013142
 958 (a) Incapable of self-sustaining employment by reason of an
 959 intellectual mental retardation or physical disability.
 960 ~~handicap, and~~

961 (b) Chiefly dependent upon the employee or member for
 962 support and maintenance.

963
 964 If the claim is denied under a contract for the stated reason
 965 that the child has attained the limiting age for dependent
 966 children specified in the contract, the notice or denial must
 967 state that the subscriber has the burden of establishing that
 968 the child continues to meet the criteria specified in this
 969 subsection paragraphs (a) and (b).

970 Section 22. Subsection (4) of section 650.05, Florida
 971 Statutes, is amended to read:

972 650.05 Plans for coverage of employees of political
 973 subdivisions.—

974 (4)(a) Notwithstanding any other provision of this chapter,
 975 effective January 1, 1972, all state political subdivisions
 976 receiving financial aid which that provide social security
 977 coverage for their employees pursuant to ~~the provisions of~~ this
 978 chapter and the ~~provisions of the~~ various retirement systems as
 979 authorized by law shall, in addition to other purposes, use
 980 ~~utilize~~ all grants-in-aid and other revenue received from the
 981 state to pay the employer's share of social security cost.

982 ~~(b)~~ The grants-in-aid and other revenue ~~referred to in~~
 983 ~~paragraph (a)~~ specifically include, but are not limited to,
 984 minimum foundation program grants to public school districts and
 985 community colleges; gasoline, motor fuel, cigarette, racing, and
 986 insurance premium taxes distributed to political subdivisions;

16-00179A-13 2013142__
 987 and amounts specifically appropriated as grants-in-aid for
 988 mental health, intellectual disabilities ~~mental retardation~~, and
 989 mosquito control programs.

990 Section 23. Subsection (1) of section 765.204, Florida
 991 Statutes, is amended to read:

992 765.204 Capacity of principal; procedure.—

993 (1) A principal is presumed to be capable of making health
 994 care decisions for herself or himself unless she or he is
 995 determined to be incapacitated. Incapacity may not be inferred
 996 from the person's voluntary or involuntary hospitalization for
 997 mental illness or from her or his intellectual disability ~~mental~~
 998 ~~retardation~~.

999 Section 24. Section 849.04, Florida Statutes, is amended to
 1000 read:

1001 849.04 Permitting minors and persons under guardianship to
 1002 gamble. ~~Whoever being~~ The proprietor, owner, or keeper of any E.
 1003 O., keno or pool table, or billiard table, wheel of fortune, or
 1004 other game of chance, kept for the purpose of betting, who
 1005 willfully and knowingly allows a ~~any~~ minor or ~~any~~ person who is
 1006 mentally incompetent or under guardianship to play at such game
 1007 or to bet on such game of chance, or whoever aids or abets or
 1008 otherwise encourages such playing or betting of any money or
 1009 other valuable thing upon the result of such game of chance by a
 1010 ~~any~~ minor or ~~any~~ person who is mentally incompetent or under
 1011 guardianship, commits ~~shall be guilty of~~ a felony of the third
 1012 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1013 775.084. For the purpose of this section, the term a "person who
 1014 is mentally incompetent person" means a person is one who
 1015 because of mental illness, intellectual disability ~~mental~~

16-00179A-13 2013142__
 1016 ~~retardation~~, senility, excessive use of drugs or alcohol, or
 1017 other mental incapacity is incapable of ~~either~~ managing his or
 1018 her property or caring for himself or herself or both.

1019 Section 25. Section 914.16, Florida Statutes, is amended to
 1020 read:

1021 914.16 Child abuse and sexual abuse of victims under age 16
 1022 or who have an intellectual disability ~~persons with mental~~
 1023 ~~retardation~~; limits on interviews.—The chief judge of each
 1024 judicial circuit, after consultation with the state attorney and
 1025 the public defender for the judicial circuit, the appropriate
 1026 chief law enforcement officer, and any other person deemed
 1027 appropriate by the chief judge, shall ~~provide by order~~
 1028 reasonable limits on the number of interviews which ~~that~~ a
 1029 victim of a violation of s. 794.011, s. 800.04, s. 827.03, or s.
 1030 847.0135(5) who is under 16 years of age or a victim of a
 1031 violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who
 1032 has an intellectual disability ~~is a person with mental~~
 1033 ~~retardation~~ as defined in s. 393.063 must submit to for law
 1034 enforcement or discovery purposes. ~~The order shall,~~ To the
 1035 extent possible, the order must protect the victim from the
 1036 psychological damage of repeated interrogations while preserving
 1037 the rights of the public, the victim, and the person charged
 1038 with the violation.

1039 Section 26. Section 914.17, Florida Statutes, is amended to
 1040 read:

1041 914.17 Appointment of advocate for victims or witnesses who
 1042 are minors or intellectually disabled ~~persons with mental~~
 1043 ~~retardation~~.—

1044 (1) A guardian ad litem or other advocate shall be

16-00179A-13 2013142__

1045 appointed by the court to represent a minor in any criminal
 1046 proceeding if the minor is a victim of or witness to child abuse
 1047 or neglect, ~~or if the minor is~~ a victim of a sexual offense, or
 1048 a witness to a sexual offense committed against another minor.
 1049 The court may appoint a guardian ad litem or other advocate in
 1050 any other criminal proceeding in which a minor is involved as
 1051 ~~either~~ a victim or a witness. The guardian ad litem or other
 1052 advocate shall have full access to all evidence and reports
 1053 introduced during the proceedings, may interview witnesses, may
 1054 make recommendations to the court, shall be noticed and have the
 1055 right to appear on behalf of the minor at all proceedings, and
 1056 may request additional examinations by medical doctors,
 1057 psychiatrists, or psychologists. ~~It is the duty of~~ The guardian
 1058 ad litem or other advocate shall to perform the following
 1059 ~~services:~~

1060 (a) ~~To~~ Explain, in language understandable to the minor,
 1061 all legal proceedings in which the minor is ~~shall be~~ involved;
 1062 (b) ~~To~~ Act, as a friend of the court, to advise the judge,
 1063 whenever appropriate, of the minor's ability to understand and
 1064 cooperate with any court proceeding; and
 1065 (c) ~~To~~ Assist the minor and the minor's family in coping
 1066 with the emotional effects of the crime and subsequent criminal
 1067 proceedings in which the minor is involved.

1068 (2) An advocate shall be appointed by the court to
 1069 represent a person who has an intellectual disability with
 1070 ~~mental retardation~~ as defined in s. 393.063 in any criminal
 1071 proceeding if the person ~~with mental retardation~~ is a victim of
 1072 or witness to abuse or neglect, ~~or if the person with mental~~
 1073 ~~retardation is~~ a victim of a sexual offense, or a witness to a

16-00179A-13 2013142__

1074 sexual offense committed against a minor or person who has an
 1075 intellectual disability with mental retardation. The court may
 1076 appoint an advocate in any other criminal proceeding in which
 1077 ~~such a person with mental retardation~~ is involved as ~~either~~ a
 1078 victim or a witness. The advocate shall have full access to all
 1079 evidence and reports introduced during the proceedings, may
 1080 interview witnesses, may make recommendations to the court,
 1081 shall be noticed and have the right to appear on behalf of the
 1082 person ~~with mental retardation~~ at all proceedings, and may
 1083 request additional examinations by medical doctors,
 1084 psychiatrists, or psychologists. ~~It is the duty of~~ The advocate
 1085 shall to perform the following services:

1086 (a) ~~To~~ Explain, in language understandable to the person
 1087 ~~with mental retardation~~, all legal proceedings in which the
 1088 person is ~~shall be~~ involved;
 1089 (b) ~~To~~ Act, as a friend of the court, to advise the judge,
 1090 whenever appropriate, of the person's ~~person with mental~~
 1091 ~~retardation's~~ ability to understand and cooperate with any court
 1092 proceedings; and
 1093 (c) ~~To~~ Assist the person ~~with mental retardation~~ and the
 1094 person's family in coping with the emotional effects of the
 1095 crime and subsequent criminal proceedings in which the person
 1096 ~~with mental retardation~~ is involved.

1097 (3) Any person participating in a judicial proceeding as a
 1098 guardian ad litem or other advocate is ~~shall be~~ presumed prima
 1099 facie to be acting in good faith and in so doing is ~~shall be~~
 1100 immune from any liability, civil or criminal, which that
 1101 ~~otherwise~~ might be incurred or imposed.

1102 Section 27. Subsections (1), (2), and (3) of section

16-00179A-13 2013142__

1103 916.105, Florida Statutes, are amended to read:
 1104 916.105 Legislative intent.—
 1105 (1) It is the intent of the Legislature that the Department
 1106 of Children and Family Services and the Agency for Persons with
 1107 Disabilities, as appropriate, establish, locate, and maintain
 1108 separate and secure forensic facilities and programs for the
 1109 treatment or training of defendants who have been charged with a
 1110 felony and who have been found to be incompetent to proceed due
 1111 to their mental illness, intellectual disability ~~mental~~
 1112 ~~retardation~~, or autism, or who have been acquitted of a felony
 1113 by reason of insanity, and who, while still under the
 1114 jurisdiction of the committing court, are committed to the
 1115 department or agency under ~~the provisions of~~ this chapter. Such
 1116 facilities must ~~shall~~ be sufficient to accommodate the number of
 1117 defendants committed under the conditions noted above. Except
 1118 for those defendants found by the department or agency to be
 1119 appropriate for treatment or training in a civil facility or
 1120 program pursuant to subsection (3), forensic facilities must
 1121 ~~shall~~ be designed and administered so that ingress and egress,
 1122 together with other requirements of this chapter, may be
 1123 strictly controlled by staff responsible for security in order
 1124 to protect the defendant, facility personnel, other clients, and
 1125 citizens in adjacent communities.
 1126 (2) It is the intent of the Legislature that treatment or
 1127 training programs for defendants who are found to have mental
 1128 illness, intellectual disability ~~mental retardation~~, or autism
 1129 and are involuntarily committed to the department or agency, and
 1130 who are still under the jurisdiction of the committing court, be
 1131 provided in a manner, subject to security requirements and other

16-00179A-13 2013142__

1132 mandates of this chapter, which ensures ~~as to ensure~~ the rights
 1133 of the defendants as provided in this chapter.
 1134 (3) It is the intent of the Legislature that evaluation and
 1135 services to defendants who have mental illness, intellectual
 1136 disability ~~mental retardation~~, or autism be provided in
 1137 community settings, in community residential facilities, or in
 1138 civil facilities, whenever this is a feasible alternative to
 1139 treatment or training in a state forensic facility.
 1140 Section 28. Subsections (1), (10), (11), (12), and (17) of
 1141 section 916.106, Florida Statutes, are amended, and subsections
 1142 (13) through (15) of that section are reordered and amended, to
 1143 read:
 1144 916.106 Definitions.—For the purposes of this chapter, the
 1145 term:
 1146 (1) "Agency" means the Agency for Persons with
 1147 Disabilities. The agency is responsible for training forensic
 1148 clients who are developmentally disabled due to intellectual
 1149 disability ~~mental retardation~~ or autism and have been determined
 1150 incompetent to proceed.
 1151 (10) "Forensic facility" means a separate and secure
 1152 facility established within the department or agency to serve
 1153 forensic clients. A separate and secure facility means a
 1154 security-grade building for the purpose of separately housing
 1155 persons who have mental illness from persons who have
 1156 intellectual disabilities ~~with retardation~~ or autism and
 1157 separately housing persons who have been involuntarily committed
 1158 pursuant to this chapter from nonforensic residents.
 1159 (11) "Incompetent to proceed" means unable to proceed at
 1160 any material stage of a criminal proceeding, which includes the

16-00179A-13 2013142
 1161 ~~shall include~~ trial of the case, pretrial hearings involving
 1162 questions of fact on which the defendant might be expected to
 1163 testify, entry of a plea, proceedings for violation of probation
 1164 or violation of community control, sentencing, and hearings on
 1165 issues regarding a defendant's failure to comply with court
 1166 orders or conditions or other matters in which the mental
 1167 competence of the defendant is necessary for a just resolution
 1168 of the issues being considered.

1169 (12) "Institutional security personnel" means the staff of
 1170 forensic facilities who meet or exceed the requirements of s.
 1171 943.13 and who are responsible for providing security,
 1172 protecting clients and personnel, enforcing rules, preventing
 1173 and investigating unauthorized activities, and safeguarding the
 1174 interests of residents ~~citizens~~ in the surrounding communities.

1175 (14)~~(13)~~ "Mental illness" means an impairment of the
 1176 emotional processes that exercise conscious control of one's
 1177 actions, or of the ability to perceive or understand reality,
 1178 which impairment substantially interferes with the a defendant's
 1179 ability to meet the ordinary demands of living. For the purposes
 1180 of this chapter, the term does not apply to defendants who have
 1181 only an intellectual disability ~~with only mental retardation~~ or
 1182 autism and does not include intoxication or conditions
 1183 manifested only by antisocial behavior or substance abuse
 1184 impairment.

1185 (15)~~(14)~~ "Restraint" means a physical device, method, or
 1186 drug used to control dangerous behavior.

1187 (a) A physical restraint is any manual method or physical
 1188 or mechanical device, material, or equipment attached or
 1189 adjacent to a person's body so that he or she cannot easily

16-00179A-13 2013142
 1190 remove the restraint and that restricts freedom of movement or
 1191 normal access to one's body.

1192 (b) A drug used as a restraint is a medication used to
 1193 control the person's behavior or to restrict his or her freedom
 1194 of movement and not part of the standard treatment regimen of
 1195 the person with a diagnosed mental illness who is a client of
 1196 the department. Physically holding a person during a procedure
 1197 to forcibly administer psychotropic medication is a physical
 1198 restraint.

1199 (c) Restraint does not include physical devices, such as
 1200 orthopedically prescribed appliances, surgical dressings and
 1201 bandages, supportive body bands, or other physical holding ~~when~~
 1202 necessary for routine physical examinations and tests; for
 1203 purposes of orthopedic, surgical, or other similar medical
 1204 treatment; ~~when used~~ to provide support for the achievement of
 1205 functional body position or proper balance; or ~~when used~~ to
 1206 protect a person from falling out of bed.

1207 (13)~~(15)~~ "Intellectual disability" ~~"Retardation"~~ has the
 1208 same meaning as in s. 393.063.

1209 (17) "Social service professional" means a person whose
 1210 minimum qualifications include a bachelor's degree and at least
 1211 2 years of social work, clinical practice, special education,
 1212 habilitation, or equivalent experience working directly with
 1213 persons who have intellectual disabilities ~~with retardation~~,
 1214 autism, or other developmental disabilities.

1215 Section 29. Paragraph (a) of subsection (1) and paragraph
 1216 (a) of subsection (3) of section 916.107, Florida Statutes, are
 1217 amended to read:

1218 916.107 Rights of forensic clients.-

16-00179A-13

2013142__

1219 (1) RIGHT TO INDIVIDUAL DIGNITY.—

1220 (a) The policy of the state is that the individual dignity
 1221 of the client shall be respected at all times and upon all
 1222 occasions, including any occasion when the forensic client is
 1223 detained, transported, or treated. Clients with mental illness,
 1224 intellectual disability ~~retardation~~, or autism and who are
 1225 charged with committing felonies shall receive appropriate
 1226 treatment or training. In a criminal case involving a client who
 1227 has been adjudicated incompetent to proceed or not guilty by
 1228 reason of insanity, a jail may be used as an emergency facility
 1229 for up to 15 days following the date the department or agency
 1230 receives a completed copy of the court commitment order
 1231 containing all documentation required by the applicable Florida
 1232 Rules of Criminal Procedure. For a forensic client who is held
 1233 in a jail awaiting admission to a facility of the department or
 1234 agency, evaluation and treatment or training may be provided in
 1235 the jail by the local community mental health provider for
 1236 mental health services, by the developmental disabilities
 1237 program for persons with intellectual disability ~~retardation~~ or
 1238 autism, the client's physician or psychologist, or any other
 1239 appropriate program until the client is transferred to a civil
 1240 or forensic facility.

1241 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

1242 (a) A forensic client shall be asked to give express and
 1243 informed written consent for treatment. If a client refuses such
 1244 treatment as is deemed necessary and essential by the client's
 1245 multidisciplinary treatment team for the appropriate care of the
 1246 client, such treatment may be provided under the following
 1247 circumstances:

Page 43 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13

2013142__

1248 1. In an emergency situation in which there is immediate
 1249 danger to the safety of the client or others, such treatment may
 1250 be provided upon the written order of a physician for a period
 1251 not to exceed 48 hours, excluding weekends and legal holidays.
 1252 If, after the 48-hour period, the client has not given express
 1253 and informed consent to the treatment initially refused, the
 1254 administrator or designee of the civil or forensic facility
 1255 shall, within 48 hours, excluding weekends and legal holidays,
 1256 petition the committing court or the circuit court serving the
 1257 county in which the facility is located, at the option of the
 1258 facility administrator or designee, for an order authorizing the
 1259 continued treatment of the client. In the interim, the need for
 1260 treatment shall be reviewed every 48 hours and may be continued
 1261 without the consent of the client upon the continued written
 1262 order of a physician who has determined that the emergency
 1263 situation continues to present a danger to the safety of the
 1264 client or others.

1265 2. In a situation other than an emergency situation, the
 1266 administrator or designee of the facility shall petition the
 1267 court for an order authorizing necessary and essential treatment
 1268 for the client. The order shall allow such treatment for a
 1269 period not to exceed 90 days following the date of the entry of
 1270 the order. Unless the court is notified in writing that the
 1271 client has provided express and informed consent in writing or
 1272 that the client has been discharged by the committing court, the
 1273 administrator or designee shall, before ~~prior to~~ the expiration
 1274 of the initial 90-day order, petition the court for an order
 1275 authorizing the continuation of treatment for another 90-day
 1276 period. This procedure shall be repeated until the client

Page 44 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13 2013142__

1277 provides consent or is discharged by the committing court.

1278 3. At the hearing on the issue of whether the court should
1279 enter an order authorizing treatment for which a client was
1280 unable to or refused to give express and informed consent, the
1281 court shall determine by clear and convincing evidence that the
1282 client has mental illness, intellectual disability ~~retardation~~,
1283 or autism, that the treatment not consented to is essential to
1284 the care of the client, and that the treatment not consented to
1285 is not experimental and does not present an unreasonable risk of
1286 serious, hazardous, or irreversible side effects. In arriving at
1287 the substitute judgment decision, the court must consider at
1288 least the following factors:

- 1289 a. The client's expressed preference regarding treatment;
- 1290 b. The probability of adverse side effects;
- 1291 c. The prognosis without treatment; and
- 1292 d. The prognosis with treatment.

1293
1294 The hearing shall be as convenient to the client as may be
1295 consistent with orderly procedure and shall be conducted in
1296 physical settings not likely to be injurious to the client's
1297 condition. The court may appoint a general or special magistrate
1298 to preside at the hearing. The client or the client's guardian,
1299 and the representative, shall be provided with a copy of the
1300 petition and the date, time, and location of the hearing. The
1301 client has the right to have an attorney represent him or her at
1302 the hearing, and, if the client is indigent, the court shall
1303 appoint the office of the public defender to represent the
1304 client at the hearing. The client may testify or not, as he or
1305 she chooses, and has the right to cross-examine witnesses and

16-00179A-13 2013142__

1306 may present his or her own witnesses.

1307 Section 30. The Division of Law Revision and Information is
1308 requested to rename part III of chapter 916, Florida Statutes,
1309 consisting of ss. 916.301-916.304, as "Forensic Services for
1310 Persons who are Intellectually Disabled or Autistic."

1311 Section 31. Subsections (1) and (2) of section 916.301,
1312 Florida Statutes, are amended to read:

1313 916.301 Appointment of experts.—

1314 (1) All evaluations ordered by the court under this part
1315 must be conducted by qualified experts who have expertise in
1316 evaluating persons who have an intellectual disability ~~with~~
1317 ~~retardation~~ or autism. The agency shall maintain and provide the
1318 courts annually with a list of available ~~retardation and autism~~
1319 professionals who are appropriately licensed and qualified to
1320 perform evaluations of defendants alleged to be incompetent to
1321 proceed due to intellectual disability ~~retardation~~ or autism.
1322 The courts may use professionals from this list when appointing
1323 experts and ordering evaluations under this part.

1324 (2) If a defendant's suspected mental condition is
1325 intellectual disability ~~retardation~~ or autism, the court shall
1326 appoint the following:

1327 (a) At least one, or at the request of any party, two
1328 experts to evaluate whether the defendant meets the definition
1329 of intellectual disability ~~retardation~~ or autism and, if so,
1330 whether the defendant is competent to proceed; and

1331 (b) A psychologist selected by the agency who is licensed
1332 or authorized by law to practice in this state, with experience
1333 in evaluating persons suspected of having an intellectual
1334 disability ~~retardation~~ or autism, and a social service

16-00179A-13

2013142__

1335 professional, with experience in working with persons who have
 1336 an intellectual disability ~~with retardation~~ or autism.

1337 1. The psychologist shall evaluate whether the defendant
 1338 meets the definition of intellectual disability ~~retardation~~ or
 1339 autism and, if so, whether the defendant is incompetent to
 1340 proceed due to intellectual disability ~~retardation~~ or autism.

1341 2. The social service professional shall provide a social
 1342 and developmental history of the defendant.

1343 Section 32. Subsections (1), (2), and (4) of section
 1344 916.3012, Florida Statutes, are amended to read:

1345 916.3012 Mental competence to proceed.—

1346 (1) A defendant whose suspected mental condition is
 1347 intellectual disability ~~retardation~~ or autism is incompetent to
 1348 proceed within the meaning of this chapter if the defendant does
 1349 not have sufficient present ability to consult with the
 1350 defendant's lawyer with a reasonable degree of rational
 1351 understanding or if the defendant has no rational, as well as
 1352 factual, understanding of the proceedings against the defendant.

1353 (2) Experts in intellectual disability ~~retardation~~ or
 1354 autism appointed pursuant to s. 916.301 shall first consider
 1355 whether the defendant meets the definition of intellectual
 1356 disability ~~retardation~~ or autism and, if so, consider the
 1357 factors related to the issue of whether the defendant meets the
 1358 criteria for competence to proceed as described in subsection
 1359 (1).

1360 (4) If the experts ~~should~~ find that the defendant is
 1361 incompetent to proceed, the experts shall report on any
 1362 recommended training for the defendant to attain competence to
 1363 proceed. In considering the issues relating to training, the

16-00179A-13

2013142__

1364 examining experts shall specifically report on:

1365 (a) The intellectual disability ~~retardation~~ or autism
 1366 causing the incompetence;

1367 (b) The training appropriate for the intellectual
 1368 disability ~~retardation~~ or autism of the defendant and an
 1369 explanation of each of the possible training alternatives in
 1370 order of choices;

1371 (c) The availability of acceptable training and, if
 1372 training is available in the community, the expert shall so
 1373 state in the report; and

1374 (d) The likelihood of the defendant's attaining competence
 1375 under the training recommended, an assessment of the probable
 1376 duration of the training required to restore competence, and the
 1377 probability that the defendant will attain competence to proceed
 1378 in the foreseeable future.

1379 Section 33. Subsection (1), paragraphs (a) and (b) of
 1380 subsection (2), and paragraph (a) of subsection (3) of section
 1381 916.302, Florida Statutes, are amended to read:

1382 916.302 Involuntary commitment of defendant determined to
 1383 be incompetent to proceed.—

1384 (1) CRITERIA.—Every defendant who is charged with a felony
 1385 and who is adjudicated incompetent to proceed due to
 1386 intellectual disability ~~retardation~~ or autism may be
 1387 involuntarily committed for training upon a finding by the court
 1388 of clear and convincing evidence that:

1389 (a) The defendant has an intellectual disability
 1390 ~~retardation~~ or autism;

1391 (b) There is a substantial likelihood that in the near
 1392 future the defendant will inflict serious bodily harm on himself

16-00179A-13 2013142__

1393 or herself or another person, as evidenced by recent behavior
1394 causing, attempting, or threatening such harm;

1395 (c) All available, less restrictive alternatives, including
1396 services provided in community residential facilities or other
1397 community settings, which would offer an opportunity for
1398 improvement of the condition have been judged to be
1399 inappropriate; and

1400 (d) There is a substantial probability that the
1401 intellectual disability ~~retardation~~ or autism causing the
1402 defendant's incompetence will respond to training and the
1403 defendant will regain competency to proceed in the reasonably
1404 foreseeable future.

1405 (2) ADMISSION TO A FACILITY.—

1406 (a) A defendant who has been charged with a felony and who
1407 is found to be incompetent to proceed due to intellectual
1408 disability ~~retardation~~ or autism, and who meets the criteria for
1409 involuntary commitment to the agency under ~~the provisions of~~
1410 this chapter, shall be committed to the agency, and the agency
1411 shall retain and provide appropriate training for the defendant.
1412 Within ~~No later than~~ 6 months after the date of admission or at
1413 the end of any period of extended commitment or at any time the
1414 administrator or designee determines ~~shall have determined~~ that
1415 the defendant has regained competency to proceed or no longer
1416 meets the criteria for continued commitment, the administrator
1417 or designee shall file a report with the court pursuant to this
1418 chapter and the applicable Florida Rules of Criminal Procedure.

1419 (b) A defendant determined to be incompetent to proceed due
1420 to intellectual disability ~~retardation~~ or autism may be ordered
1421 by a circuit court into a forensic facility designated by the

16-00179A-13 2013142__

1422 agency for defendants who have an intellectual disability ~~mental~~
1423 ~~retardation~~ or autism.

1424 (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.—

1425 (a) If a defendant has both an intellectual disability
1426 ~~mental retardation~~ or autism and ~~has~~ a mental illness,
1427 evaluations must address which condition is primarily affecting
1428 the defendant's competency to proceed. Referral of the defendant
1429 should be made to a civil or forensic facility most appropriate
1430 to address the symptoms that are the cause of the defendant's
1431 incompetence.

1432 Section 34. Subsection (1) of section 916.3025, Florida
1433 Statutes, is amended to read:

1434 916.3025 Jurisdiction of committing court.—

1435 (1) The committing court shall retain jurisdiction in the
1436 case of any defendant found to be incompetent to proceed due to
1437 intellectual disability ~~retardation~~ or autism and ordered into a
1438 forensic facility designated by the agency for defendants who
1439 have intellectual disabilities ~~mental retardation~~ or autism. A
1440 defendant may not be released except by the order of the
1441 committing court. An administrative hearing examiner does not
1442 have jurisdiction to determine issues of continuing commitment
1443 or release of any defendant involuntarily committed pursuant to
1444 this chapter.

1445 Section 35. Section 916.303, Florida Statutes, is amended
1446 to read:

1447 916.303 Determination of incompetency ~~due to retardation or~~
1448 ~~autism~~; dismissal of charges.—

1449 (1) The charges against any defendant found to be
1450 incompetent to proceed due to intellectual disability

16-00179A-13 2013142
 1451 ~~retardation~~ or autism shall be dismissed without prejudice to
 1452 the state if the defendant remains incompetent to proceed within
 1453 a reasonable time after such determination, not to exceed 2
 1454 years, unless the court in its order specifies its reasons for
 1455 believing that the defendant will become competent to proceed
 1456 within the foreseeable future and specifies the time within
 1457 which the defendant is expected to become competent to proceed.
 1458 The charges may be refiled by the state if the defendant is
 1459 declared competent to proceed in the future.

1460 (2) If the charges are dismissed and if the defendant is
 1461 considered to lack sufficient capacity to give express and
 1462 informed consent to a voluntary application for services and
 1463 lacks the basic survival and self-care skills to provide for his
 1464 or her well-being or is likely to physically injure himself or
 1465 herself or others if allowed to remain at liberty, the agency,
 1466 the state attorney, or the defendant's attorney shall apply to
 1467 the committing court to involuntarily admit the defendant to
 1468 residential services pursuant to s. 393.11.

1469 (3) If the defendant is considered to need involuntary
 1470 residential services for reasons described in subsection (2)
 1471 and, further, there is a substantial likelihood that the
 1472 defendant will injure another person or continues to present a
 1473 danger of escape, and all available less restrictive
 1474 alternatives, including services in community residential
 1475 facilities or other community settings, which would offer an
 1476 opportunity for improvement of the condition have been judged to
 1477 be inappropriate, the agency, the state attorney, or the
 1478 defendant's counsel may request the committing court to continue
 1479 the defendant's placement in a secure facility pursuant to this

16-00179A-13 2013142
 1480 part. Any placement so continued ~~under this subsection~~ must be
 1481 reviewed by the court at least annually at a hearing. The annual
 1482 review and hearing ~~must shall~~ determine whether the defendant
 1483 continues to meet the criteria described in this subsection and,
 1484 if so, whether the defendant still requires involuntary
 1485 placement in a secure facility and whether the defendant is
 1486 receiving adequate care, treatment, habilitation, and
 1487 rehabilitation, including psychotropic medication and behavioral
 1488 programming. Notice of the annual review and review hearing
 1489 shall be given to the state attorney and the defendant's
 1490 attorney. ~~In no instance may~~ A defendant's placement in a secure
 1491 facility may not exceed the maximum sentence for the crime for
 1492 which the defendant was charged.

1493 Section 36. Subsection (1) of section 916.304, Florida
 1494 Statutes, is amended to read:

1495 916.304 Conditional release.—

1496 (1) Except for an inmate currently serving a prison
 1497 sentence, the committing court may order a conditional release
 1498 of any defendant who has been found to be incompetent to proceed
 1499 due to intellectual disability ~~retardation~~ or autism, based on
 1500 an approved plan for providing community-based training. The
 1501 committing criminal court may order a conditional release of any
 1502 defendant to a civil facility in lieu of an involuntary
 1503 commitment to a forensic facility pursuant to s. 916.302. Upon a
 1504 recommendation that community-based training for the defendant
 1505 is appropriate, a written plan for community-based training,
 1506 including recommendations from qualified professionals, may be
 1507 filed with the court, with copies to all parties. Such a plan
 1508 may also be submitted by the defendant and filed with the court,

16-00179A-13 2013142__

1509 with copies to all parties. The plan must include:

1510 (a) Special provisions for residential care and adequate
1511 supervision of the defendant, including recommended location of
1512 placement.

1513 (b) Recommendations for auxiliary services such as
1514 vocational training, psychological training, educational
1515 services, leisure services, and special medical care.

1516

1517 In its order of conditional release, the court shall specify the
1518 conditions of release based upon the release plan and shall
1519 direct the appropriate agencies or persons to submit periodic
1520 reports to the courts regarding the defendant's compliance with
1521 the conditions of the release and progress in training, with
1522 copies to all parties.

1523 Section 37. Section 918.16, Florida Statutes, is amended to
1524 read:

1525 918.16 Sex offenses; testimony of person under age 16 or
1526 who has an intellectual disability ~~person with mental~~
1527 ~~retardation~~; testimony of victim; courtroom cleared;
1528 exceptions.—

1529 (1) Except as provided in subsection (2), in the trial of
1530 any case, civil or criminal, ~~if when~~ any person under the age of
1531 16 or any person with an intellectual disability ~~mental~~
1532 ~~retardation~~ as defined in s. 393.063 is testifying concerning
1533 any sex offense, the court shall clear the courtroom of all
1534 persons except parties to the cause and their immediate families
1535 or guardians, attorneys and their secretaries, officers of the
1536 court, jurors, newspaper reporters or broadcasters, court
1537 reporters, and, at the request of the victim, victim or witness

16-00179A-13 2013142__

1538 advocates designated by the state attorney's office.

1539 (2) If ~~When~~ the victim of a sex offense is testifying
1540 concerning that offense in any civil or criminal trial, the
1541 court shall clear the courtroom of all persons upon the request
1542 of the victim, regardless of the victim's age or mental
1543 capacity, except that parties to the cause and their immediate
1544 families or guardians, attorneys and their secretaries, officers
1545 of the court, jurors, newspaper reporters or broadcasters, court
1546 reporters, and, at the request of the victim, victim or witness
1547 advocates designated by the state attorney may remain in the
1548 courtroom.

1549 Section 38. Section 921.137, Florida Statutes, is amended
1550 to read:

1551 921.137 Imposition of the death sentence upon an
1552 intellectually disabled ~~a defendant with mental retardation~~
1553 prohibited.—

1554 (1) As used in this section, the term "intellectually
1555 disabled" or "intellectual disability" ~~"mental retardation"~~
1556 means significantly subaverage general intellectual functioning
1557 existing concurrently with deficits in adaptive behavior and
1558 manifested during the period from conception to age 18. The term
1559 "significantly subaverage general intellectual functioning," for
1560 the purpose of this section, means performance that is two or
1561 more standard deviations from the mean score on a standardized
1562 intelligence test specified in the rules of the Agency for
1563 Persons with Disabilities. The term "adaptive behavior," for the
1564 purpose of this definition, means the effectiveness or degree
1565 with which an individual meets the standards of personal
1566 independence and social responsibility expected of his or her

16-00179A-13 2013142__

1567 age, cultural group, and community. The Agency for Persons with
1568 Disabilities shall adopt rules to specify the standardized
1569 intelligence tests as provided in this subsection.

1570 (2) A sentence of death may not be imposed upon a defendant
1571 convicted of a capital felony if it is determined in accordance
1572 with this section that the defendant is intellectually disabled
1573 ~~has mental retardation~~.

1574 (3) A defendant charged with a capital felony who intends
1575 to raise intellectual disability ~~mental retardation~~ as a bar to
1576 the death sentence must give notice of such intention in
1577 accordance with the rules of court governing notices of intent
1578 to offer expert testimony regarding mental health mitigation
1579 during the penalty phase of a capital trial.

1580 (4) After a defendant who has given notice of his or her
1581 intention to raise intellectual disability ~~mental retardation~~ as
1582 a bar to the death sentence is convicted of a capital felony and
1583 an advisory jury has returned a recommended sentence of death,
1584 the defendant may file a motion to determine whether the
1585 defendant is intellectually disabled ~~has mental retardation~~.
1586 Upon receipt of the motion, the court shall appoint two experts
1587 in the field of intellectual disabilities ~~mental retardation~~ who
1588 shall evaluate the defendant and report their findings to the
1589 court and all interested parties prior to the final sentencing
1590 hearing. Notwithstanding s. 921.141 or s. 921.142, the final
1591 sentencing hearing shall be held without a jury. At the final
1592 sentencing hearing, the court shall consider the findings of the
1593 court-appointed experts and consider the findings of any other
1594 expert which is offered by the state or the defense on the issue
1595 of whether the defendant has an intellectual disability ~~mental~~

Page 55 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13 2013142__

1596 ~~retardation~~. If the court finds, by clear and convincing
1597 evidence, that the defendant has an intellectual disability
1598 ~~mental retardation~~ as defined in subsection (1), the court may
1599 not impose a sentence of death and shall enter a written order
1600 that sets forth with specificity the findings in support of the
1601 determination.

1602 (5) If a defendant waives his or her right to a recommended
1603 sentence by an advisory jury following a plea of guilt or nolo
1604 contendere to a capital felony and adjudication of guilt by the
1605 court, or following a jury finding of guilt of a capital felony,
1606 upon acceptance of the waiver by the court, a defendant who has
1607 given notice as required in subsection (3) may file a motion for
1608 a determination of intellectual disability ~~mental retardation~~.
1609 Upon granting the motion, the court shall proceed as provided in
1610 subsection (4).

1611 (6) If, following a recommendation by an advisory jury that
1612 the defendant be sentenced to life imprisonment, the state
1613 intends to request the court to order that the defendant be
1614 sentenced to death, the state must inform the defendant of such
1615 request if the defendant has notified the court of his or her
1616 intent to raise intellectual disability ~~mental retardation~~ as a
1617 bar to the death sentence. After receipt of the notice from the
1618 state, the defendant may file a motion requesting a
1619 determination by the court of whether the defendant is
1620 intellectually disabled ~~has mental retardation~~. Upon granting
1621 the motion, the court shall proceed as provided in subsection
1622 (4).

1623 (7) Pursuant to s. 924.07, the state may appeal, ~~pursuant~~
1624 ~~to s. 924.07~~, a determination of intellectual disability ~~mental~~

Page 56 of 69

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00179A-13

2013142__

1625 ~~retardation~~ made under subsection (4).

1626 (8) This section does not apply to a defendant who was
1627 sentenced to death before June 12, 2001 ~~prior to the effective~~
1628 ~~date of this act.~~

1629 (9) For purposes of the application of the criminal laws
1630 and procedural rules of this state to any matters relating to
1631 the imposition and execution of the death penalty, the terms
1632 "intellectual disability" or "intellectually disabled" are
1633 interchangeable with and have the same meaning as the terms
1634 "mental retardation" or "retardation" and "mentally retarded" as
1635 those terms were defined before July 1, 2012.

1636 Section 39. Paragraph (b) of subsection (2) of section
1637 941.38, Florida Statutes, is amended to read:

1638 941.38 Extradition of persons alleged to be of unsound
1639 mind.-

1640 (2) For the purpose of this section:

1641 (b) A "mentally incompetent person" is one who because of
1642 mental illness, intellectual disability ~~mental retardation~~,
1643 senility, excessive use of drugs or alcohol, or other mental
1644 incapacity is incapable of ~~either~~ managing his or her property
1645 or caring for himself or herself or both.

1646 Section 40. Section 944.602, Florida Statutes, is amended
1647 to read:

1648 944.602 Agency notification before release of
1649 intellectually disabled ~~mentally retarded~~ inmates.-Before the
1650 release by parole, release by reason of gain-time allowances
1651 provided for in s. 944.291, or expiration of sentence of any
1652 inmate who has been diagnosed as having an intellectual
1653 disability ~~mentally retarded~~ as defined in s. 393.063, the

16-00179A-13

2013142__

1654 Department of Corrections shall notify the Agency for Persons
1655 with Disabilities in order that sufficient time be allowed to
1656 notify the inmate or the inmate's representative, in writing, at
1657 least 7 days ~~before~~ prior to the inmate's release, of available
1658 community services.

1659 Section 41. Subsection (2) of section 945.025, Florida
1660 Statutes, is amended to read:

1661 945.025 Jurisdiction of department.-

1662 (2) In establishing, operating, and using ~~utilizing~~ these
1663 facilities, the department shall attempt, whenever possible, to
1664 avoid the placement of nondangerous offenders who have potential
1665 for rehabilitation with repeat offenders or dangerous offenders.
1666 Medical, mental, and psychological problems must ~~shall~~ be
1667 diagnosed and treated whenever possible. The Department of
1668 Children and Family Services and the Agency for Persons with
1669 Disabilities shall cooperate to ensure the delivery of services
1670 to persons under the custody or supervision of the department.
1671 ~~If~~ When it is the intent of the department intends to transfer a
1672 ~~mentally ill or retarded~~ prisoner who has a mental illness or
1673 intellectual disability to the Department of Children and Family
1674 Services or the Agency for Persons with Disabilities, an
1675 involuntary commitment hearing shall be held in accordance with
1676 ~~according to the provisions of~~ chapter 393 or chapter 394.

1677 Section 42. Subsection (5) of section 945.12, Florida
1678 Statutes, is amended to read:

1679 945.12 Transfers for rehabilitative treatment.-

1680 (5) When the department plans to release an offender who is
1681 a mentally ill or intellectually disabled ~~retarded offender~~, an
1682 involuntary commitment hearing shall be held as soon as possible

16-00179A-13 2013142__

1683 ~~before~~ ~~prior to~~ his or her release in accordance with, ~~according~~
1684 ~~to the provisions of~~ chapter 393 or chapter 394.

1685 Section 43. Subsection (9) of section 945.42, Florida
1686 Statutes, is amended to read:

1687 945.42 Definitions; ss. 945.40-945.49.—As used in ss.
1688 945.40-945.49, the following terms shall have the meanings
1689 ascribed to them, unless the context shall clearly indicate
1690 otherwise:

1691 (9) "Mentally ill" means an impairment of the mental or
1692 emotional processes ~~that, of the ability to~~ exercise conscious
1693 control of one's actions, ~~or of the ability to~~ perceive or
1694 understand reality, which impairment substantially interferes
1695 with the ~~a~~ person's ability to meet the ordinary demands of
1696 living. ~~However, regardless of etiology, except that,~~ for the
1697 purposes of transferring ~~transfer of~~ an inmate to a mental
1698 health treatment facility, the term does not include a
1699 ~~retardation or~~ developmental disability as defined in s. 393.063
1700 ~~chapter 393,~~ simple intoxication, or conditions manifested only
1701 by antisocial behavior or substance abuse addiction. However, an
1702 individual who is ~~mentally retarded or~~ developmentally disabled
1703 may also have a mental illness.

1704 Section 44. Section 947.185, Florida Statutes, is amended
1705 to read:

1706 947.185 Application for intellectual disability ~~mental~~
1707 ~~retardation~~ services as condition of parole.—The Parole
1708 Commission may require as a condition of parole that any inmate
1709 who has been diagnosed as having an intellectual disability
1710 ~~mentally retarded~~ as defined in s. 393.063 shall, upon release,
1711 apply for services from the Agency for Persons with

16-00179A-13 2013142__

1712 Disabilities.

1713 Section 45. Subsection (4) of section 984.19, Florida
1714 Statutes, is amended to read:

1715 984.19 Medical screening and treatment of child;
1716 examination of parent, guardian, or person requesting custody.—

1717 (4) A judge may order that a child alleged to be or
1718 adjudicated a child in need of services be treated by a licensed
1719 health care professional. The judge may also order such child to
1720 receive mental health or intellectual disability ~~retardation~~
1721 services from a psychiatrist, psychologist, or other appropriate
1722 service provider. If it is necessary to place the child in a
1723 residential facility for such services, ~~then~~ the procedures and
1724 criteria established in s. 394.467 or chapter 393 shall be used,
1725 as whichever is applicable. A child may be provided ~~mental~~
1726 ~~health or retardation~~ services in emergency situations, pursuant
1727 to the procedures and criteria contained in s. 394.463(1) or
1728 chapter 393, as whichever is applicable.

1729 Section 46. Paragraph (a) of subsection (3) of section
1730 985.14, Florida Statutes, is amended to read:

1731 985.14 Intake and case management system.—

1732 (3) The intake and case management system shall facilitate
1733 consistency in the recommended placement of each child, and in
1734 the assessment, classification, and placement process, with the
1735 following purposes:

1736 (a) An individualized, multidisciplinary assessment process
1737 that identifies the priority needs of each ~~individual~~ child for
1738 rehabilitation and treatment and identifies any needs of the
1739 child's parents or guardians for services that would enhance
1740 their ability to provide adequate support, guidance, and

16-00179A-13 2013142__
 1741 supervision for the child. ~~The This~~ process begins ~~shall begin~~
 1742 with the detention risk assessment instrument and decision,
 1743 includes ~~shall include~~ the intake preliminary screening and
 1744 comprehensive assessment for substance abuse treatment services,
 1745 mental health services, intellectual disability ~~retardation~~
 1746 services, literacy services, and other educational and treatment
 1747 services as components, additional assessment of the child's
 1748 treatment needs, and classification regarding the child's risks
 1749 to the community. The completed multidisciplinary assessment
 1750 process must ~~shall~~ result in the predisposition report.

1751 Section 47. Paragraph (g) of subsection (1) and subsection
 1752 (5) of section 985.145, Florida Statutes, are amended to read:

1753 985.145 Responsibilities of juvenile probation officer
 1754 during intake; screenings and assessments.—

1755 (1) The juvenile probation officer shall serve as the
 1756 primary case manager for the purpose of managing, coordinating,
 1757 and monitoring the services provided to the child. Each program
 1758 administrator within the Department of Children and Family
 1759 Services shall cooperate with the primary case manager in
 1760 carrying out the duties and responsibilities described in this
 1761 section. In addition to duties specified in other sections and
 1762 through departmental rules, the assigned juvenile probation
 1763 officer shall be responsible for the following:

1764 (g) *Comprehensive assessment.*—The juvenile probation
 1765 officer, pursuant to uniform procedures established by the
 1766 department and upon determining that the report, affidavit, or
 1767 complaint is complete, shall:

1768 1. Perform the preliminary screening and make referrals for
 1769 a comprehensive assessment regarding the child's need for

16-00179A-13 2013142__
 1770 substance abuse treatment services, mental health services,
 1771 intellectual disability ~~retardation~~ services, literacy services,
 1772 or other educational or treatment services.

1773 2. ~~If When~~ indicated by the preliminary screening, provide
 1774 for a comprehensive assessment of the child and family for
 1775 substance abuse problems, using community-based licensed
 1776 programs with clinical expertise and experience in the
 1777 assessment of substance abuse problems.

1778 3. ~~If When~~ indicated by the preliminary screening, provide
 1779 for a comprehensive assessment of the child and family for
 1780 mental health problems, using community-based psychologists,
 1781 psychiatrists, or other licensed mental health professionals who
 1782 have clinical expertise and experience in the assessment of
 1783 mental health problems.

1784 (5) If the screening and assessment indicate that the
 1785 interests of the child and the public will be best served
 1786 ~~thereby~~, the juvenile probation officer, with the approval of
 1787 the state attorney, may refer the child for care, diagnostic,
 1788 and evaluation services; substance abuse treatment services;
 1789 mental health services; intellectual disability ~~retardation~~
 1790 services; a diversionary, arbitration, or mediation program;
 1791 community service work; or other programs or treatment services
 1792 voluntarily accepted by the child and the child's parents or
 1793 legal guardian. ~~If Whenever~~ a child volunteers to participate in
 1794 any work program under this chapter or volunteers to work in a
 1795 specified state, county, municipal, or community service
 1796 organization supervised work program or to work for the victim,
 1797 the child is ~~shall be~~ considered an employee of the state for
 1798 the purposes of liability. In determining the child's average

16-00179A-13 2013142
 1799 weekly wage, unless otherwise determined by a specific funding
 1800 program, all remuneration received from the employer is
 1801 considered a gratuity, and the child is not entitled to any
 1802 benefits otherwise payable under s. 440.15, regardless of
 1803 whether the child may be receiving wages and remuneration from
 1804 other employment with another employer and regardless of the
 1805 child's future wage-earning capacity.

1806 Section 48. Subsections (2) and (6) of section 985.18,
 1807 Florida Statutes, are amended to read:

1808 985.18 Medical, psychiatric, psychological, substance
 1809 abuse, and educational examination and treatment.-

1810 (2) ~~If whenever~~ a child has been found to have committed a
 1811 delinquent act, or before such finding with the consent of any
 1812 parent or legal custodian of the child, the court may order the
 1813 child to be treated by a physician. The court may also order the
 1814 child to receive mental health, substance abuse, or intellectual
 1815 disability ~~retardation~~ services from a psychiatrist,
 1816 psychologist, or other appropriate service provider. If it is
 1817 necessary to place the child in a residential facility for such
 1818 services, the procedures and criteria established in chapter
 1819 393, chapter 394, or chapter 397, as whichever is applicable,
 1820 ~~must shall~~ be used. After a child has been adjudicated
 1821 delinquent, if an educational needs assessment by the district
 1822 school board or the Department of Children and Family Services
 1823 has been ~~previously~~ conducted, the court shall order the report
 1824 ~~of such needs assessment~~ included in the child's court record in
 1825 lieu of a new assessment. For purposes of this section, an
 1826 educational needs assessment includes, but is not limited to,
 1827 reports of intelligence and achievement tests, screening for

16-00179A-13 2013142
 1828 learning and other disabilities ~~and other handicaps~~, and
 1829 screening for the need for alternative education.

1830 (6) A physician ~~must shall~~ be immediately notified by the
 1831 person taking the child into custody or the person having
 1832 custody if there are indications of physical injury or illness,
 1833 or the child shall be taken to the nearest available hospital
 1834 for emergency care. A child may be provided mental health,
 1835 substance abuse, or intellectual disability ~~retardation~~
 1836 services, in emergency situations, pursuant to chapter 393,
 1837 chapter 394, or chapter 397, as whichever is applicable. After a
 1838 hearing, the court may order the custodial parent or parents,
 1839 guardian, or other custodian, if found able to do so, to
 1840 reimburse the county or state for the expense involved in such
 1841 emergency treatment or care.

1842 Section 49. Paragraph (e) of subsection (1), subsections
 1843 (2) through (4), and paragraph (a) of subsection (6) of section
 1844 985.19, Florida Statutes, are amended to read:

1845 985.19 Incompetency in juvenile delinquency cases.-

1846 (1) If, at any time prior to or during a delinquency case,
 1847 the court has reason to believe that the child named in the
 1848 petition may be incompetent to proceed with the hearing, the
 1849 court on its own motion may, or on the motion of the child's
 1850 attorney or state attorney must, stay all proceedings and order
 1851 an evaluation of the child's mental condition.

1852 (e) For incompetency evaluations related to intellectual
 1853 disability ~~mental retardation~~ or autism, the court shall order
 1854 the Agency for Persons with Disabilities to examine the child to
 1855 determine if the child meets the definition of "intellectual
 1856 disability" ~~"retardation"~~ or "autism" in s. 393.063 and, if so,

16-00179A-13 2013142__

1857 whether the child is competent to proceed with delinquency
1858 proceedings.

1859 (2) A child who is adjudicated incompetent to proceed, and
1860 who has committed a delinquent act or violation of law, either
1861 of which would be a felony if committed by an adult, must be
1862 committed to the Department of Children and Family Services for
1863 treatment or training. A child who has been adjudicated
1864 incompetent to proceed because of age or immaturity, or for any
1865 reason other than for mental illness, intellectual disability,
1866 ~~or retardation~~ or autism, must not be committed to the
1867 department or to the Department of Children and Family Services
1868 for restoration-of-competency treatment or training services.
1869 For purposes of this section, a child who has committed a
1870 delinquent act or violation of law, either of which would be a
1871 misdemeanor if committed by an adult, may not be committed to
1872 the department or to the Department of Children and Family
1873 Services for restoration-of-competency treatment or training
1874 services.

1875 (3) If the court finds that a child has mental illness,
1876 intellectual disability ~~mental retardation~~, or autism and
1877 adjudicates the child incompetent to proceed, the court must
1878 also determine whether the child meets the criteria for secure
1879 placement. A child may be placed in a secure facility or program
1880 if the court makes a finding by clear and convincing evidence
1881 that:

1882 (a) The child has mental illness, intellectual disability
1883 ~~mental retardation~~, or autism and because of the mental illness,
1884 intellectual disability ~~mental retardation~~, or autism:

1885 1. The child is manifestly incapable of surviving with the

16-00179A-13 2013142__

1886 help of willing and responsible family or friends, including
1887 available alternative services, and without treatment or
1888 training the child is likely to ~~either~~ suffer from neglect or
1889 refuse to care for self, and such neglect or refusal poses a
1890 real and present threat of substantial harm to the child's well-
1891 being; or

1892 2. There is a substantial likelihood that in the near
1893 future the child will inflict serious bodily harm on self or
1894 others, as evidenced by recent behavior causing, attempting, or
1895 threatening such harm; and

1896 (b) All available less restrictive alternatives, including
1897 treatment or training in community residential facilities or
1898 community settings which would offer an opportunity for
1899 improvement of the child's condition, are inappropriate.

1900 (4) A child who is determined to have mental illness,
1901 intellectual disability ~~mental retardation~~, or autism, who has
1902 been adjudicated incompetent to proceed, and who meets the
1903 criteria set forth in subsection (3), must be committed to the
1904 Department of Children and Family Services and receive treatment
1905 or training in a secure facility or program that is the least
1906 restrictive alternative consistent with public safety. Any
1907 placement of a child to a secure residential program must be
1908 separate from adult forensic programs. If the child attains
1909 competency, ~~then~~ custody, case management, and supervision of
1910 the child shall ~~will~~ be transferred to the department in order
1911 to continue delinquency proceedings; however, the court retains
1912 authority to order the Department of Children and Family
1913 Services to provide continued treatment or training to maintain
1914 competency.

16-00179A-13

2013142__

1915 (a) A child adjudicated incompetent due to intellectual
 1916 disability ~~mental retardation~~ or autism may be ordered into a
 1917 secure program or facility designated by the Department of
 1918 Children and Family Services for children who have intellectual
 1919 disabilities ~~with mental retardation~~ or autism.

1920 (b) A child adjudicated incompetent due to mental illness
 1921 may be ordered into a secure program or facility designated by
 1922 the Department of Children and Family Services for children
 1923 having mental illnesses.

1924 (c) ~~If whenever~~ a child is placed in a secure residential
 1925 facility, the department shall ~~will~~ provide transportation to
 1926 the secure residential facility for admission and from the
 1927 secure residential facility upon discharge.

1928 (d) The purpose of the treatment or training is the
 1929 restoration of the child's competency to proceed.

1930 (e) The service provider must file a written report with
 1931 the court pursuant to the applicable Florida Rules of Juvenile
 1932 Procedure within not later than 6 months after the date of
 1933 commitment, or at the end of any period of extended treatment or
 1934 training, and at any time the Department of Children and Family
 1935 Services, through its service provider, determines the child has
 1936 attained competency or no longer meets the criteria for secure
 1937 placement, or at such shorter intervals as ordered by the court.
 1938 A copy of a written report evaluating the child's competency
 1939 must be filed by the provider with the court and with the state
 1940 attorney, the child's attorney, the department, and the
 1941 Department of Children and Family Services.

1942 (6) (a) If a child is determined to have mental illness,
 1943 intellectual disability ~~mental retardation~~, or autism and is

16-00179A-13

2013142__

1944 found to be incompetent to proceed but does not meet the
 1945 criteria set forth in subsection (3), the court shall commit the
 1946 child to the Department of Children and Family Services and
 1947 ~~shall~~ order the Department of Children and Family Services to
 1948 provide appropriate treatment and training in the community. The
 1949 purpose of the treatment or training is the restoration of the
 1950 child's competency to proceed.

1951 Section 50. Section 985.195, Florida Statutes, is amended
 1952 to read:

1953 985.195 Transfer to other treatment services.—Any child
 1954 committed to the department may be transferred to intellectual
 1955 disability ~~retardation~~, mental health, or substance abuse
 1956 treatment facilities for diagnosis and evaluation pursuant to
 1957 chapter 393, chapter 394, or chapter 397, as whichever is
 1958 applicable, for up to a period not to exceed 90 days.

1959 Section 51. Paragraph (b) of subsection (1) of section
 1960 985.61, Florida Statutes, is amended to read:

1961 985.61 Early delinquency intervention program; criteria.—

1962 (1) The Department of Juvenile Justice shall, contingent
 1963 upon specific appropriation and with the cooperation of local
 1964 law enforcement agencies, the judiciary, district school board
 1965 personnel, the office of the state attorney, the office of the
 1966 public defender, the Department of Children and Family Services,
 1967 and community service agencies that work with children,
 1968 establish an early delinquency intervention program, the
 1969 components of which shall include, but not be limited to:

1970 (b) Treatment modalities, including substance abuse
 1971 treatment services, mental health services, and ~~retardation~~
 1972 services for intellectual disabilities.

16-00179A-13

2013142__

1973 Section 52. It is the intent of the Legislature that this
1974 act not expand or contract the scope or application of any
1975 provision of the Florida Statutes. This act may not be construed
1976 to change the application of any provision of Florida Statutes
1977 to any person.

1978 Section 53. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN
16th District

January 15, 2013

The Honorable Eleanor Sobel
Senate Committee on Children, Families, and Elder Affairs, Chair
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Sobel:

I respectfully request that SB 142, related to *Intellectual Disabilities*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman
TA/rk

CC: Claude Hendon, Staff Director, 520 Knott Building

COMMITTEES:
Military Affairs, Space, and Domestic Security, Chair
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Administrative Procedures Committee

RECEIVED

JAN 17 2013

Senate Committee
Children and Families

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 6, 2013

Meeting Date

Topic Intellectual disability

Bill Number SB 142
(if applicable)

Name Dixie Sansom

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address PO Box 98

Phone 321-543-7195

Street

Cocoa

FL

32923

E-mail dixiesansom@aol.com

City

State

Zip

Speaking: For Against Information

Representing The Arc of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 6, 2013

Meeting Date

Topic Intellectual disability

Bill Number SB 142
(if applicable)

Name Deborah Linton

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 2898 Mahan Drive

Phone 850-921-0460

Street

Tallahassee

FL

32308

E-mail deborah@arcflorida.org

City

State

Zip

Speaking: For Against Information

Representing The Arc of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 416

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

SUBJECT: Inspection of Licensed Child Care Facilities

DATE: March 6, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	Fav/CS
2.			CA	
3.			AHS	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 416 requires the Department of Children and Families (DCF or department) or local licensing agency to provide each parent of a child attending a licensed child care facility, family day care home, or large family child care home with a copy of the facility’s inspection report within 72 hours after the report is completed and accepted.

This bill is expected to have a significant fiscal impact on the state and provides an effective date of July 1, 2013.

This bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Licensing of Child Care Facilities

Child care facilities in the state must meet licensing standards that are established by the Department of Children and Family Services.¹ A child care facility generally includes any child

¹ Section 402.305, F.S.

care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.²

The statute directs DCF to adopt minimum licensing standards by rule which must be designed to address each of the following areas:

- The health, sanitation, safety, and adequate physical surroundings for all children in child care.
- The health and nutrition of all children in child care.
- The child development needs of all children in child care.³

In addition, the law establishes minimum requirements with respect to:

- Personnel
- Staff Credentials
- Staff-to-Children Ratios
- Physical Facilities
- Square Footage Per Child
- Sanitation and Safety
- Nutritional Practices
- Admissions and Recordkeeping
- Transportation Safety
- Access
- Child Discipline
- Plan of Activities
- Urban Child Care Facilities
- Transition Periods (periods of arrival and departure)
- Evening and Weekend Child Care
- Specialized Child Care Facilities for the Care of Mildly Ill Children
- Transfer of Ownership⁴

The specific licensing criteria applicable to child care facilities that have been adopted by DCF are set forth in Chapter 65C-22 of the Florida Administrative Code.

The department inspects each child care facility a minimum of three times per year – once at initial application or renewal, as applicable, and routinely two more times – and may inspect more often, as appropriate, when a complaint is received. The annual inspection includes an examination of the premises, as well as all required records. In addition, child care facilities will be subject to a fire safety inspection locally. The law requires DCF to implement an abbreviated

² Section 402.302(2), F.S.

³ Section 402.305(1), F.S.

⁴ Sections 402.305, 402.3055, 402.3057, F.S.

inspection plan for those facilities that have had no Class 1 or Class 2 violations for at least two consecutive years.⁵

Florida law permits a county that meets or exceeds the state's minimum licensing requirements to designate a local agency to license child care facilities or to contract with DCF to delegate administration of the standards to the department.⁶ Currently, DCF is responsible for administering child care licensing in 62 of Florida's 67 counties. Five counties (Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota) administer their own inspections and licensure of child care facilities.⁷ Inspections in these counties are conducted by the local licensing agency and also include a review of records and premises.⁸

All licensed child care facilities must display the license in a conspicuous location, together with each citation for a violation that resulted in disciplinary action within the last year, an explanation of the citation, and the corrective action taken.⁹ A facility is also required to provide every parent of a child attending the facility with a brochure developed by the department that contains the following information: a statement that the facility is licensed and has met state licensing standards; a listing of the standards; a statement that more information about the licensure status of the facility may be obtained from DCF or the local licensing agency and the phone number to call; the phone number to the child abuse hotline; the issuance and expiration dates of the facility's license; and any other information deemed appropriate by DCF.¹⁰

Since 2001, DCF has posted all reports of inspections conducted by DCF and local licensing agencies online at: www.myflorida.com/childcare. Parents may access the reports and review the information using a provider search feature that allows parents to locate and review records through a number of search criteria, including provider name and county of location. Licensing staff inspect child care facilities and homes utilizing electronic system software that allows staff to document compliance with the required minimum licensing standards. Inspection reports are signed on site by the owner, then archived to the website within 10 days, which allows time for supervisory review, quality assurance, and uploading.

Licensing of Family Day Care Homes

The law also requires a family day care home either to obtain a license or to register annually with the department. A family day care home is an occupied residence in which child care is provided for children from at least two unrelated families for compensation. The maximum allowable number of children varies by the age of the children served.¹¹ A family day care home is required to be licensed if it is presently licensed under a county licensing ordinance or if the board of county commissioners passes a resolution requiring family day care homes to be licensed. If a family day care home is not subject to licensure or does not volunteer to be

⁵ Section 402.3115, F.S.

⁶ Section 402.306(1), F.S.

⁷ Florida Department of Children and Families, *Child Care Regulation Licensing Information*, available at <http://www.dcf.state.fl.us/programs/childcare/licensing.shtml> (last visited Jan. 30, 2013).

⁸ Section 402.308(4), F.S.

⁹ Section 402.3125(1), F.S.

¹⁰ Section 402.3125(5), F.S.

¹¹ Section 402.302(8), F.S.

licensed, then it must register annually with DCF.¹² The department establishes by rule minimum standards for licensed family day care homes, which include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by local governments, and enforcement of these standards.¹³

DCF conducts inspections of licensed family day care homes, but has limited authority to inspect homes that are registered, only. Licensed facilities are inspected twice a year, and may be inspected more often, as necessary, in response to a complaint. Facilities that register, only, are required to complete an annual health and safety home inspection self-evaluation checklist which must be signed by the operator of the home and provided to parents.¹⁴ DCF also provides family day care homes with a brochure to provide parents that includes: a description of the requirements for family day care home registration, training, and fingerprinting and screening; a listing of counties that require licensure of these homes and a description of the licensing requirements; a statement that more information about the home's compliance with applicable requirements can be obtained by contacting the department or the local licensing agency and the appropriate phone number to call; the phone number to the child abuse hotline; and any other information deemed appropriate.¹⁵

Licensing of Large Family Child Care Homes

A large family child care home, which is similar in definition to a family day care home, is required to be licensed by the department according to the minimum standards it establishes by rule. These standards include requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of standards.¹⁶ These facilities are inspected twice a year, and may be inspected more often, as necessary, in response to a complaint.

Currently, the department and local licensing agencies inspect approximately 6,770 child care facilities, 3,069 licensed family day care homes, and 432 large family child care homes annually.¹⁷

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of the Florida Statutes that requires DCF or the local licensing agency to provide each parent of a child attending a licensed child care facility, family day care home, or large family child care home with a copy of the facility's inspection reports within 72 hours after the report is completed and accepted.

Section 2 provides an effective date of July 1, 2013.

¹² Section 402.313(1), F.S.

¹³ Section 402.313(13), F.S.

¹⁴ Section 402.313(7), F.S.

¹⁵ Section 402.313(9), F.S.

¹⁶ Section 402.3131(7), F.S.

¹⁷ Florida Department of Children and Families, *Senate Bill 416 Staff Analysis and Economic Impact* (Jan. 28, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

In order to provide parents with the report, DCF will need to maintain a database that tracks demographic information for each child in care. This information will need to be reported and updated by licensed facilities on an ongoing basis. The cost to the private sector is indeterminate because the cost will vary for each facility based on its size and turnover.

C. Government Sector Impact:

The bill would require DCF to provide each parent a hard copy of the inspection report within 72 hours after it has been completed and accepted. To comply with the new requirement, DCF will need to develop a database that tracks demographic data, including contact information, for all children attending inspected facilities. Currently, there are approximately 700,000 children receiving care in facilities that are inspected. DCF estimates the cost to develop the database and provide the reports as follows:¹⁸

¹⁸ *Id.*

Fiscal Impact	Fiscal Year 2013-14	
Agency/program	FTE	Total
Database development		\$20,000
Database hardware and maintenance		\$24,000
Reports (printing, postage)		\$2,836,922
Administrative Support	5 (1/region)	\$266,279
Total		\$3,147,201

VI. Technical Deficiencies:

The bill covers only licensed child care facilities, but does not cover licensed family day care homes, and large family child care homes, which are also inspected.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 6, 2013:

- The bill was amended to add family day care homes and large family child care homes, thereby addressing the technical deficiency.

- B. **Amendments:**

None.



492264

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 15 - 22
and insert:

Section 1. Whenever a licensed child care facility, family day care home, or large family child care home is inspected by the Department of Children and Families or by a local licensing agency and a report of the inspection is prepared, the department or local licensing agency shall, within 72 hours after the report is completed and accepted by the department or local licensing agency, give a copy of the report, at no cost, to each parent whose child attends that licensed facility or



492264

13

home.

By Senator Ring

29-00090-13

2013416__

1 A bill to be entitled

2 An act relating to the inspection of licensed child
3 care facilities; requiring that the Department of
4 Children and Families or a local licensing agency give
5 a copy of the inspection report to each parent whose
6 child attends that licensed child care facility;
7 requiring that the department or local licensing
8 agency give a copy of the report, at no cost, to the
9 parent within 72 hours after the report is completed
10 and accepted by the department or local licensing
11 agency; providing an effective date.
12

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

14
15 Section 1. Whenever a licensed child care facility is
16 inspected by the Department of Children and Families or by a
17 local licensing agency and a report of the inspection is
18 prepared, the department or local licensing agency shall, within
19 72 hours after the report is completed and accepted by the
20 department or local licensing agency, give a copy of the report,
21 at no cost, to each parent whose child attends that licensed
22 child care facility.

23 Section 2. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR JEREMY RING
29th District

February 5, 2013

Honorable Senator Eleanor Sobel
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Sobel,

I am writing to respectfully request your cooperation in placing Senate Bill 416, relating to the Inspection of Licensed Child Care Facilities on the Committee on Children, Families, and Elder Affairs agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Claude Hendon

RECEIVED

FEB 05 2013

Senate Committee
Children and Families

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

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

Meeting Date _____

Topic Inspections

Bill Number 416 (if applicable)

Name Deborah Russo

Amendment Barcode _____ (if applicable)

Job Title Director

Address 1317 Winewood Blvd.

Phone 850-488-4900

Street

Tall.

City

FL

State

32399

Zip

E-mail debby - russo @

dc.stat.fl.us

Speaking: For Against Information

Representing DEF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

in audience

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 (10/20/11)

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 630

INTRODUCER: Senator Clemens

SUBJECT: Regulation of Summer Camps

DATE: March 4, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 630 requires the Department of Children and Families (DCF or the department) to license summer day camps and summer 24-hour camps under chapter 409, Florida Statutes. This bill also makes numerous conforming changes to chapter 409, Florida Statutes, to reflect the newly created licensure requirement. This bill creates definitions and prohibits any governmental agency, jurisdiction, or authority from regulating, controlling, or supervising the religious curriculum of a summer day camp or summer 24-hour camp unless the health, safety, or well-being of the child is adversely affected.

This bill is anticipated to have a significant fiscal impact on the state, an indeterminate fiscal impact on the five counties that currently license day care facilities, an indeterminate fiscal impact on the private sector, and has an effective date of July 1, 2013.

This bill substantially amends section 409.175 of the Florida Statutes. This bill creates section 409.1756 of the Florida Statutes:

II. Present Situation:

Background

Definitions

Provisions and requirements relating to summer camps and summer 24-hour camps have historically been included in both chs. 402 and 409, F.S., which has led to some inconsistencies in terminology. For example:

- Chapter 409, F.S., defines the term “summer day camp” to mean “recreational, educational, and other enrichment programs operated during summer vacations for children who are 5 years of age on or before September 1 and older.”¹
- Chapter 409, F.S., defines the term “summer 24-hour camp” to mean “recreational, educational, and other enrichment programs operated on a 24-hour basis during summer vacation for children who are 5 years of age on or before September 1 and older, that are not exclusively educational.”²
- “Summer day camps” and “summer camps having children in full-time residence” are specifically excluded from the definition of the term “child care facility” in ch. 402, F.S.³
- “Summer or recreation camps” are specifically excluded from the definition of the term “residential child-caring agency in ch. 409, F.S.”⁴
- The term “summer recreation camps” while used in both chs. 402 and 409, F.S., is not defined in either chapter.⁵
- Camps that are operated at times of the year other than summer, such as during the December holidays and spring break are not defined or addressed in statute.

Background Screening

Chapter 435, F.S., governs background screening standards and requirements for employment:

- **Level 1 screening standards** – Employees required by law to be screened pursuant to Level 1 standards must undergo background screening which includes, but need not be limited to, 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, and may include local criminal records checks through local law enforcement agencies.⁶
- **Level 2 screening standards** – Employees required by law to be screened pursuant to Level 2 standards must undergo a security background investigation which includes, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.⁷
- **Disqualifying offenses** – Level 1 and Level 2 screenings must ensure that no person has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any of an expansive list of specified offenses.⁸

¹ Section 409.175(2)(1), F.S.

² Section 409.175(2)(m), F.S.

³ Section 402.302, F.S.

⁴ Section 409.175, F.S.

⁵ The term “recreational camp” is defined in s. 513.01, F.S. These camps are regulated by the Department of Health.

⁶ Section 435.03, F.S.

⁷ Section 435.04, F.S.

⁸ *Id.*

- **Exemptions from disqualification** – The head of the appropriate agency may grant to any employee otherwise disqualified from employment an exemption from disqualification under a number of specified circumstances.⁹

The determination as to personnel required to be screened and the level of screening needed is set forth in substantive law governing each activity in which employees are required to be screened.

In 1987, the Legislature provided an exemption for “human resource personnel” other than owners and operators of summer recreation camps, summer day camps and summer 24-hour camps from the requirement to be fingerprinted for employee screening under either ch. 409, F.S., (which governs employees and owner/operators of child-placing agencies, family foster homes, and residential child-caring agencies) or ch. 402, F.S., (which governs child care facilities). These personnel were, however, required to comply with all other screening requirements.¹⁰

The term “human resource personnel” was not defined in either ch. 402 or ch. 409, F.S.

- The definition of the term “child care personnel” found in ch. 402, F.S., included the following: “For purposes of screening, the term shall also include persons who work in child care programs which provide care for children 15 hours or more each week in public or nonpublic schools, **summer day camps**, family day care homes, or those programs otherwise exempted under s. 402.316, F.S.”¹¹ This definition and the specific language of s. 402.316, F.S., require the screening of the personnel of these facilities despite their being otherwise exempt from licensure requirements.¹² This definition did not include personnel working in summer 24-hour camps. In 2010, the legislature removed the reference to “summer day camps” from the definition.¹³
- The definition of the term “personnel” in ch. 409, F.S., included the following: “For the purposes of screening, the term ‘personnel’ shall... include owners, operators, employees, and volunteers working in **summer day camps**, or **summer 24-hour camps** providing care for children. A volunteer who assists on an intermittent basis for less than 40 hours per month shall not be included in the term ‘personnel’ for the purposes of screening, provided that the volunteer is under direct and constant supervision by persons who meet the personnel requirements of this section.”^{14,15}

⁹ Section 435.07, F.S.

¹⁰ Chapter 87-141, Laws of Fla. (s. 409.1758, F.S. effective 2009)

¹¹ Section 402.316, F.S., relates to child care facilities which are exempt from licensing requirements due to their affiliation with church or parochial schools.

¹² Section 402.302(3), F.S.(2009).

¹³ Chapter 2010-114, Laws of Fla.

¹⁴ Section 409.175(2)(i), F.S. (2009).

¹⁵ In 2010, the Legislature revised the criteria for volunteers to read: “A volunteer who assists on an intermittent basis for less than 10 hours per month shall not be included in the term “personnel” for the purposes of the screening requirement of this section is always present and has the volunteer in his or her line of sight.” Chapter 2010-114, F.S.

In 2010, the legislature repealed s. 409.1758, F.S., relating to screening for summer camp personnel, which means that all summer camp and summer 24-hour camp owners, operators, employees and volunteers that assist more than 10 hours per month must currently comply with Level 2 background screening.¹⁶

Concurrent with the repeal of s. 409.1758, F.S., the department began a campaign to notify summer day camps and summer 24-hour camps of the new screening requirements, created news releases for media outlets throughout the state, and created and mailed a flyer explaining the new screening requirements to numerous summer camps. DCF worked with community partners, such as Florida's Office of Early Learning's Resource and Referral unit and local Early Learning Coalitions, to obtain a listing of summer camps, and conducted an internet search to identify summer camps. Identifying the summer camps operating in Florida is difficult because they are exempt from regulatory oversight, and there is no registration or other self-identification requirement.¹⁷

Because summer camps and summer 24 hour camps are transient in nature and because they are currently not subject to licensure, the department faces a challenge in not only identifying camps and notifying them of the background screening requirements, but also in ensuring that camps comply with the background screening law. As part of a review by the department's Office of the Inspector General, staff chose a sample of 50 of the 532 summer camps on a list identified by the Office of Early Learning and found that:

- Only 19 of the 50 summer camps could be verified as being registered with the department's background screening office's Caretaker Screening Information System (CSIS) as of August 19, 2011; and
- For 16 of those 19 camps, there was verification of screened applicants in CSIS.¹⁸

The department has also established a protocol for public reporting and receipt of complaints alleging background screening violations by summer camps. DCF logs such complaints and investigates within 48 hours. If the allegations are substantiated, DCF works with the summer camp to expedite the screening of the owners, operators, employees and volunteers. If the summer camp will not comply with screening requirements, DCF will seek closure of the camp.¹⁹

In March 2013, the department plans to release the "Summer Camp Voluntary Registration Portal." The portal will provide summer camps with the opportunity for free advertising to parents and the general public through the department's website. To register a summer camp in the portal, the summer camp operator must provide the camp's assigned identification numbers, which are mandatory for the completion of background screening and can be obtained only when the summer camp establishes an account with DCF's Background Screening Unit.²⁰

¹⁶ Chapter 2010-114, Laws of Fla.

¹⁷ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

¹⁸ Department of Children and Families. Office of the Inspector General. Internal Audit. Assurance Report, Background Screening Office. Project No. A-1112DCF-010. (Jan. 20, 2012).

¹⁹ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

²⁰ *Id.*

The department is authorized to adopt rules relating to the screening requirements for summer day camps and summer 24-hour camps.²¹ DCF is currently preparing the Notice of Rule Development and will schedule public workshops to solicit input on the proposed language. The rules will, among other things, require summer programs to register with DCF through the web portal. This will enable the web portal to become the foundation for a comprehensive listing of summer camp programs in Florida, which will improve DCF's ability to track the programs to ensure they are completing background screening for employees and volunteers.²²

DCF Licensure Authority

The department licenses child-placing agencies, family foster homes, and residential child-caring facilities under ch. 409, F.S.²³ In addition, DCF licenses child care facilities in all but five counties²⁴ of the state under ch.402, F.S. In these five counties, local governments issue the child care licenses and are responsible for the licensing reviews pursuant to s. 402.306, F.S. Licensing reviews include at least two face-to-face visits annually. Section 402.308(3) requires annual relicensing and review, but DCF requires a more frequent inspection. Child care licensees pay fees for licensing. This fee, set forth in s. 402.315, F.S., is \$1.00 per year per child, with a minimum of \$25.00 and a maximum of \$100 annually per center.

Florida law expressly prohibits the department from licensing summer day camps or summer 24-hour camps, but does allow DCF access to the personnel records of these facilities to ensure that background screening requirements have been met. Under current law, summer day camps and summer 24-hour camps are not licensed by DCF or by any other regulatory body or agency.²⁵

In March 2012, the *Palm Beach Post* published a series of articles related to the harm that has occurred to children as a result of attending unlicensed summer camps where employees were either not screened or improperly screened. One article in the series reported the following:²⁶

- Florida camps are completely unregulated. Nobody knows how many operate here. Nobody checks up on the people who run them.
- Florida is one of six states that don't license camps in some form. Its population of 19 million dwarfs the others on the list: North Carolina, Washington, Missouri, New Mexico and South Dakota.
- The state's system of safeguarding kids in child-care centers relies on licensing. State regulators inspect day cares and other licensed businesses to ensure employees are thoroughly screened. There are no such requirements for camps.
- Children are harmed regularly in Florida summer camps. Since 2000, at least 50 children have been victimized in summer programs, or abused by workers the kids first encountered at camp organizations. Because child sexual abuse often goes unreported - one estimate puts the

²¹ Section 409.175(5)(a), F.S.

²² Department of Children and Families. *Staff Analysis and Economic Impact. SB 630*. (Feb. 11, 2013).

²³ Section 409.175, F.S.

²⁴ Those counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

²⁵ Section 409.175(6)(k), F.S.

²⁶ Michael LaForgia. The Palm Beach Post. *Weak laws pave way for child sexual abuse*. (Mar. 4, 2012), available at <http://www.palmbeachpost.com/news/news/state-regional/weak-laws-pave-way-for-child-sexual-abuse-2/nLhPP/> (last visited Feb. 27, 2013).

reporting rate at one in 20 cases - that figure likely under-represents the number of victims statewide.

- All 50 states consider child molesters and other sex offenders so dangerous that the government tracks their movements, but nothing stops them from working in Florida camps. More than a few got jobs in summer programs.
- In scores of other cases, rapists, murderers and other violent criminals have led organizations that often run camps. Roughly 170 church or neighborhood youth programs have been operated by felons statewide, including more than two dozen businesses led by child molesters or other sex offenders.
- The groups are disproportionately clustered around the state's poorest neighborhoods.

III. Effect of Proposed Changes:

Section 1. of the bill makes conforming changes to s. 409.175, F.S.. to reflect the requirement to license summer day camps and summer 24-hour camps in the newly created s. 409.1756, F.S.

Section 2. of the bill creates s. 49.1756, F.S., that does the following:

- States that the purpose of the section is to provide for the establishment of licensing and screening requirements for summer day camps and summer 24-hour camps;
- Prohibits any governmental agency, jurisdiction, or authority from regulating, controlling, or supervising the religious curriculum of a summer day camp or summer 24-hour camp unless the health, safety, or well-being of the child is adversely affected;
- Creates definitions for the terms "license," "operator," "owner," "personnel," "screening," "summer day camp," and "summer 24-hour camp;" and
- Requires an application for a license to be made on forms provided by and in a manner prescribed by the department and requires the department to determine the good moral character of an applicant.

Section 3. of the bill provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The department reports that SB 630 would impact all summer day camps and 24-hour summer camps. Camps may incur costs in order to meet the health and safety standards; such as, staff to child ratios, square footage requirements and meeting current fire safety codes. Specific costs cannot be determined as it will be dependent upon the standards developed by the department as well as the physical environment, size and location of the summer camp or summer 24-hour camp.²⁷

C. Government Sector Impact:

The department reports the following fiscal impact to the agency:²⁸

Fiscal Impact	Fiscal Year 2013-14	
	FTE	Total
Update licensing system		\$20,000
IT Equipment		\$597,076
Expenses		\$325,169
Licensing staff	287	\$18,468,729
Background screening staff	53	\$2,722,033
Total		\$22,133,007

The department also reports that the five local licensing counties will incur costs based on the assumption that these counties will promulgate ordinances that meet or exceed those of the state, will identify and notify potential summer camp and 24-hour camp programs, and will hire, train and equip staff to license and regulate summer camps.²⁹

VI. Technical Deficiencies:

On lines 22 and 23 “summer 24-hour camps, and summer day camps” should read, “summer day camps, and summer 24-hour camps” for consistency.

Summer camps appear to be more similar to child care facilities licensed pursuant to ss. 402.301 – 402.319, F.S., than they are to the child placing and caring agencies and family foster homes licensed under s. 409.175, F.S. Provisions relating to the licensure of summer day camps and summer 24-hour day camps may be more appropriately placed in ch. 402, F.S.

²⁷ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013)

²⁸ *Id.*

²⁹ *Id.*

The bill does not provide authority for the department to impose sanctions in the event a program continues to violate health and safety standards.

All other licensed and registered types of programs (child care facilities, family day care homes, and large family child care homes) are required to pay a nominal fee for licensure. The bill does not include a fee for the licensure of summer camps. The number of camps is anticipated to exceed already existing licensed and registered programs in the state.

The bill does not address licensure or background screening for those camps that do not operate during the summer.

Lines 106-111 of the bill state that the purpose of the section is to provide for the establishment of licensing and screening requirements for camps and provide procedures to determine adherence to these requirements. The newly created section does not accomplish this and the licensure requirements currently contained in s. 409.175, F.S., may not be applicable to summer day camps and summer 24-hour camps.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Clemens

27-00404A-13

2013630__

A bill to be entitled

An act relating to regulation of summer camps; amending s. 409.175, F.S.; providing that Department of Children and Families license requirements apply to summer day camps and summer 24-hour camps; creating s. 409.1756, F.S.; providing purpose; prohibiting a governmental agency from regulating the religious curriculum of a summer day camp or summer 24-hour camp; providing an exception; providing definitions; providing procedure for application for a license to operate a summer day camp or summer 24-hour camp; providing screening requirements for camp personnel; providing duties of the department; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4), paragraph (a) of subsection (5), and paragraphs (d) and (k) of subsection (6) 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, summer 24-hour camps, and summer day camps; public records exemption.-

(4)

(d) This license requirement does not apply to boarding schools, ~~recreation and summer camps~~, nursing homes, or hospitals, ~~or~~ to persons who care for children of friends or neighbors in their homes for periods not to exceed 90 days, or to persons who have received a child for adoption from a

Page 1 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00404A-13

2013630__

licensed child-placing agency.

(5) (a) The department shall adopt and amend licensing rules for family foster homes, residential child-caring agencies, ~~and~~ child-placing agencies, ~~and~~. ~~The department may also adopt rules relating to the screening requirements for~~ summer day camps and summer 24-hour camps. The requirements for licensure and operation of family foster homes, residential child-caring agencies, ~~and~~ child-placing agencies, summer day camps, and summer 24-hour camps shall include:

1. The operation, conduct, and maintenance of these homes and agencies and the responsibility which they assume for children served and the evidence of need for that service.

2. The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served.

3. The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served.

4. The ratio of staff to children required to provide adequate care and supervision of the children served and, in the case of foster homes, the maximum number of children in the home.

5. The good moral character based upon screening, education, training, and experience requirements for personnel.

6. The department may grant exemptions from disqualification from working with children or the developmentally disabled as provided in s. 435.07.

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00404A-13

2013630

59 7. The provision of preservice and inservice training for
60 all foster parents and agency staff.

61 8. Satisfactory evidence of financial ability to provide
62 care for the children in compliance with licensing requirements.

63 9. The maintenance by the agency of records pertaining to
64 admission, progress, health, and discharge of children served,
65 including written case plans and reports to the department.

66 10. The provision for parental involvement to encourage
67 preservation and strengthening of a child's relationship with
68 the family.

69 11. The transportation safety of children served.

70 12. The provisions for safeguarding the cultural,
71 religious, and ethnic values of a child.

72 13. Provisions to safeguard the legal rights of children
73 served.

74 (6)

75 (d)1. The department may pursue other remedies provided in
76 this section in addition to denial or revocation of a license
77 for failure to comply with the screening requirements. The
78 disciplinary actions determination to be made by the department
79 and the procedure for hearing for applicants and licensees shall
80 be in accordance with chapter 120.

81 2. When the department has reasonable cause to believe that
82 grounds for denial or termination of employment exist, it shall
83 notify, in writing, the applicant ~~or~~ licensee, ~~or summer or~~
84 ~~recreation camp~~, and the personnel affected, stating the
85 specific record which indicates noncompliance with the screening
86 requirements.

87 3. Procedures established for hearing under chapter 120

Page 3 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00404A-13

2013630

88 shall be available to the applicant ~~or~~ licensee, ~~summer day~~
89 ~~camp, or summer 24-hour camp~~, and affected personnel, in order
90 to present evidence relating either to the accuracy of the basis
91 for exclusion or to the denial of an exemption from
92 disqualification.

93 4. Refusal on the part of an applicant to dismiss personnel
94 who have been found not to be in compliance with the
95 requirements for good moral character of personnel shall result
96 in automatic denial or revocation of license in addition to any
97 other remedies provided in this section which may be pursued by
98 the department.

99 (k) The department ~~shall may not~~ license summer day camps
100 ~~and or~~ summer 24-hour camps ~~and~~. ~~However, the department~~ shall
101 have access to the personnel records of such camps facilities to
102 ensure compliance with the screening requirements.

103 Section 2. Section 409.1756, Florida Statutes, is created
104 to read:

105 409.1756 Licensure of summer camps.-

106 (1) (a) The purpose of this section is to protect the
107 health, safety, and well-being of all children in the state who
108 attend summer day camps or summer 24-hour camps by providing for
109 the establishment of licensing and screening requirements for
110 such camps and providing procedures to determine adherence to
111 these requirements.

112 (b) This section does not authorize any governmental agency
113 jurisdiction or authority to regulate, control, or supervise the
114 form, manner, or content of any religious curriculum or
115 teachings of a summer day camp or summer 24-hour camp unless the
116 health, safety, or well-being of the child is adversely

Page 4 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00404A-13 2013630__

117 affected.

118 (2) As used in this section, the term:

119 (a) "License" means a license as defined in s. 120.52(10).

120 A license under this section is issued to a summer day camp or
 121 summer 24-hour camp and is not a professional license of any
 122 individual. Receipt of a license under this section does not
 123 create a property right in the recipient. A license under this
 124 section is a public trust and a privilege and is not an
 125 entitlement. This privilege must guide the finder of fact or
 126 trier of law at any administrative proceeding or court action
 127 initiated by the department.

128 (b) "Operator" means any onsite person ultimately
 129 responsible for the overall operation of a summer day camp or
 130 summer 24-hour camp, regardless of whether the operator is the
 131 owner or administrator of such a camp.

132 (c) "Owner" means the person who is licensed to operate the
 133 summer day camp or summer 24-hour camp.

134 (d) "Personnel" means all owners, operators, employees, and
 135 volunteers working in a summer day camp or summer 24-hour camp
 136 who may be employed by or do volunteer work for a person,
 137 corporation, or agency that holds a license to operate a summer
 138 day camp or summer 24-hour camp. For purposes of screening, the
 139 term does not include a volunteer who assists on an intermittent
 140 basis for less than 10 hours per month, if a person who meets
 141 the screening requirement of this section is always present and
 142 has the volunteer in his or her line of sight.

143 (e) "Screening" means the act of assessing the background
 144 of personnel and includes, but is not limited to, employment
 145 history checks as provided in chapter 435 using the level 2

27-00404A-13 2013630__

146 standards for screening set forth in that chapter.

147 (f) "Summer day camp" means recreational, educational, and
 148 other enrichment programs operated during summer vacations for
 149 children who are 5 years of age or older on or before September
 150 1.

151 (g) "Summer 24-hour camp" means recreational, educational,
 152 and other enrichment programs that are not exclusively
 153 educational that are operated on a 24-hour basis during summer
 154 vacation for children who are 5 years of age or older on or
 155 before September 1.

156 (3) An application for a license shall be made on forms
 157 provided, and in the manner prescribed, by the department. The
 158 department shall determine the good moral character of the
 159 applicant based upon the screening requirements provided in s.
 160 409.175(5)(a).

161 Section 3. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Transportation

SENATOR JEFF CLEMENS

27th District

February 5, 2013

Chair Eleanor Sobel
520 Knott
404 S. Monroe St
Tallahassee, FL 32399

RECEIVED

FEB 12 2013

Senate Committee
Children and Families

Dear Chair Sobel:

I respectfully request that SB 630, An Act Relating to Regulated of Summer Camps, be placed on the agenda for Children, Families and Elder Affairs Committee.

Please feel free to contact myself or my staff, should you have any questions.

Best Regards,

A handwritten signature in black ink, appearing to read "Jeff Clemens".

Jeff Clemens
Senate District 27

Cc: Claude Hendon

REPLY TO:

508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
 226 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

Bill Temporarily
Postponed

3/6/13

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

Meeting Date

Topic SUMMER CAMPS

Bill Number SB 630
(if applicable)

Name RAMON MAURY

Amendment Barcode _____
(if applicable)

Job Title PRINCIPAL

Address PO BOX 10245

Phone 850 222 1568

Street

TALL FL 32302

City

State

Zip

E-mail MM99@aol

Speaking: For Against Information

Representing SUN SPORTSGARDEN & AANR - FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 794

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

SUBJECT: Medicaid Eligibility

DATE: March 6, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Fav/CS
2.			HP	
3.			AHS	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 794 allows the Department of Children and Families to not consider the value of an applicant's life insurance policy in determining eligibility for Medicaid if the applicant names the state as a beneficiary. The state would only be the beneficiary for an amount up to the cost of the applicant's care. This would make more people eligible for Medicaid, and specifically nursing home care, but would recover the cost of that care through a person's life insurance benefit. This would result in more people being able to afford nursing home care.

This bill is expected to have a fiscal impact on the state and has an effective date of October 1, 2013.

This bill creates section 409.995 of the Florida Statutes.

II. Present Situation:

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid serves approximately 3.3 million people in Florida, with over half of those being children and adolescents 20 years of age or younger. Medicaid is a partnership between the federal and state governments where the federal government establishes the structure for the program and pays a share of the cost. Each state operates its own Medicaid program under a state plan that must be approved by the federal Centers for Medicare and Medicaid Services or CMS. The plan outlines current Medicaid eligibility standards, policies and reimbursement methodologies.

In Florida, the program is administered by the Agency for Health Care Administration (AHCA). AHCA delegates certain functions to other state agencies, including the Department of Children and Families, the Agency for Persons with Disabilities, and the Department of Elder Affairs. AHCA has overall responsibility for the program and qualifies providers, set payment levels, and pays for services. The Department of Children and Families is responsible for determining financial eligibility for Medicaid recipients. The Agency for Persons with Disabilities operates one of the larger waiver programs under Medicaid, the Home and Community Based Waiver program serving individuals with disabilities. The Department of Elder Affairs assesses Medicaid recipients to determine if they require nursing home care. Specifically, an individual:

- Requires nursing home placement as evidenced by the need for medical observation throughout a 24 hour period and requires care to be performed on a daily basis under the direct supervision of a health professional of medically complex services because of mental or physical incapacitation; or
- Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24 hour period and requires care to be performed on a daily basis under the supervision of a health professional because of mental or physical incapacitation; or
- Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24 hour period and requires limited care to be performed on a daily basis under the supervision of a health professional because of mild mental or physical incapacitation.

The February 25, 2013 Social Services Estimating Conference estimated that expenditures for Medicaid for FY 2012-2013 would be \$20.77 billion. One of the most important and expensive components of Medicaid is long-term care. The conference estimated that \$4.75 billion will be spent on long-term care under Medicaid in FY 2012-2013.

Floridians who need nursing home care, but do not qualify for Medicaid, must pay from their own funds or through insurance. According to the 2011 MetLife Market Survey of Nursing Home, Assisted Living, Adult Day Services, and Home Care Costs, the national average cost of a nursing home was \$78,110 per year for a semi-private room in 2011. Persons needing nursing home care are determined to be eligible for Medicaid based on financial assets and monthly income. Many persons paying privately for nursing home care spend their assets and then become eligible for Medicaid. Some however, have monthly income from pensions and other sources that prevent them from becoming eligible for Medicaid. The value of any life insurance policy more than \$2,500 is considered an asset would make such persons ineligible for Medicaid.

Long-Term Managed Care

In 2011, the Legislature passed and the Governor signed into law HB 7107 (Chapter 2011-134, L.O.F.) to increase the use of managed care in Medicaid. The law requires both long-term care services and other Medicaid services to be provided through managed care plans. Long-term Care Managed Care component of the law will be implemented first. Implementation of the program began July 1, 2012 with full implementation by October 1, 2013.

AHCA has chosen the plans that may participate in the program through a competitive bid process. AHCA considered many factors when choosing plans. AHCA chose a certain number of long-term care managed care plans for each region to ensure that enrollees in the program to ensure that recipients have a choice between plans. After AHCA has chosen the plans that may participate in the Florida Long-Term Care Managed Care Program, AHCA will begin to notify and transition eligible Medicaid recipients into the program. It is anticipated that the Florida Long-Term Care Managed Program will be available in certain areas of the State beginning the first quarter of 2013 and will be in all areas by October 1, 2013.

Participating managed care plans are required to provide minimum benefits that include nursing home as well as home and community based services. Plans will be free to customize and offer additional services. The minimum benefits include:

- Nursing home
- Services provided in assisted living facilities
- Hospice
- Adult day care
- Medical equipment and supplies, including incontinence supplies
- Personal care
- Home accessibility adaptation
- Behavior management
- Home delivered meals
- Case management
- Therapies: physical, respiratory, speech, and occupational
- Intermittent and skilled nursing
- Medication administration
- Medication management
- Nutritional assessment and risk reduction
- Caregiver training
- Respite care
- Transportation
- Personal emergency response system

On February 1, 2013, the Federal Centers for Medicare and Medicaid Services, approved AHCA's request for a Home and Community Based Care Services waiver for individuals 65 and older and individuals with physical disabilities ages 18 through 64 years old. This approval will allow Florida to implement managed care for long-term care services under Medicaid.

Federal Deficit Reduction Act of 2005

The Federal Deficit Reduction Act of 2005¹ limits Medicaid payments for long-term care services for persons who transfer assets for less than fair market value (FMV) within a specified look back period of 60 months calculated from the date of the Medicaid application. As a result, when an individual applies for Medicaid long-term care, states conduct a review, or “look-back,” to determine whether the individual (or his or her spouse, if married) transferred assets to another person or party and, if so, whether the transfer was for less than FMV.² If a transfer of assets for less than FMV is determined, the individual is ineligible for Medicaid coverage for long-term care for a period, called the penalty period. The penalty period is calculated by dividing the dollar amount of the assets transferred by the average monthly private-pay rate for nursing home care in the state (or the community, at the option of the state). For example, if an individual transferred \$12,000 in assets, and private facility costs averaged \$6,000 per month in the state, the penalty period would be 2 months. Federal law exempts certain transfers for less than FMV from the penalty provisions even if they are made within the look-back period. Transfers do not result in a penalty if the individual can demonstrate to the state that the transfer was made exclusively for purposes other than qualifying for Medicaid.³

In regard to insurance products, for example, states are required to treat the purchase of an annuity as a transfer for less than fair market value unless the annuity meets certain conditions.⁴ Annuities purchased by or on behalf of an individual who applied for Medicaid long-term care services that are considered as individual retirement accounts or purchased with the proceeds of certain retirement accounts and meet certain federal tax code requirements are not considered transfers for less than FMV.

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) is responsible for regulating all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, solvency, viatical settlements, and premium financing.⁵

¹ Pub. Law No. 109-171, S.1932, 109th Cong. (Feb. 8, 2006).

² Federal law requires states to apply the transfer of asset provisions to institutionalized individuals, who are defined in the Social Security Act as individuals who are inpatients in a nursing facility or a similar institution or certain recipients of home and community-based services. See Social Security Act § 1917(e)(3). States have the option to apply such provisions to noninstitutionalized individuals.

³ General Accounting Office, *Medicaid and Long-Term Care, Few Assets Transferred before Applying for Nursing Home Coverage; Impact of Deficit Reduction Act on Eligibility Is Uncertain*, (GAO-07-280), March 2007.

⁴ States are required to treat the purchase of an annuity as a transfer for less than FMV unless the annuity names the state as either (1) the remainder beneficiary in the first position for at least the total amount of Medicaid expenditures paid on behalf of the annuitant or (2) a remainder beneficiary in the second position after the community spouse or minor or disabled child. Annuities purchased by or on the behalf of an individual who applied for Medicaid coverage for long-term care would be treated as a transfer of assets for less than FMV unless the annuity is irrevocable, nonassignable, actuarially sound, and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments.

⁵ Section 20.121(3)(a), F.S.

Life Insurance

Life insurance is a contract between the owner of a policy and an insurer whereby the insurer agrees, in return for premium payments, to pay a specified sum (the face value or maturity value of the policy) to the designated beneficiary upon the death of the insured. For a whole life insurance policy, premiums are collected during the life of the insured, with a payout occurring at the death of the insured. The premium for whole life insurance remains the same throughout the life of the policy, in large part because the policy accumulates a “dividend” cash value, which permits the insurance company to maintain the same premium level year after year. The insured can also withdraw or borrow against the cash value accumulated by the policy. Some policies will pay a portion (lump sum or monthly payments) of the death benefits for a policy before death occurs if the policyholder is diagnosed with a terminal illness or catastrophic illness, or is confined to a nursing home. Upon the death of the insured, the beneficiary receives the remainder of the death benefits. The insurer may charge a fee for the accelerated benefits.

Life insurance forms and rates are subject to approval by OIR.⁶ The OIR has adopted rules relating to the advertisement and disclosure of benefits, limitations, and exclusions of policies sold as life insurance to assure that product descriptions are presented in a manner that prevents unfair, deceptive, and misleading advertising and is conducive to accurate presentations.⁷

Viatical Settlements

In general, a viatical settlement transaction is an agreement under which the owner of a life insurance policy (viator) sells the policy to a viatical settlement provider (provider) in exchange for an up-front payment, which is generally less than the expected death benefit under the policy. Often, the insured has been diagnosed as terminally ill, and needs money for the payment of medical and living expenses. The viatical broker and the policyholder negotiate a price for the life insurance policy with the viatical provider. Usually, the negotiated price is represented as a percentage of the policy’s death benefit. A viatical settlement transaction may only be completed using an independent third party-trustee or escrow agent. All proceeds of the viatical contract must be transferred within 3 business days after receiving from the issuer of the subject policy acknowledgment of the transfer, assignment, bequest, sale, or devise.

Rather than retaining the policy, the provider usually sells all or a part of the policy to one or more investors (viatical settlement purchasers). In return for providing funds, these investors receive the death benefit, or a proportionate share thereof, upon the death of the insured.”).

The Viatical Settlement Act⁸ authorizes OIR to license and regulate viatical settlements. Florida law does not differentiate between viatical settlements and life settlements. The OIR is responsible for approving provider contracts and other related forms; conducting examinations and investigations; and taking administrative action against providers when sufficient cause is present. A violation of this act is an unfair trade practice under ss. 626.9521 and 626.9541, F.S.,

⁶ Section 627.410, F.S.

⁷ Chapter 690-150 F.A.C.

⁸ Part X, ch. 626, F.S.

and is subject to the penalties provided in the insurance code.⁹ The OIR does not regulate the rates or amount paid as consideration for entry into a viatical settlement.¹⁰

Section 626.9913, F.S., requires viatical settlement providers to file with OIR annual audited financial statements prepared by independent certified public accountants. The viatical settlement provider is required to maintain a deposit of \$100,000 in securities to ensure performance of its obligations to viators in the event of insolvency or the loss of its license. In addition, viatical settlement providers are required to use life expectancies obtained from registered life expectancy providers or be subject to suspension, revocation, or denial of their license. As part of the application process to be registered as a life expectancy provider, an applicant must provide a general description of the policies and procedures covering all life expectancy determination criteria and protocols. This includes a description of how the life expectancy provider ensures that the provider bases its determination of life expectancies on current data.

Accelerated Life Benefits Technical Advisory Workgroup

In the 2012 session, the legislature added proviso (specific appropriation 224) in the General Appropriations Act that required the Agency for Health Care Administration, in coordination with the Department of Children and Families and the Office of Insurance Regulation, to establish a technical advisory workgroup to examine methods to allow an insured under a life insurance policy or the contract holder of an annuity, to convert the policy or annuity to a long term care benefit. The workgroup was also to examine the feasibility and benefits of mandating life insurance companies to include an offer of accelerated death benefits as a means to fund long term care institutional services in their standard policies. The advisory workgroup included representatives from nursing home providers, life insurance companies, and life insurance agents. The agency submitted a report of findings and activities of the workgroup, including recommendations and proposed legislation January 15, 2013.

The workgroup recommended both a public and private model to allow the applicant to use the value of an in force life insurance policy to offset the costs of long-term care services. The public model leverages current state agencies and allows them to transfer the value of a life insurance contract to offset the cost of a long-term care confinement. The state acts as a fiduciary intermediary converting assets held in a life insurance contract to periodic payments offsetting the cost of long-term care confinement. Any applicant that meets the state nursing home level of care could qualify for this public model assistance. The workgroup proposed legislation to require that the assets of the life insurance contract are used solely to offset the cost of long-term care confinement with any residual value being returned to the original beneficiary of the life insurance contract. The workgroup pointed out that the disadvantage of the public model is its requirement of the state to become a fiduciary in the area of life insurance contracts. This would increase the workload of the Office of Insurance Regulation.

The private model would allow an applicant for Medicaid to be determined eligible even though they may own a life insurance contract which would otherwise disqualify them from eligibility.

⁹ Section 626.9927(1), F.S.

¹⁰ Section 626.9926, F.S.

This model would allow for a viatical settlement of a life insurance contract with payments to be used solely to provide Medicaid covered long-term care costs. The workgroup proposed legislation to use current viatical statutes and adds protections for the state and the viator (the owner of the life insurance contract who enters into a settlement arrangement for the sale of that contract). The protections for the state require the benefits of the viatication be used to offset the cost of long-term care confinement and provide additional safeguards for the Medicaid applicant.

III. Effect of Proposed Changes:

The bill creates s. 409.995, F.S., to allow the Department of Children and Families to disregard the value of a life insurance policy in determining an individual's eligibility for Medicaid if certain conditions are met. The value of a life insurance policy would be disregarded if an applicant makes an irrevocable election to designate the state as a beneficiary of the policy for an amount that is less than or equal to the cost of the Medicaid benefits provided plus any premiums or other costs incurred by the department. The applicant must make this election through an assignment to the state under a written agreement submitted to the issuing insurer of the policy or an irrevocable assignment of the ownership of the policy to the state.

Any designation is void if the application for Medicaid is not approved. The bill authorizes the state to pay the recipient's policy premium. The policy cannot be sold. Any death benefit in excess of the cost of the Medicaid benefits received will be paid to the named beneficiaries of the policy.

As an alternative to designating the state as beneficiary of a life insurance policy, the owner of a life insurance policy with a face value of more than \$10,000 may enter into a viatical settlement contract that would provide payments to a health care provider, chosen by the viator, for the payment of Medicaid-covered long-term care services. The viatical settlement provider contract must comply with part X of ch. 626, F.S. Contracts, marketing materials, benefit projections, pricing methodologies, and valuation materials are subject to approval by the OIR. The OIR is required to conduct periodic market conduct examinations and financial audits of the viatical settlement providers.

The Department of Children and Families must provide notice of the two options as part of the application for Medicaid.

The Agency for Health Care Administration is required to seek any state plan amendments or federal waivers required to implement the bill.

The Department of Children and Families, the Agency for Health Care Administration, and the Office of Insurance Regulation may adopt rules to implement the bill.

The bill takes effect October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Additional residents of Florida will be able to qualify for Medicaid for long-term care services. It is unknown at this time how many people will benefit from this bill. Persons named as beneficiaries of life insurance policies for persons qualifying for Medicaid under the provisions of this bill would see a reduced benefit paid by the policy.

Nursing homes in the state of Florida will be able to serve more Medicaid residents under the bill.

C. Government Sector Impact:

The bill will allow additional residents to qualify for Medicaid, which will increase utilization and costs. It is unclear whether the full costs of the care for these recipients would be recouped from the proceeds of their respective life insurance policies or viatical settlements.

The bill would however require programming changes to the state's Medicaid eligibility system, the FLORIDA system, maintained by the Department of Children and Families. See below for the cost of these changes.

The bill would require AHCA to track and collect on life insurance contracts. The bill would also require OIR to review and approve marketing materials, pricing and valuation methods or actuarial methodologies used in a viatical settlement. The bill requires OIR to periodic market conduct examinations and financial audits of each viatical settlement provider, which would require additional personnel and resources. Currently, s. 626.992, F.S., authorizes but does not require OIR to conduct periodic examinations and audits. In order to implement the bill, OIR would need to adopt rules, and modify the online I-file system to accommodate the newly required filings of rates and forms. The OIR would need additional personnel and other resources to implement the provisions of the bill.

Fiscal Impact	Fiscal Year 2013-14	
	FTE	Total
Department of Children and Families – programming changes to the FLORIDA system		\$614,000
Agency for Health Care Administration – to track and collect on life insurance contracts	4	\$253,295
Office of Insurance Regulation	3	\$131,320
Total	7	\$998,615

VI. Technical Deficiencies:

Subsection 5 of the bill allows an owner of a life insurance policy to enter into a viatical settlement contract in exchange for payments to a health care provider chosen by the viator for the provision of Medicaid-covered long-term care services. The bill also provides that an attempt by any person to require the use of a specific long-term care provider is prohibited and constitutes an unfair trade practice under s. 626.9927, F.S. Effective 2013, Medicaid recipients will receive their long-term care services through the Statewide Medicaid Managed Care Long-term Care managed care program. The agency is responsible for the payment of Medicaid providers.

It is unclear whether part X of ch. 626, F.S. allows periodic payments under a viatical settlement. Section 626.9924(3), F.S., requires viatical settlement transactions to be completed only using an independent third party escrow agent or trustee, and that immediately upon receipt by the trustee or escrow agent of the documents to transfer the policy, the provider must escrow the funds. In addition, an advance or partial payment of the proceeds due under a viatical settlement contract may not be used to effect transfer of the subject policy. Section 626.9924(5), F.S., provides that the independent third-party trustee or escrow agent must transfer all proceeds of the viatical settlement contract within 3 business days after receiving from the issuer of the subject policy acknowledgement of the transfer, assignment, bequest, sale or devise. The failure of a viatical settlement provider to transfer proceeds as required by this subsection renders the viatical settlement contract and the transfer, assignment, bequest, sale or devise voidable.

The bill also provides for payments to the viator’s estate upon the death of the viator. However, the viator is the owner of the policy and may not be the insured individual. Section 626.9911(14), F.S., defines a viator as the owner of a life insurance policy.

VII. Related Issues:

It is unclear whether a viatical settlement transaction would result in a transfer of assets for less than fair market thus triggering a penalty period.

As an alternative to designating the state as beneficiary of a life insurance policy, the bill would allow the owner of a life insurance policy with a face value of more than \$10,000 may enter into a viatical settlement contract that would provide payments to a health care provider, chosen by the viator, for the payment of Medicaid-covered long-term care services. Long-term care services under Medicaid are paid to the provider through the state’s fiscal intermediary. It would be

significant change in policy to allow private entities pay for Medicaid services on behalf of the state.

Section 5 of the bill provides that the owner of a policy with a face amount of \$10,000 or more can sell the policy via a viatical settlement contract approved by the OIR in exchange for payments from the viatical settlement provider to a health services provider selected by the policy owner (viator). Part X of Ch. 626, F.S., does not address solvency requirements for viatical settlement providers other than to maintain a deposit of \$100,000 with OIR. Currently, there are not reserve requirements to assure future periodic payments. According to the OIR, if the viatical settlement provider sells the policy to another party, the transaction is no longer regulated by OIR and future payments could not be assured. Under these circumstances, it is unclear what regulatory entity would monitor the funds to ensure that they are held in an irrevocable state or a federally insured account.

VIII. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 6, 2013:

- The committee substitute changed the effective date to October 1, 2013.

- B. **Amendments:**

None.



496558

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 143
and insert:
Section 2. This act shall take effect October 1, 2013.

By Senator Brandes

22-00908B-13

2013794__

1 A bill to be entitled
 2 An act relating to Medicaid eligibility; creating s.
 3 409.995, F.S.; providing conditions for the Department
 4 of Children and Families to evaluate an applicant's
 5 life insurance policy when determining eligibility for
 6 Medicaid services; authorizing the Agency for Health
 7 Care Administration to use federal or state funds
 8 under the Medicaid program to pay life insurance
 9 premiums of an applicant or recipient under certain
 10 circumstances; providing restrictions on the sale,
 11 assignation, or transfer of ownership of a life
 12 insurance policy for which the state is named as a
 13 beneficiary or which is collaterally assigned to the
 14 state; providing for proceeds to be paid to a
 15 beneficiary under certain conditions; providing
 16 conditions for the owner of a life insurance policy to
 17 enter into a viatical settlement contract with a
 18 health care services provider for coverage of Medicaid
 19 long-term care services; specifying content of the
 20 contract; requiring that all marketing materials,
 21 actuarial memoranda, and pricing methodologies used by
 22 the viatical settlement provider be filed with and
 23 approved by the Office of Insurance Regulation;
 24 requiring the office to conduct market examinations
 25 and financial audits of certain viatical settlement
 26 providers; requiring the department to provide notice
 27 of life insurance policy options; authorizing the
 28 department, the agency, and the office to adopt rules;
 29 authorizing the agency to seek state plan amendments

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00908B-13

2013794__

30 and federal waivers; defining the term "value";
 31 providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Section 409.995, Florida Statutes, is created to
 36 read:

37 409.995 Life insurance assets.—

38 (1) Notwithstanding any provision of law to the contrary,
 39 the department, in determining an applicant's eligibility for
 40 Medicaid, is authorized to treat a life insurance policy owned
 41 by an applicant as follows:

42 (a) The value of a life insurance policy that is in force
 43 and owned by an applicant or a recipient who meets the state's
 44 nursing home level of care shall not be considered as a resource
 45 or asset in determining the applicant's or recipient's
 46 eligibility for Medicaid if the applicant or recipient:

47 1. Makes an irrevocable election to name the state as a
 48 beneficiary of the life insurance policy for an amount that is
 49 not greater than the amount of Medicaid benefits provided to the
 50 recipient plus any premiums or other costs incurred by the
 51 agency to the insurer that issued the life insurance policy;

52 2. Collaterally assigns the life insurance policy to the
 53 state under a written agreement submitted to and recorded by the
 54 issuing company of the life insurance policy; or

55 3. Irrevocably assigns the ownership of the policy in favor
 56 of the state.

57 (b) Medicaid benefits may not be authorized or provided
 58 until the designation of the state as an irrevocable beneficiary

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00908B-13

2013794

59 or the collateral assignment in favor of the state or written
 60 acknowledgement of irrevocable assignment by the insurer is
 61 completed and accepted by the department as part of the
 62 application process.

63 (c) Any designation of the state as an irrevocable
 64 beneficiary, any collateral assignment, or an irrevocable
 65 assignment in favor of the state is void if the application for
 66 Medicaid benefits is not approved.

67 (2) To the extent allowed by federal law, the agency may
 68 use federal or state funds under the Medicaid program to pay
 69 premiums plus any other costs related to a life insurance policy
 70 that is in force and owned by an applicant or a recipient who:

71 (a) Meets the state's nursing home level of care;

72 (b) Has made an irrevocable election to name the state as a
 73 beneficiary of the life insurance policy for an amount that is
 74 not greater than the amount of Medicaid benefits provided to the
 75 recipient and the premiums or expenses paid by the agency to the
 76 insurer that issued the life insurance policy; or

77 (c) Collaterally assigned the life insurance policy to the
 78 state under a written agreement submitted to and recorded by the
 79 issuing company of the life insurance policy.

80 (3) Any life insurance policy that is in force and under
 81 which the state is named as an irrevocable beneficiary or that
 82 has been collaterally assigned to the state may not be sold,
 83 assigned, or have the ownership transferred to any person or
 84 entity. This restriction exists as long as the policy names the
 85 state as an irrevocable beneficiary or as long as the policy is
 86 collaterally assigned to the state.

87 (4) Upon the death of the insured who is the subject of the

22-00908B-13

2013794

88 policy, proceeds that exceed the amount of Medicaid benefits
 89 provided to a recipient plus premiums and other costs incurred
 90 by the agency shall be paid to a beneficiary named by the
 91 applicant or recipient.

92 (5) The owner of a life insurance policy with a face value
 93 in excess of \$10,000, may enter into a viatical settlement
 94 contract pursuant to part X of chapter 626 in exchange for
 95 payments to a health care provider chosen by the viator, which
 96 payments shall be used solely to provide Medicaid-covered long-
 97 term care services as of the effective date of the contract for
 98 the viator, and only when the viatical settlement contract
 99 complies with the requirements of part X of chapter 626. The
 100 contract must contain the following:

101 (a) The lesser of 5 percent of the face value of the life
 102 insurance policy or \$5,000 is reserved as the death benefit
 103 payable to the viator's estate or beneficiary.

104 (b) The balance of payments required under the contract
 105 unpaid at the death of the viator must be paid to the viator's
 106 estate or a named beneficiary.

107 (c) A schedule evidencing the total amount payable to the
 108 viator under the contract.

109 (d) All moneys must be held in an irrevocable state or
 110 federally insured account.

111 (e) The contract must provide that the type of long-term
 112 care benefits payable under the settlement contract shall be
 113 chosen only by the viator or recipient of the benefits. An
 114 attempt by any person to require the use of a specific long-term
 115 care provider to obtain long-term benefits under a settlement
 116 contract is strictly prohibited and constitutes an unfair trade

22-00908B-13

2013794

117 practice under s. 626.9927.

118 (6) For purposes of this section, all marketing materials,
119 including benefit projections, sales brochures, and contracts
120 used by the viatical settlement provider or its brokers and
121 agents, must be filed with and approved by the Office of
122 Insurance Regulation. All pricing and valuation materials,
123 including actuarial memoranda and pricing methodologies, must be
124 filed with and approved by the Office of Insurance Regulation.

125 (7) The Office of Insurance Regulation shall conduct
126 periodic market examinations and financial audits of each
127 viatical settlement provider issuing viatical settlement
128 contracts to provide long-term care benefits to a viator.

129 (8) The Department of Children and Families must provide,
130 as part of the application for enrollment in the Medicaid
131 program, written notice of the life insurance policy options
132 provided in subsections (1) and (2).

133 (9) The Office of Insurance Regulation, the Department of
134 Children and Families, and the Agency for Health Care
135 Administration are authorized to adopt rules to implement this
136 section.

137 (10) The agency is instructed to seek any state plan
138 amendments or federal waivers that may be required to implement
139 this section.

140 (11) As used in this section, the term "value" includes the
141 face value of a life insurance policy, the cash value of a life
142 insurance policy, and the value received under subsection (5).

143 Section 2. This act shall take effect July 1, 2013.



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: February 20, 2013

I respectfully request that **Senate Bill #794**, relating to Medicaid Eligibility, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes".

Senator Jeff Brandes
Florida Senate, District 22

CC: Claude Hendon
Staff Director

RECEIVED

FEB 20 2013

Senate Committee
Children and Families

THE FLORIDA SENATE

APPEARANCE RECORD

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

MARCH 6, 2013

Meeting Date

Topic Long-Term Care Bill Number SB794
Name MICHAEL FREEDMAN Amendment Barcode
Job Title SR. VICE PRESIDENT / COVENTRY FIRST
Address 7111 VALLEY GREEN ROAD Phone 215 836 8303
Street FORT WASHINGTON PA 19034 E-mail mfreedman@coventry.co
City State Zip

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

Representing COVENTRY FIRST LLC

Appearing at request of Chair: [] Yes [X] No Lobbyist registered with Legislature: [] Yes [X] 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/13

Meeting Date

Topic Accelerated Life Benefits Bill Number 794
Name JACK McRAY Amendment Barcode
Job Title
Address 200 W. COLLEGE ST. Phone 250-577-5107
Street TLT FL 32301 E-mail jmcray@arp.org
City State Zip

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

Representing AARP

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/13

Meeting Date

Topic: Life Insurance

Bill Number 794 (if applicable)

Name: Doug Burr

Amendment Barcode (if applicable)

Job Title: Vice President

Address: 307 W. Park Avenue

Phone: 850-224-3907

Street

Tallahassee

FL

32301

City

State

Zip

E-mail: dburrah@navigator.net

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

Representing: Florida Health Care Association

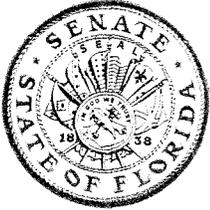
Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government
Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education
Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

SENATOR D. ALAN HAYS
20th District

March 6, 2013

Senator Eleanor Sobel, Chair
Children, Families & Elder Affairs
530 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Sobel:

I respectfully request to be excused from today's committee. I will do my best to attend, however; if I am unable to make it in time please excuse the absence. I am tied up in other committees and am afraid I will not make it to committee before you adjourn. I respectfully request to be excused and at the very least my tardiness.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

Senator D. Alan Hays, DMD
District 20

CC: Claude Hendon, Staff Director
Lynn Wells, Administrative Assistant

A handwritten signature in black ink that reads "Eleanor Sobel".

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

CourtSmart Tag Report

Room: LL 37
Caption: Children, Families, and Elder Affairs Committee

Case:

Type:
Judge:

Started: 3/6/2013 2:02:35 PM
Ends: 3/6/2013 2:59:29 PM **Length:** 00:56:55

2:02:41 PM Chair Sobel calls the meeting to order
2:02:52 PM Roll call
2:03:11 PM Chair Sobel's opening remarks
2:04:01 PM (Tab 4) SB 630 - Regulation of Summer Camps by Senator Clemens (Temporarily Postponed)
2:05:01 PM (Tab 3) SB 416 - Inspection of Licensed Child Care Facilities by Senator Ring (Presented by Stephanie Gioletti, Senator Ring's Legislative Aide)
2:05:58 PM Senator Grimsley's questions
2:06:16 PM Stephanie Gioletti's response
2:06:55 PM Senator Grimsley's follow-up question and remarks
2:08:01 PM Chair Sobel's remarks
2:08:28 PM Senator Grimsley's remarks
2:09:06 PM Deborah Russo, DCF, Director of Child Care Regulation and Background Screening, response
2:09:22 PM Senator Grimsley's question
2:09:25 PM Deborah Russo, DCF, Director of Child Care Regulation and Background Screening, response
2:10:31 PM Senator Grimsley's question
2:10:48 PM Chair Sobel's remarks
2:10:58 PM Deborah Russo, DCF, Director of Child Care Regulation and Background Screening, response
2:11:37 PM Chair Sobel's remarks
2:12:09 PM Stephanie Gioletti's response
2:13:04 PM Senator Diaz de la Portilla's question
2:13:27 PM Stephanie Gioletti's response
2:13:32 PM Senator Diaz de la Portilla remarks
2:13:41 PM Deborah Russo, DCF, Director of Child Care Regulation and Background Screening, response
2:13:49 PM Senator Diaz de la Portilla's remarks
2:14:23 PM Chair Sobel's remarks
2:15:17 PM Senator Thompson's amendment - barcode 492264
2:16:39 PM SB 416, Inspection of Licensed Child Care Facilities, vote
2:17:13 PM (Tab 2) SB 142 - Intellectual Disabilities by Senator Altman
2:18:22 PM SB 142, Intellectual Disabilities (Public Testimony)
2:18:40 PM SB 142, Intellectual Disabilities, vote
2:19:02 PM Senator Altman's motion - SB 416
2:19:22 PM (Tab 5) SB 794, Medicaid Eligibility by Senator Brandes (Presented by Chris Spencer, Senator Brandes' Legislative Aide)
2:20:13 PM Senator Hays/Dean amendment - barcode 496558
2:20:53 PM Senator Clemens' question
2:21:02 PM Chris Spencer's response
2:21:13 PM Senator Altman's question
2:21:32 PM Chris Spencer's response
2:21:55 PM SB 794, Medicaid Eligibility (Public Testimony)
2:28:05 PM SB 794, Medicaid Eligibility, vote
2:28:43 PM (Tab 1) SB 56, Infant Death by Senator Hays (Presented by Jessica Crawford, Senator Hays' Legislative Aide)
2:29:18 PM Senator Hays/Clemens amendment - barcode 596680 (Withdrawn)
2:29:31 PM Senator Hays/Clemens amendment - barcode 540308
2:31:03 PM SB 56, Infant Death (Public Testimony)
2:34:54 PM Chair Sobel's remarks
2:35:31 PM Public testimony continued
2:35:45 PM Senator Clemens questions
2:35:57 PM Public testimony continued
2:36:01 PM Chair Sobel's remarks
2:36:13 PM Public testimony continued remarks
2:36:27 PM Jessica Crawford's remarks

2:37:10 PM Chair Sobel's remarks
2:38:04 PM Public testimony continued remarks
2:41:05 PM Chair Sobel's remarks and question
2:41:54 PM Public testimony continued remarks
2:42:29 PM Chair Sobel's question
2:42:35 PM Public testimony continued remarks
2:42:50 PM Chair Sobel's question
2:42:59 PM Public testimony continued remarks
2:43:26 PM Senator Thompson's remarks
2:43:34 PM Chair Sobel's continued remarks
2:43:52 PM Senator Clemens' motion - SB 56
2:44:05 PM Public testimony continued remarks
2:49:39 PM Chair Sobel's remarks and question
2:49:54 PM Public testimony continued
2:50:23 PM Senator Clemens' question
2:50:53 PM Public testimony continued
2:53:00 PM Senator Diaz de la Portilla's remarks and question
2:53:24 PM Public testimony continued
2:53:41 PM Senator Diaz de la Portilla's question
2:54:04 PM Public testimony continued
2:55:24 PM Senator Diaz de la Portilla's question
2:55:37 PM Public testimony continued
2:56:18 PM Senator Diaz de la Portilla's question
2:56:26 PM Jessica Crawford's response
2:56:38 PM Senator Detert motion (Temporarily Postpone SB 56)
2:57:29 PM Senator Diaz de la Portilla's remarks
2:57:46 PM Chair Sobel's remarks
2:58:08 PM Senator Detert's motion - SB's, 142, 416, and 794
2:58:33 PM Senator Thompson's remarks
2:58:59 PM Chair Sobel's remarks
2:59:08 PM Meeting adjourned